STATE OF ARIZONA

JANICE K. BREWER
GOVERNOR

EXECUTIVE OFFICE

April 27, 2011

The Honorable Ken Bennett
Secretary of State
1700 W. Washington, 7th Floor
Phoenix, Arizona 85007

RE: Senate Bill 1186 (2011 Tax Corrections Act)

Secretary Bennett,

Today I reluctantly vetoed Senate Bill 1186 (2011 Tax Corrections Act). The bill contains several important technical provisions necessary for the Department of Revenue, the Arizona Commerce Authority, county assessors and taxpayers.

Contrary to historic legislative custom, this important bill was amended to include substantive policy changes. One of these changes included a rushed effort in conference committee to revive a portion of the private school tuition tax credit bill I had vetoed only a week earlier. Ultimately, the bill fails to accomplish the stated intent of being revenue positive.

The bill on my desk undoubtedly stretches the limits of what is appropriate for a tax corrections bill. It now may be necessary to convene a special session to enact the provisions of the underlying bill. I support the expansion of school choice opportunities and look forward to working with the education community and the Legislature to identify avenues to expand school choice while maintaining sound tax policy.

By this veto I hope to inspire a return in the 50th and 51st Legislatures to the traditional and customary understanding that certain bills (e.g., agency continuations, internal revenue code conformity, reviser's technical corrections, named claimants appropriations) are intended for specific purposes and should be held by leadership as off-limits from substantive policy changes.

Sincerely,

Janice K. Brewer
Governor

cc: The Honorable Russell Pearce
The Honorable Kirk Adams
The Honorable Steve Yarbrough
Senate Secretary
Chief Clerk of the House of Representatives
Arizona News Service

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Conference Engrossed

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1186

AN ACT

AMENDING SECTIONS 5-804 AND 14-3971, ARIZONA REVISED STATUTES; AMENDING SECTION 20-224.03, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2011, SECOND SPECIAL SESSION, CHAPTER 1, SECTION 10; AMENDING SECTIONS 28-6302, 28-6303, 28-6308, 28-6354, 28-6356, 41-1092.02, 41-1279.03 AND 41-1516, ARIZONA REVISED STATUTES; AMENDING SECTION 41-1525, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2011, SECOND SPECIAL SESSION, CHAPTER 1, SECTION 45; AMENDING SECTIONS 42-1101, 42-1107, 42-1125, 42-2001, 42-2003 AND 42-3001, ARIZONA REVISED STATUTES; REPEALING TITLE 42, CHAPTER 3, ARTICLE 5.1, ARIZONA REVISED STATUTES; AMENDING SECTIONS 42-5009, 42-5061, 42-5070, 42-5073, 42-5074, 42-5075 AND 42-5159, ARIZONA REVISED STATUTES; REPEALING SECTION 42-6104, ARIZONA REVISED STATUTES; AMENDING SECTIONS 42-6105, 42-6106, 42-6203 AND 42-11108, ARIZONA REVISED STATUTES; AMENDING SECTION 42-12052, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2011, SECOND SPECIAL SESSION, CHAPTER 1, SECTION 80; AMENDING SECTIONS 42-13353 AND 42-15006, ARIZONA REVISED STATUTES; AMENDING SECTION 42-15103, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2011, SECOND SPECIAL SESSION, CHAPTER 1, SECTION 87; REPEALING SECTION 43-106, ARIZONA REVISED STATUTES; AMENDING SECTIONS 43-222, 43-401, 43-403, 43-404, 43-412, 43-419 AND 43-1021, ARIZONA REVISED STATUTES; AMENDING SECTION 43-1074, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2011, SECOND SPECIAL SESSION, CHAPTER 1, SECTION 95; AMENDING SECTION 43-1074.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2011, SECOND SPECIAL SESSION, CHAPTER 1, SECTION 96; AMENDING SECTION 43-1074.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2011, SECOND SPECIAL SESSION, CHAPTER 1, SECTION 97; AMENDING SECTIONS 43-1088, 43-1089 AND 43-1089.01, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1089.03; AMENDING SECTION 43-1161, ARIZONA REVISED STATUTES, AS ADDED BY

LAWS 2011, SECOND SPECIAL SESSION, CHAPTER 1, SECTION 107; AMENDING SECTION 43-1168, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2011, SECOND SPECIAL SESSION, CHAPTER 1, SECTION 113; AMENDING SECTION 43-1168, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2011, SECOND SPECIAL SESSION, CHAPTER 1, SECTION 114; AMENDING SECTIONS 43-1502, 43-1503, 43-1504, 43-1505, 43-1507, 43-1602, 43-1603, 43-1605, 48-5102 AND 48-5103, ARIZONA REVISED STATUTES; REPEALING LAWS 2010, SEVENTH SPECIAL SESSION, CHAPTER 9, SECTIONS 1 AND 8; AMENDING LAWS 2011, SECOND SPECIAL SESSION, CHAPTER 1, SECTION 130; RELATING TO TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 5-804, Arizona Revised Statutes, is amended to read:

5-804. Administrative powers and duties

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

1. Adopt and use a corporate seal.

2. Sue and be sued.

3. Enter into contracts, including intergovernmental agreements under title 11, chapter 7, article 3, as necessary to carry out the purposes and requirements of this chapter.

4. Enter into an intergovernmental agreement under title 11, chapter 7, article 3 with the Arizona exposition and state fair board for the joint use of properties and facilities, sharing administration, personnel and resources and other matters that are beneficial to the purposes of the multipurpose facility and the state fair.

5. Adopt administrative rules as necessary to administer and operate the authority and any property under its jurisdiction.

6. Acquire by any lawful means and operate, maintain, encumber and dispose of real and personal property and interests in property.

7. Retain legal counsel and other consultants as necessary to carry out the purposes of the authority.

8. Enter into contracts with a professional football league for its championship game or with a nonprofit community based organization that operates or administers an intercollegiate national championship game that provide for the payment to the league or organization of transaction privilege tax revenues derived pursuant to section 42-5073, subsection ~~F~~ G, paragraph 1 from sales of admissions to these championship games if the authority has fully paid the current year's required principal and interest payments on any outstanding authority bonds for which these revenues were pledged pursuant to article 3 of this chapter.

9. Enter into contracts with a nonprofit community based organization that sponsors an intercollegiate national championship game that provide for the payment to the organization of a ticket surcharge or facility user fee associated with parking if the authority has fully paid the current year's required principal and interest payments on any outstanding authority bonds for which these revenues were pledged pursuant to article 3 of this chapter.

B. The board of directors shall:

1. Appoint from among its members a chairman, a secretary and such other officers as may be necessary to conduct its business.

2. Employ an executive director and prescribe the terms and conditions of employment.

3. Keep and maintain a complete and accurate record of all of its proceedings. The board is a public body for purposes of title 38, chapter 3, article 3.1 and title 39, chapter 1.

4. Provide for the use, maintenance and operation of the properties and interests owned or controlled by the authority.

5. On or before September 12, 2002, approve a site for the construction of the multipurpose facility proposed at any time before that date by site hosts.

Sec. 2. Section 14-3971, Arizona Revised Statutes, is amended to read:

14-3971. Collection of personal property by affidavit; ownership of vehicles; affidavit of succession to real property

A. At any time after the death of a decedent, any employer owing wages, salary or other compensation for personal services of the decedent shall pay to the surviving spouse of the decedent the amount owing, not in excess of five thousand dollars, on being presented an affidavit made by or on behalf of the spouse stating that the affiant is the surviving spouse of the decedent, or is authorized to act on behalf of the spouse, and that no application or petition for the appointment of a personal representative is pending or has been granted in this state or, if granted, the personal representative has been discharged or more than one year has elapsed since a closing statement has been filed.

B. Thirty days after the death of a decedent, any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action belonging to the decedent shall make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action to a person claiming to be the successor of the decedent upon being presented an affidavit made by or on behalf of the successor and stating that all of the following are true:

1. Thirty days have elapsed since the death of the decedent.

2. Either:

(a) An application or petition for the appointment of a personal representative is not pending and a personal representative has not been appointed in any jurisdiction and the value of all personal property in the decedent's estate, wherever located, less liens and encumbrances, does not exceed fifty thousand dollars as valued as of the date of death.

(b) The personal representative has been discharged or more than one year has elapsed since a closing statement has been filed and the value of all personal property in the decedent's estate, wherever located, less liens and encumbrances, does not exceed fifty thousand dollars as valued as of the date of the affidavit.

3. The claiming successor is entitled to payment or delivery of the property.

C. A transfer agent of any security shall change the registered ownership on the books of a corporation from the decedent to the successor or successors on presentation of an affidavit pursuant to subsection B of this section.

D. The motor vehicle division shall transfer title of a motor vehicle from the decedent to the successor or successors on presentation of an affidavit as provided in subsection B of this section and on payment of the necessary fees.

E. No sooner than six months after the death of a decedent, a person or persons claiming as successor or successors to the decedent's interest in real property, including any debt secured by a lien on real property, may file in the court in the county in which the decedent was domiciled at the time of death, or if the decedent was not domiciled in this state then in any county in which real property of the decedent is located, an affidavit describing the real property and the interest of the decedent in that property and stating that all of the following are true and material and acknowledging that any false statement in the affidavit may subject the person or persons to penalties relating to perjury and subornation of perjury:

1. Either:

(a) An application or petition for the appointment of a personal representative is not pending and a personal representative has not been appointed in any jurisdiction and the value of all real property in the decedent's estate located in this state, less liens and encumbrances against the real property, does not exceed seventy-five thousand dollars as valued at the date of death. The value of the decedent's interest in that real property shall be determined from the full cash value of the property as shown on the assessment rolls for the year in which the decedent died, except that in the case of a debt secured by a lien on real property the value shall be determined by the unpaid principal balance due on the debt as of the date of death.

(b) The personal representative has been discharged or more than one year has elapsed since a closing statement has been filed and the value of all real property in the decedent's estate, wherever located, less liens and encumbrances, does not exceed seventy-five thousand dollars as valued as of the date of the affidavit. The value of the decedent's interest in that real property is determined from the full cash value of the property as shown on the assessment rolls for the year in which the affidavit is given, except that if a debt is secured by a lien on real property, the value is determined by the unpaid principal balance due on the debt as of the date of the affidavit.

2. Six months have elapsed since the death of the decedent as shown in a certified copy of the decedent's death certificate attached to the affidavit.

3. Funeral expenses, expenses of last illness, and all unsecured debts of the decedent have been paid.

4. The person or persons signing the affidavit are entitled to the real property by reason of the allowance in lieu of homestead, exempt property or family allowance, by intestate succession as the sole heir or heirs, or by devise under a valid last will of the decedent, the original of which is attached to the affidavit or has been probated.

5. No other person has a right to the interest of the decedent in the described property.

6. No federal ~~or Arizona~~ estate tax is due on the decedent's estate.

F. The normal filing fee shall be charged for the filing of an affidavit under subsection E of this section unless waived by the court as provided by section 12-301 or 12-302. On receipt of the affidavit and after determining that the affidavit is complete, the registrar shall cause to be issued a certified copy of the affidavit without attachments, and the copy shall be recorded in the office of the recorder in the county where the real property is located.

G. This section does not limit the rights of heirs and devisees under section 14-3901.

Sec. 3. Section 20-224.03, Arizona Revised Statutes, as added by Laws 2011, second special session, chapter 1, section 10, is amended to read:

20-224.03. Premium tax credit for new employment

A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER JUNE 30, 2011, a credit is allowed against the premium tax liability imposed pursuant to section 20-224, 20-837, 20-1010, 20-1060 or 20-1097.07 for net increases in full-time employees RESIDING IN THIS STATE AND hired in qualified employment positions IN THIS STATE as COMPUTED, AND certified by the Arizona commerce authority, pursuant to section 41-1525. A tax credit is not allowed against the portion of the tax payable to the fire fighters' relief and pension fund pursuant to section 20-224 or the portion of the tax payable to the public safety personnel retirement system pursuant to section 20-224.01.

B. Subject to subsection E of this section, the amount of the tax credit is equal to three thousand dollars for each full-time employee hired ~~for the full~~ DURING THE taxable year in a qualified employment position in each of the first three years of employment, but not more than four hundred employees in any taxable year. EMPLOYEES HIRED IN THE LAST NINETY DAYS OF THE TAXABLE YEAR ARE EXCLUDED FOR THAT TAXABLE YEAR AND ARE CONSIDERED TO BE NEW EMPLOYEES IN THE FOLLOWING TAXABLE YEAR.

C. To qualify for a credit under this section, the insurer and the employment positions must meet the requirements prescribed by section 41-1525.

D. A credit is allowed for employment in the second and third year only for qualified employment positions for which a credit was claimed and allowed in the first year.

E. The net increase in the number of qualified employment positions AT EACH BUSINESS LOCATION is the lesser of the total number of filled qualified employment positions AT THE BUSINESS LOCATION created during the taxable year

or the difference between the average number of full-time employees AT THE BUSINESS LOCATION in the current tax year and the average number of full-time employees AT THE BUSINESS LOCATION during the immediately preceding taxable year. AN EMPLOYEE WHO IS TRANSFERRED BY THE SAME EMPLOYER FROM ONE LOCATION IN THIS STATE TO ANOTHER LOCATION IN THIS STATE SHALL NOT BE INCLUDED IN THE AVERAGE NUMBER OF FULL-TIME EMPLOYEES IN THAT TAXABLE YEAR AT THE NEW LOCATION, BUT IN THE FOLLOWING TAXABLE YEAR THE EMPLOYEE SHALL BE INCLUDED IN THE AVERAGE NUMBER OF FULL-TIME EMPLOYEES FOR THE PRIOR TAXABLE YEAR FOR THE NEW LOCATION. The net increase in the number of qualified employment positions computed under this subsection may not exceed four hundred qualified employment positions per taxpayer each year.

F. A taxpayer who claims a credit under section 20-224.04 shall not claim a credit under this section with respect to the same employment positions.

G. If the allowable tax credit exceeds the state premium tax liability, the amount of the claim not used as an offset against the state premium tax liability may be carried forward as a tax credit against subsequent years' state premium tax liability for a period not exceeding five taxable years.

H. If the business is sold or changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim first year credits only for the qualified employment positions that it created and filled with an eligible employee after the purchase or reorganization was complete. If a person purchases a taxpayer that had qualified for first or second year credits or if an insurance business changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim the second or third year credits if it meets other eligibility requirements of this section. Credits for which a taxpayer qualified before the changes described in this subsection are terminated and lost at the time the changes are implemented.

I. An insurer that claims a tax credit against state premium tax liability is not required to pay any additional retaliatory tax imposed pursuant to section 20-230 as a result of claiming that tax credit.

J. A failure to timely report and certify to the Arizona commerce authority the information prescribed by section 41-1525, subsection D and in the manner prescribed by section 41-1525, subsection E disqualifies the insurer from the credit under this section. The department of insurance shall require written evidence of the timely report to the Arizona commerce authority.

K. A tax credit under this section is subject to recovery for a violation described in section 41-1525, subsection G.

L. The department may adopt rules necessary for the administration of this section.

Sec. 4. Section 28-6302, Arizona Revised Statutes, is amended to read:

28-6302. Transportation excise tax distribution; counties with one million two hundred thousand or more persons; regional area road fund

A. In a county with a population of one million two hundred thousand or more persons, the officer collecting transportation excise tax monies pursuant to section ~~42-6104 or~~ 42-6105 that are designated for deposit in the regional area road fund shall immediately transfer the monies to the state treasurer. The state treasurer shall deposit the monies in a fund designated for the county as the regional area road fund. The state treasurer shall hold monies in the regional area road fund as a trustee for the county.

B. Except as provided in this article, the county in which the transportation excise taxes are levied has the beneficial interest in the regional area road fund. This state has no beneficial interest in the regional area road fund except as an obligee for reimbursement of state monies that are advanced as salaries or expenses by this state or the department and that are to be repaid by the regional area road fund.

C. Monies and investments within the regional area road fund may be used and spent only as provided in this chapter. An appropriation of any nature shall not be required before the expenditure of monies from the regional area road fund. Monies in the bond proceeds account or construction account of a regional area road fund may be obligated for payment in future years for the purpose of right-of-way acquisition subject to the limitations prescribed in sections 28-7001~~,~~ AND 28-7002 and SECTION 42-6105, subsection ~~E~~ D, paragraphs 1 and 2. The state treasurer shall make payments from the regional area road fund by check, and a warrant or voucher is not necessary. Subject to the powers granted to the board in chapter 21, article 2 of this title, the director shall administer monies deposited in the regional area road fund.

Sec. 5. Section 28-6303, Arizona Revised Statutes, is amended to read:

28-6303. Regional area road fund; separate accounts

A. The regional area road fund is divided into three separate accounts designated as the bond account, the construction account and the bond proceeds account.

B. The state treasurer shall:

1. Account separately for each account.

2. Make transfers between accounts only as provided in this article or chapter 21, article 2 of this title.

3. Before any bonds are issued, deposit transportation excise tax revenues transferred to the state treasurer in the construction account. These revenues shall be expended as provided in this article.

4. After any bonds are issued, deposit transportation excise tax revenues transferred to the state treasurer in the bond account first until the bond account contains monies sufficient to meet all principal, interest

or redemption requirements for the current period as required by any resolution of the board pertaining to the issuance of bonds.

5. After all current period requirements for all of the bonds are deposited in the bond account, deposit the balance of transportation excise tax revenues transferred to the state treasurer for the current period in the construction account.

C. The state treasurer may:

1. Invest monies in any account of the regional area road fund in any securities or obligations authorized by title 35, chapter 2, article 2.

2. For the purpose of investments, commingle monies within the regional area road fund with state monies if all interest earned on the monies in the regional area road fund of a county is credited to the respective account of the regional area road fund in which the investment was made.

D. The department shall separately account for the uses of transportation excise tax revenues deposited into the bond account and the construction account in order to identify how the transportation excise tax revenues are used pursuant to section 42-6105, subsection ~~E~~ D, paragraphs 1 and 2, for:

1. Freeways and other routes in the state highway system.

2. Major arterial streets and intersection improvements.

Sec. 6. Section 28-6308, Arizona Revised Statutes, is amended to read:

28-6308. Regional planning agency transportation policy committee; regional transportation plan; plan review process

A. The regional planning agency in the county shall establish a transportation policy committee consisting of twenty-three members as follows:

1. Seventeen members of the regional planning agency, including the chairperson of the citizens transportation oversight committee, one member of the state transportation board who represents the county, one member of the county board of supervisors and one member representing Indian communities in the county.

2. Six members who represent regionwide business interests, one of whom must represent transit interests, one of whom must represent freight interests and one of whom must represent construction interests. The president of the senate and the speaker of the house of representatives shall each appoint three members to the committee pursuant to this paragraph. Members who are appointed pursuant to this paragraph serve six-year terms. The chairman of the regional planning agency may submit names to the president of the senate and the speaker of the house of representatives for consideration for appointment to the transportation policy committee.

B. Through the regional planning agency, the transportation policy committee shall:

1. By a majority vote of the members, recommend approval of a twenty year comprehensive, performance based, multimodal and coordinated regional transportation plan in the county, including transportation corridors by priority and a schedule indicating the dates that construction will commence for projects contained in the plan.

2. Develop the plan in cooperation with the regional public transportation authority in the county and the department of transportation and in consultation with the county board of supervisors, Indian communities and cities and towns in the county.

3. Submit the plan for review by the regional public transportation authority in the county, the state board of transportation, the county board of supervisors, Indian communities and cities and towns in the county at the alternatives stage of the plan and the final draft stage of the plan. After reviewing the plan, the regional public transportation authority in the county, the county board of supervisors and the state board of transportation, by majority vote of the members of each entity within thirty days after receiving the plan, shall submit a written recommendation to the transportation policy committee that the plan be approved, modified or disapproved. Within thirty days after receiving the plan, Indian communities and cities and towns in the county may submit a written recommendation to the transportation policy committee that the plan be approved, modified or disapproved.

4. Consider plan modifications proposed by any of the entities as prescribed in paragraph 3 of this subsection.

5. By majority vote, approve, disapprove or further modify each proposed plan modification.

6. Provide a written response to the regional public transportation authority, the state board of transportation, the county board of supervisors and the entity that submitted the proposed modification within thirty days after the vote on the proposed modification explaining the affirmation, rejection or further modification of each proposed modification.

7. Recommend the plan to the regional planning agency for approval for an air quality conformity analysis.

C. The regional transportation plan:

1. Shall include the following transportation mode classifications with a revenue allocation to each classification consistent with section 42-6105, subsection ~~E~~ D:

(a) Freeways and other routes in the state highway system.

(b) Major arterial streets and intersection improvements.

(c) Public transportation systems.

2. Shall provide a suggested construction schedule for the transportation projects contained in the plan.

3. May be annually updated to introduce new controlled access highways, related grade separations and transportation projects or to modify the existing plan.

4. Shall be developed to meet federal air quality requirements established for the region in which it is located.

D. Transportation excise tax revenues that are distributed pursuant to section 42-6105, subsection ~~E~~ D shall not be redistributed or used for other transportation modes. Except as provided by section 28-6353, subsections D, E and F, transportation excise tax revenues that are dedicated in the plan to a specific project or transportation system may only be redistributed to or otherwise used for another project within the same transportation mode if approved by a majority vote of the transportation policy committee.

Sec. 7. Section 28-6354, Arizona Revised Statutes, is amended to read:

28-6354. Annual report; hearing; priority criteria

A. The regional planning agency shall issue an annual report on the status of the projects funded pursuant to section ~~42-6104 or~~ 42-6105 and shall hold a public hearing in the county within thirty days after the report is issued. The report and the hearing shall address the following topics:

1. The status of the projects.

2. Proposed changes to the regional transportation plan.

3. Proposed changes in corridor and corridor segment priorities and to other projects funded pursuant to section ~~42-6104 or~~ 42-6105.

4. Project financing and project options.

5. The criteria used to establish priorities as required by subsection B of this section.

B. The regional planning agency shall develop criteria to establish the priority of corridors and corridor segments and other transportation projects, including:

1. The extent of local public and private funding participation.

2. The social and community impact.

3. The establishment of a complete transportation system for the region as rapidly as is practicable.

4. The construction of projects to serve regional transportation needs.

5. The construction of segments that provide connectivity with other elements of the regional transportation system.

6. Other relevant criteria developed by the regional planning agency.

Sec. 8. Section 28-6356, Arizona Revised Statutes, is amended to read:

28-6356. Citizens transportation oversight committee

A. A citizens transportation oversight committee is established in counties with a population of one million two hundred thousand or more persons and that have levied a transportation excise tax pursuant to section ~~42-6104 or~~ 42-6105.

B. The citizens transportation oversight committee consists of the following members who are not elected officials of or employed by this state or any county, city or town in this state:

1. One member who serves as chairperson of the committee and who is appointed by the governor pursuant to section 38-211.

2. One member who represents each supervisorial district in the county and who is appointed by the board of supervisors. The board of supervisors shall consult with the mayors of each city and town located within each supervisorial district regarding appointments. At all times during the term, each member appointed pursuant to this paragraph shall legally reside in a different city or town located in the county. Members appointed pursuant to this paragraph shall have expertise in transportation systems or issues.

3. One member who resides in the county and who is appointed by the governor pursuant to section 38-211.

C. Members shall be appointed for terms of three years.

D. The chairperson shall also serve as:

1. A nonvoting member of the departmental committee established by section 28-6951 only for issues relating to the regional transportation plan. The chairperson may appoint a designee to attend meetings of the departmental committee.

2. A voting member of the governing body of the regional planning agency in the county for all matters relating to the regional transportation plan.

3. A voting member of the transportation policy committee of the regional planning agency under section 28-6308 in the county for all matters relating to the regional transportation plan.

E. The citizens transportation oversight committee shall meet at least once each calendar quarter.

F. The citizens transportation oversight committee shall:

1. Review and advise the board, the governor, the director, the governing body of the regional planning agency and the board of directors of the regional public transportation authority on matters ~~relating to all projects funded pursuant to section 42-6104 and~~ in the regional transportation plan.

2. Review and make recommendations regarding any proposed major amendment of the regional transportation plan by the governing body of the regional planning agency pursuant to section 28-6353.

3. Annually review and comment on the criteria developed pursuant to section 28-6354, subsection B.

4. Hold public hearings and issue public reports as it deems appropriate.

5. Annually contract with an independent auditor who is a certified public accountant to conduct a financial compliance audit of all expenditures from the regional area road fund and the public transportation fund and receive the auditor's report. The department shall reimburse the committee for the cost of this audit from the highway user revenue fund pursuant to section 28-6538, subsection B, paragraph 1.

6. In consultation with the auditor general, set parameters for the performance audit prescribed in section 41-1279.03, subsection A, paragraph 6 in the county, review the results of the auditor general's performance audit

and make recommendations to the regional planning agency, the regional public transportation authority, the department, the speaker of the house of representatives, the president of the senate and the governor.

G. The committee may:

1. Receive written complaints from citizens regarding adverse impacts of any transportation project funded in the regional transportation plan, determine which complaints warrant further review and make recommendations to the state transportation board regarding the complaints.

2. Receive written complaints from citizens relating to the regional planning agency's responsibilities as prescribed in this chapter, determine which complaints warrant further review and make recommendations to the regional planning agency regarding the complaints.

3. Make recommendations to the regional planning agency, the regional public transportation authority and the state transportation board regarding transportation projects and public transportation systems funded in the regional transportation plan, the transportation improvement program, the department's five year construction program and the life cycle management program.

H. Failure by the citizens transportation oversight committee to act does not bar the governing body of the regional planning agency or the board of directors of the regional public transportation authority from taking action.

I. Members of the committee are not eligible to receive compensation or reimbursement for expenses.

Sec. 9. Section 41-1092.02, Arizona Revised Statutes, is amended to read:

41-1092.02. <u>Appealable agency actions; application of procedural rules; exemption from article</u>

A. This article applies to all contested cases as defined in section 41-1001 and all appealable agency actions, except contested cases with or appealable agency actions of:

1. The state department of corrections.

2. The board of executive clemency.

3. The industrial commission of Arizona.

4. The Arizona corporation commission.

5. The Arizona board of regents and institutions under its jurisdiction.

6. The state personnel board.

7. The department of juvenile corrections.

8. The department of transportation.

9. The department of economic security except as provided in sections 8-506.01, 8-811 and 46-458.

10. The department of revenue regarding:

(a) Income tax~~,~~ OR withholding tax ~~or estate tax~~.

(b) Any tax issue related to information associated with the reporting of income tax~~,~~ OR withholding tax ~~or estate tax~~ unless the taxpayer requests in writing that this article apply and waives confidentiality under title 42, chapter 2, article 1.

11. The board of tax appeals.

12. The state board of equalization.

13. The state board of education, but only in connection with contested cases and appealable agency actions related to applications for issuance or renewal of a certificate and discipline of certificate holders pursuant to sections 15-203, 15-534, 15-534.01, 15-535, 15-545 and 15-550.

14. The board of fingerprinting.

B. Unless waived by all parties, an administrative law judge shall conduct all hearings under this article, and the procedural rules set forth in this article and rules made by the director apply.

C. Except as provided in subsection A of this section:

1. A contested case heard by the office of administrative hearings regarding taxes administered under title 42 shall be subject to the provisions under section 42-1251.

2. A final decision of the office of administrative hearings regarding taxes administered under title 42 may be appealed by either party to the director of the department of revenue, or a taxpayer may file and appeal directly to the board of tax appeals pursuant to section 42-1253.

D. Except as provided in subsections A, B, E, F and G of this section and notwithstanding any other administrative proceeding or judicial review process established in statute or administrative rule, this article applies to all appealable agency actions and to all contested cases.

E. Except for a contested case or an appealable agency action regarding unclaimed property, sections 41-1092.03, 41-1092.08 and 41-1092.09 do not apply to the department of revenue.

F. The board of appeals established by section 37-213 is exempt from:

1. The time frames for hearings and decisions provided in section 41-1092.05, subsection A, section 41-1092.08 and section 41-1092.09.

2. The requirement in section 41-1092.06, subsection A to hold an informal settlement conference at the appellant's request if the sole subject of an appeal pursuant to section 37-215 is the estimate of value reported in an appraisal of lands or improvements.

G. Auction protest procedures pursuant to title 37, chapter 2, article 4.1 are exempt from this article.

Sec. 10. Section 41-1279.03, Arizona Revised Statutes, is amended to read:

41-1279.03. <u>Powers and duties</u>

A. The auditor general shall:

1. Prepare an audit plan for approval by the committee and report to the committee the results of each audit and investigation and other reviews conducted by the auditor general.

2. Conduct or cause to be conducted at least biennial financial and compliance audits of financial transactions and accounts kept by or for all state agencies subject to the single audit act of 1984 (P.L. 98-502). The audits shall be conducted in accordance with generally accepted governmental auditing standards and accordingly shall include tests of the accounting records and other auditing procedures as may be considered necessary in the circumstances. The audits shall include the issuance of suitable reports as required by the single audit act of 1984 (P.L. 98-502) so the legislature, federal government and others will be informed as to the adequacy of financial statements of the state in compliance with generally accepted governmental accounting principles and to determine whether the state has complied with laws and regulations that may have a material effect on the financial statements and on major federal assistance programs.

3. Perform procedural reviews for all state agencies at times determined by the auditor general. These reviews may include evaluation of administrative and accounting internal controls and reports on such reviews.

4. Perform special research requests, special audits and related assignments as designated by the committee and conduct performance audits, special audits, special research requests and investigations of any state agency, whether created by the constitution or otherwise, as may be requested by the committee.

5. Annually on or before the fourth Monday of December, prepare a written report to the governor and to the committee which contains a summary of activities for the previous fiscal year.

6. In the tenth year and in each fifth year thereafter in which a transportation excise tax is in effect in a county as provided in section ~~42-6104,~~ 42-6106 or 42-6107, conduct a performance audit that:

(a) Reviews past expenditures and future planned expenditures of the transportation excise revenues and determines the impact of the expenditures in solving transportation problems within the county and, for a transportation excise tax in effect in a county as provided in section 42-6107, determines whether the expenditures of the transportation excise revenues comply with section 28-6392, subsection B.

(b) Reviews projects completed to date and projects to be completed during the remaining years in which a transportation excise tax is in effect. Within six months after each review period the auditor general shall present a report to the speaker of the house of representatives and the president of the senate detailing findings and making recommendations. If the parameters of the performance audit are set by the citizens transportation oversight committee, the auditor general shall also present the report to the citizens transportation oversight committee.

1 (c) Reviews, determines, reports and makes recommendations to the
2 speaker of the house of representatives and the president of the senate
3 whether the distribution of highway user revenues complies with title 28,
4 chapter 18, article 2. If the parameters of the performance audit are set by
5 the citizens transportation oversight committee, the auditor general shall
6 also present the report to the citizens transportation oversight committee.
7 7. If requested by the committee, conduct performance audits of
8 counties and incorporated cities and towns receiving highway user revenue
9 fund monies pursuant to title 28, chapter 18, article 2 to determine if the
10 monies are being spent as provided in section 28-6533, subsection B.
11 8. Perform special audits designated pursuant to law if the auditor
12 general determines that there are adequate monies appropriated for the
13 auditor general to complete the audit. If the auditor general determines the
14 appropriated monies are inadequate, the auditor general shall notify the
15 committee.
16 9. Beginning on July 1, 2001, establish a school-wide audit team in
17 the office of the auditor general to conduct performance audits and monitor
18 school districts to determine the percentage of every dollar spent in the
19 classroom by a school district. The performance audits shall determine
20 whether school districts that receive monies from the Arizona structured
21 English immersion fund established by section 15-756.04 and the statewide
22 compensatory instruction fund established by section 15-756.11 are in
23 compliance with title 15, chapter 7, article 3.1. The auditor general shall
24 determine, through random selection, the school districts to be audited each
25 year, subject to review by the joint legislative audit committee. A school
26 district that is subject to an audit pursuant to this paragraph shall notify
27 the auditor general in writing as to whether the school district agrees or
28 disagrees with the findings and recommendations of the audit and whether the
29 school district will implement the findings and recommendations, implement
30 modifications to the findings and recommendations or refuse to implement the
31 findings and recommendations. The school district shall submit to the
32 auditor general a written status report on the implementation of the audit
33 findings and recommendations every six months for two years after an audit
34 conducted pursuant to this paragraph. The auditor general shall review the
35 school district's progress toward implementing the findings and
36 recommendations of the audit every six months after receipt of the district's
37 status report for two years. The auditor general may review a school
38 district's progress beyond this two-year period for recommendations that have
39 not yet been implemented by the school district. The auditor general shall
40 provide a status report of these reviews to the joint legislative audit
41 committee. The school district shall participate in any hearing scheduled
42 during this review period by the joint legislative audit committee or by any
43 other legislative committee designated by the joint legislative audit
44 committee.

B. The auditor general may:

1. Subject to approval by the committee, adopt rules necessary to administer the duties of the office.

2. Hire consultants to conduct the studies required by subsection A, paragraphs 6 and 7 of this section.

C. If approved by the committee the auditor general may charge a reasonable fee for the cost of performing audits or providing accounting services for auditing federal funds, special audits or special services requested by political subdivisions of the state. Monies collected pursuant to this subsection shall be deposited in the audit services revolving fund.

D. The department of transportation, the board of supervisors of a county that has approved a county transportation excise tax as provided in section ~~42-6104,~~ 42-6106 or 42-6107 and the governing bodies of counties, cities and towns receiving highway user revenue fund monies shall cooperate with and provide necessary information to the auditor general or the auditor general's consultant.

E. The department of transportation shall reimburse the auditor general as follows, and the auditor general shall deposit the reimbursed monies in the audit services revolving fund:

1. For the cost of conducting the studies or hiring a consultant to conduct the studies required by subsection A, paragraph 6, subdivisions (a) and (b) of this section, from monies collected pursuant to a county transportation excise tax levied pursuant to section ~~42-6104,~~ 42-6106 or 42-6107.

2. For the cost of conducting the studies or hiring a consultant pursuant to subsection A, paragraph 6, subdivision (c) and paragraph 7 of this section, from the Arizona highway user revenue fund.

Sec. 11. Section 41-1516, Arizona Revised Statutes, is amended to read:

41-1516. <u>Healthy forest enterprise incentives; definitions</u>

A. The department of commerce shall:

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

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

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

1. Must be primarily engaged in a qualifying project. The business shall submit to the department of commerce evidence that it is engaged in a qualifying project as follows:

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

1 (b) If the qualifying forest product is on federal land, the business
2 shall submit a letter from the federal agency administering the land, or
3 official records or documents produced in connection with the project,
4 stating that the business is primarily engaged in the business of harvesting
5 or initial processing of qualifying forest products for commercial use as
6 follows:
7 (i) At least seventy per cent of the harvested or processed products,
8 measured by weight, must be qualifying forest products.
9 (ii) At least seventy-five per cent of the qualifying forest products,
10 measured by weight, must be harvested from sources in this state.
11 (c) If the qualifying forest product is not on federal land, the
12 business shall submit a letter from the state forester stating that the
13 business is primarily engaged in the business of harvesting or initial
14 processing of qualifying forest products for commercial use as follows:
15 (i) At least seventy per cent of the harvested or processed products
16 must be qualifying forest products.
17 (ii) At least seventy-five per cent of the harvested or processed
18 products must be from areas in this state.
19 (d) If the business is engaged in transporting qualifying forest
20 products, it must submit a letter from the state forester or United States
21 forest service, or official records or documents produced in connection with
22 the project, stating that all of the qualifying forest products it transports
23 are harvested from areas in this state. In addition, the business must
24 submit evidence to the department of commerce that at least seventy-five per
25 cent of the mileage traveled by its units each year are for transporting
26 qualifying forest products from or to qualifying projects described in
27 subdivision (b) or (c) of this paragraph, unless a lower mileage is due to
28 forest closures or weather conditions that are beyond the control of the
29 business.
30 2. Must employ at least three permanent full-time employees.
31 3. Must agree to furnish to the department of commerce information
32 relating to the amount of state tax benefits that the business receives each
33 year.
34 4. Must enter into a memorandum of understanding with the department
35 of commerce containing:
36 (a) Employment goals. Each year the business must report in writing
37 to the department of commerce its performance in achieving the goals.
38 (b) A commitment to continue in business and use the qualifying
39 equipment primarily on qualifying projects in this state as described in
40 paragraph 1 of this subsection, other than for reasons beyond the control of
41 the business. The department of commerce shall consult with the department
42 of revenue in designing the memorandum of understanding to incorporate the
43 legal qualifications for the available tax incentives and shall include the
44 requirement that any qualifying equipment that is purchased or leased free of
45 transaction privilege or use tax must continue to be used in this state for

1 the term of the memorandum of understanding or the duration of its
2 operational life, whichever is shorter.
3 (c) Provisions considered necessary by the department of commerce to
4 ensure the competency and responsibility of businesses that qualify under
5 this section, including registration or other accreditation with trade and
6 professional organizations and compliance with best management and
7 operational practices used by governmental agencies in awarding forestry
8 contracts.
9 (d) The authorization for the department of commerce to terminate,
10 adjust or recapture all or part of the tax benefits provided to the business
11 on noncompliance with the law, noncompliance with the terms of the memorandum
12 or violation of the terms of any contracts with the federal or state
13 government relating to the qualifying project. The department of commerce
14 shall notify the department of revenue of the conditions of noncompliance.
15 The department of revenue may also terminate the certification if it obtains
16 information indicating a failure to qualify and comply. The department of
17 revenue may require the business to file appropriate amended tax returns or
18 to file appropriate use tax returns reflecting the recapture of the direct or
19 indirect tax benefits.
20 5. Must submit a copy of the certification to the department of
21 revenue for approval before using the certification for purposes of any tax
22 incentive. The department of revenue shall review and approve the
23 certification in a timely manner if the business is in good standing with the
24 department and is not delinquent in the payment of any tax collected by the
25 department. A failure to approve or deny the certification within sixty days
26 after the date the business submits it to the department constitutes approval
27 of the certification.
28 C. For the purposes of section 42-5075, subsection B, paragraph ~~19~~ 18,
29 the department of commerce shall certify prime contractors that contract for
30 the construction of any building, or other structure, project, development or
31 improvement owned by a qualified business for purposes of a qualifying
32 project described in subsection B, paragraph 1 of this section.
33 D. To obtain and maintain certification under this section, a business
34 must:
35 1. Apply to the department of commerce.
36 2. Submit and retain copies of all required information, including
37 information relating to the actual or projected number of employees in this
38 state.
39 3. Allow inspections and audits to verify the qualification and
40 accuracy of information submitted to the department of commerce.
41 E. Certification under this section is valid for twelve calendar
42 months from the date of issuance. A business must apply for recertification
43 at least thirty days before the current certification expires. The
44 application for recertification shall be in a form prescribed by the
45 department of commerce and shall confirm that the business is continuing in a

1 qualifying project and is in compliance with all requirements prescribed for
2 certification.
3 F. Within sixty days after receiving a complete and correct
4 application and all required information as prescribed by this section, the
5 department of commerce shall grant or deny certification and give written
6 notice by certified mail to the applicant. The applicant is certified as a
7 qualified business on the date the notice of certification is delivered to
8 the applicant. A failure to respond within sixty days after receiving a
9 complete and correct application constitutes approval of the application.
10 G. The certification shall state an effective date with respect to
11 each authorized tax incentive which, in each case, must be at the start of a
12 taxable year or taxable period.
13 H. On or before March 1 of each year, each qualifying business shall
14 make a report to the department of commerce on all business activity in the
15 preceding calendar year. Business information contained in the reports is
16 confidential and shall not be disclosed to the public except as provided by
17 this section and except that a copy of the report shall be transmitted to the
18 department of revenue. The report shall be in a form prescribed by the
19 department of commerce and include:
20 1. Information prescribed by the department of commerce with respect
21 to both qualifying projects and other projects and business activity that do
22 not qualify for purposes of this section.
23 2. Employment information necessary to confirm eligibility for income
24 tax credits as prescribed by sections 43-1076 and 43-1162.
25 3. The quantity, measured by weight, of qualifying forest products
26 harvested, transported or processed.
27 I. On or before May 1 of each year, the department of commerce shall
28 report to the joint legislative budget committee:
29 1. The quantity, measured by weight, of qualifying forest products
30 reported by harvesters, by transporters and by processors in the preceding
31 calendar year.
32 2. The number of new full-time employees hired in qualified employment
33 positions in this state in the preceding calendar year and reported for tax
34 credit purposes.
35 3. The total number of all full-time employees employed in qualified
36 employment positions in this state in the preceding calendar year and
37 reported for tax credit purposes.
38 J. For purposes of administering and ensuring compliance with this
39 section, agents of the department of commerce may enter, and a qualified
40 business shall allow access to, a qualifying project site at reasonable times
41 and on reasonable notice to:
42 1. Inspect the facilities at the site.
43 2. Obtain factual data and records pertinent to and required by law to
44 be kept for purposes of tax incentives.

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

K. The department of commerce shall revoke the business' certification and notify the department of revenue and county assessor if either:

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

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

L. For the purposes of this section:

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

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

3. "Initial processing" means:

(a) The first change, after harvest, in the physical structure of qualifying forest products removed from a qualifying project into a marketable commercial product or component of a product that has commercial value to a consumer or purchaser and that is ready to be used with or without further altering its form.

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

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

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

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

(c) Sorting and processing equipment, including portable and stationary log loaders, front end loaders, fork lifts and cranes, chippers and grinders, screens, decks and debarkers, saws and sawmill equipment,

firewood processing, wood residue baling and bagging equipment, kilns, planing and molding equipment and laminating and joining equipment.

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

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

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

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

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

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

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

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

6. "Qualifying project" means harvesting, transporting or the initial processing of qualifying forest products as required for certification pursuant to this section.

Sec. 12. Section 41-1525, Arizona Revised Statutes, as added by Laws 2011, second special session, chapter 1, section 45, is amended to read:

41-1525. Arizona quality jobs incentives; tax credits for new employment; qualifications; definitions

A. ~~The owner of~~ A business ~~or an insurer located~~ WITH A LOCATION in this state before July 2017 is eligible for income tax credits under section 43-1074 or 43-1161 or an insurance premium tax credit under section 20-224.03 for net increases in FULL-TIME EMPLOYEES RESIDING IN THIS STATE AND HIRED IN qualified employment positions IN THIS STATE.

B. To qualify under this section, AND SUBJECT TO PREAPPROVAL BY THE AUTHORITY, the ~~owner~~ BUSINESS must MEET EITHER OF THE FOLLOWING REQUIREMENTS in the first taxable year FOR EACH LOCATION OF THE BUSINESS FOR WHICH it claims a tax credit:

1. Invest at least five million dollars of capital investment and create at least twenty-five new qualified employment positions AT A LOCATION within the exterior boundaries of a city or town that has a population of fifty thousand persons or more and that is located in a county that has a population of eight hundred thousand persons or more.

2. Invest at least one million dollars of capital investment and create at least five qualified employment positions in any other location.

C. No more than four hundred new jobs per employer qualify for first year credits each year, and no more than ten thousand new jobs for all employers qualify for first year credits each year.

D. To claim a tax credit, the ~~owner~~ BUSINESS must:

1. Certify to the department of revenue or the department of insurance, as applicable, on or before the due date of the tax return, including any extensions for the year for which the credit is claimed, in a form prescribed by the department, including electronic media, information that the department may require, including the ownership interests of co-owners of the business if the business is a partnership, limited liability company or an S corporation, and the following information for each employee in the location:

(a) The date of initial employment.

(b) The number of hours worked during the year.

(c) Whether the position was full-time.

(d) The employee's annual compensation.

(e) The total cost of health insurance for the employee and the cost paid by the employer.

(f) Other information required by the department.

2. Report and certify to the authority the following information, and provide supporting documentation, on a form and in a manner approved by the authority, and as specified in subsection E of this section, for each year in which the taxpayer earned and claimed or used credits or is carrying forward amounts from previously earned and claimed credits:

(a) The business name and mailing address and any other contact information requested by the authority.

(b) The physical address of the business location.

(c) The average hourly wage and the total amount of compensation paid to employees qualified for the credit and for all employees.

(d) The total number of qualified employment positions and the amount of income tax or premium tax credits qualified for in the taxable year.

(e) The estimated amount of tax credits to be used in the taxable year to offset tax liability.

(f) The estimated amount of tax credits to be available for carryforward in the taxable year and the year in which the credits expire.

(g) The number of jobs and the amount of credits earned and claimed on the prior year's tax return.

(h) The amount of credits used to offset tax liabilities on the prior year's tax return.

(i) The amount of credits available for carryforward as reported on the prior year's tax return and the year the credits expire.

(j) Capital investment made during the taxable year and the preceding taxable year.

(k) Other information necessary for the management and reporting of the incentives under this section.

3. For any year in which the taxpayer is claiming first year credits, report and certify the following additional information and provide supporting documentation to the authority on a form and in a manner approved by the authority, and as specified in subsection E of this section:

(a) That the increase in the number of qualified employment positions for which credit is sought is the least of:

(i) The total number of filled qualified employment positions created at the location during the taxable year.

(ii) The difference between the average number of full-time employees IN THIS STATE in the current taxable year and the average number of full-time employees IN THIS STATE during the immediately preceding taxable year. AN EMPLOYEE WHO IS TRANSFERRED BY THE SAME EMPLOYER FROM ONE LOCATION IN THIS STATE TO ANOTHER LOCATION IN THIS STATE SHALL NOT BE INCLUDED IN THE AVERAGE NUMBER OF FULL-TIME EMPLOYEES IN THAT TAXABLE YEAR AT THE NEW LOCATION, BUT IN THE FOLLOWING TAXABLE YEAR THE EMPLOYEE SHALL BE INCLUDED IN THE AVERAGE NUMBER OF FULL-TIME EMPLOYEES FOR THE PRIOR TAXABLE YEAR FOR THE NEW LOCATION.

(iii) Four hundred qualified employment positions per taxpayer each year.

(b) That all employees filling a qualified employment position were employed for at least ninety days during the first taxable year. EMPLOYEES HIRED IN THE LAST NINETY DAYS OF THE TAXABLE YEAR ARE EXCLUDED FOR THAT TAXABLE YEAR AND ARE CONSIDERED TO BE NEW EMPLOYEES IN THE FOLLOWING TAXABLE YEAR BUT QUALIFIED EMPLOYMENT POSITIONS ARE CONSIDERED TO BE CREATED FOR THE PURPOSES OF SUBSECTION B OF THIS SECTION IN THE YEAR THE EMPLOYEE IS ACTUALLY HIRED.

(c) That none of the employees filling qualified employment positions were employed by the taxpayer during the twelve months before the current date of hire except for those relocating to this state.

(d) That all employees for whom second and third year credits are claimed are in qualified employment positions for which first year credits were allowed and claimed by the taxpayer on the original first and second year tax returns.

(e) That all employees for whom credits are taken performed their job duties primarily at the designated locations of the business.

E. To qualify for first year credits, the report and certification prescribed by subsection D, paragraphs 2 and 3 of this section must be filed with the authority by the earlier of six months after the end of the taxable year in which the qualified employment positions were created or by the date the tax return is filed for the taxable year in which the qualified employment positions were created. To qualify for second year credits, the report and certification prescribed by subsection D, paragraph 2 of this section must be filed with the authority by the earlier of six months after the end of the taxable year or the date the tax return is filed for the taxable year in which the second year credits are allowable. To qualify for

1 third year credits, the report and certification prescribed by subsection D,
2 paragraph 2 of this section must be filed with the authority by the earlier
3 of six months after the end of the taxable year or the date the tax return is
4 filed for the taxable year in which the third year credits are allowable.
5 F. Any information submitted to the authority under subsection D,
6 paragraph 2, subdivisions (e) through (j) of this section is exempt from
7 title 39, chapter 1, article 2 and considered to be confidential and is not
8 subject to disclosure except:
9 1. To the extent that the person or organization that provided the
10 information consents to the disclosure.
11 2. To the department of revenue for use in tax administration.
12 G. Documents filed with the authority, the department of insurance and
13 the department of revenue under subsection D of this section shall contain
14 either a sworn statement or certification, signed by an officer of the
15 company under penalty of perjury, that the information contained is true and
16 correct according to the best belief and knowledge of the person submitting
17 the information after a reasonable investigation of the facts. If the
18 document contains information that is materially false, the taxpayer is
19 ineligible for the tax credits described under subsection A of this section
20 and is subject to recovery of the amount of tax credits allowed in preceding
21 taxable years based on the false information, plus penalties and interest.
22 H. The authority may make site visits to a taxpayer's facilities if it
23 is necessary to further document or clarify reported information. The
24 taxpayer must freely provide the access.
25 I. The authority by rule may prescribe PREAPPROVAL REQUIREMENTS AND
26 additional reporting requirements for taxpayers who claim tax credits
27 pursuant to this section.
28 J. On or before September 30 of each year, the authority shall
29 transmit a report to the governor, the president of the senate, the speaker
30 of the house of representatives and the chairpersons of the senate finance
31 committee and the house of representatives ways and means committee and
32 provide a copy of the report to the secretary of state. The report shall
33 include the following information.
34 1. The business names, locations, number of employees and amount of
35 compensation paid to employees qualifying for income tax credits as reported
36 to the authority.
37 2. The amount of capital investment, made during the preceding fiscal
38 year and cumulatively.
39 3. The total amount of income tax credits allowed for the preceding
40 taxable year and the number of qualified employment positions for which
41 credits were claimed pursuant to sections 43-1074 and 43-1161.
42 K. For the purposes of this section:
43 1. "Capital investment" means an expenditure to acquire, lease or
44 improve property that is used in operating a business, including land,
45 buildings, machinery and fixtures.

~~2. "Primarily" means more than seventy-five per cent of the square footage of the location or locations.~~

2. "LOCATION" MEANS A SINGLE PARCEL OR CONTIGUOUS PARCELS OF OWNED OR LEASED LAND IN THIS STATE, THE STRUCTURES AND PERSONAL PROPERTY CONTAINED ON THE LAND OR ANY PART OF THE STRUCTURES OCCUPIED BY THE OWNER. PARCELS THAT ARE SEPARATED ONLY BY A PUBLIC THOROUGHFARE OR RIGHT-OF-WAY ARE CONSIDERED TO BE CONTIGUOUS BUT PARCELS THAT ARE IN LOCATIONS RESPECTIVELY DESCRIBED BY SUBSECTION B, PARAGRAPHS 1 AND 2 OF THIS SECTION ARE NOT CONSIDERED TO BE CONTIGUOUS.

3. "Qualified employment position" means employment that meets the following requirements:

(a) The position consists of at least one thousand seven hundred fifty hours per year of full-time permanent employment.

(b) The job duties are performed primarily at the location or locations of the business IN THIS STATE.

(c) The employment provides health insurance coverage for the employee for which the employer pays at least sixty-five per cent of the premium or membership cost. If the business is self-insured, the employer pays at least sixty-five per cent of a predetermined fixed cost per employee for an insurance program that is payable whether or not the employee has filed claims.

(d) The employer pays compensation at least equal to the median wage by county as computed annually by the authority.

Sec. 13. Section 42-1101, Arizona Revised Statutes, is amended to read:

42-1101. Application

This article and chapter 2 of this title apply generally to the administration of income tax, withholding tax, transaction privilege tax, telecommunication services excise tax, county excise taxes and any other privilege excise tax administered by the department, severance tax, use tax, luxury tax, ~~rental occupancy tax, estate tax,~~ tax on water use and jet fuel excise and use tax.

Sec. 14. Section 42-1107, Arizona Revised Statutes, is amended to read:

42-1107. Extension of time for filing returns

A. The department, pursuant to administrative rule, may grant an automatic extension of time for filing an income tax return under title 43 if at least ninety per cent of the tax liability disclosed by the taxpayer's return for the reporting period is paid and if the request for extension is received or mailed on or before the date the return is otherwise due to be filed. If at least ninety per cent of the tax liability disclosed by the taxpayer's return for the reporting period has not been paid at the time of filing for the extension, the taxpayer is subject to a penalty of one-half of one per cent of the tax not paid for each thirty day period or fraction of a thirty day period elapsing between the date the return is otherwise due to be

filed and the date the tax is paid, not to exceed a total of twenty-five per cent. If a taxpayer is subject to both of the penalties prescribed under this section and section 42-1125, the maximum combined penalty that may be imposed on the taxpayer under both sections shall not exceed twenty-five per cent of the tax found to be remaining due. A taxpayer is not subject to the penalties prescribed under section 42-1125, subsection D if the taxpayer is subject to the penalties prescribed under this section. If in its judgment good cause exists, the department may grant a further extension or extensions of time for filing the return pursuant to administrative rule. No extension or extensions granted under this subsection may aggregate more than six months from the due date provided for the filing of returns.

B. If the taxpayer has been granted an extension or extensions of time within which to file a federal income tax return for any taxable year, the taxpayer is deemed to have been granted the same extension of time for filing the Arizona income tax return if the taxpayer has paid at least ninety per cent of the tax liability disclosed by the taxpayer's return for the reporting period. If at the time the taxpayer has been granted a federal extension or extensions the taxpayer is required to make the payment of at least ninety per cent under this section, the payment shall be in a manner prescribed by the department.

~~C. The department, for good cause, may grant a reasonable extension of time for filing an Arizona estate tax return. A request for extension shall be in a form prescribed by the department.~~

~~D.~~ C. The department, for good cause, may extend the time for making any other return required by chapter 5, articles 1, 4 and 5 of this title, and may grant such reasonable additional time in which to make the return as it deems proper, but the time for filing the return shall not be extended beyond the first day of the third month next succeeding the regular due date of the return.

Sec. 15. Section 42-1125, Arizona Revised Statutes, is amended to read:

42-1125. Civil penalties; definition

A. If a taxpayer fails to make and file a return for a tax administered pursuant to this article on or before the due date of the return or the due date as extended by the department, unless it is shown that the failure is due to reasonable cause and not due to wilful neglect, four and one-half per cent of the tax required to be shown on such return shall be added to the tax for each month or fraction of a month elapsing between the due date of the return and the date on which it is filed. The total penalty shall not exceed twenty-five per cent of the tax found to be remaining due. The penalty so added to the tax is due and payable on notice and demand from the department. For the purpose of computing the penalty imposed under this subsection, the amount required to be shown as tax on a return shall be reduced by the amount of any part of the tax which is paid on or before the beginning of such month and by the amount of any credit against the tax which

may be claimed on the return. If the amount required to be shown as tax on a return is less than the amount shown as tax on such return the penalty described in this subsection shall be applied by substituting such lower amount.

B. If a taxpayer fails or refuses to file a return on notice and demand by the department, the taxpayer shall pay a penalty of twenty-five per cent of the tax, which is due and payable on notice and demand by the department, in addition to any penalty prescribed by subsection A of this section, unless it is shown that the failure is due to reasonable cause and not due to wilful neglect. This penalty is payable on notice and demand from the department.

C. If a taxpayer fails or refuses to furnish any information requested in writing by the department, the department may add a penalty of twenty-five per cent of the amount of any deficiency tax assessed by the department concerning the assessment of which the information was required, unless it is shown that the failure is due to reasonable cause and not due to wilful neglect.

D. If a person fails to pay the amount shown as tax on any return within the time prescribed, a penalty of one-half of one per cent, not to exceed a total of ten per cent, shall be added to the amount shown as tax for each month or fraction of a month during which the failure continues, unless it is shown that the failure is due to reasonable cause and not due to wilful neglect. If the department determines that the person's failure to pay was due to reasonable cause and not due to wilful neglect and that a payment agreement pursuant to section 42-2057 is appropriate, the department shall not impose the penalty unless the taxpayer fails to comply with the payment agreement. If the taxpayer is also subject to a penalty under subsection A of this section for the same tax period, the total penalties under subsection A of this section and this subsection shall not exceed twenty-five per cent. For the purpose of computing the penalty imposed under this subsection:

1. The amount shown as tax on a return shall be reduced by the amount of any part of the tax that is paid on or before the beginning of that month and by the amount of any credit against the tax that may be claimed on the return.

2. If the amount shown as tax on a return is greater than the amount required to be shown as tax on that return, the penalty shall be applied by substituting the lower amount.

E. If a person fails to pay any amount required to be shown on any return that is not so shown within twenty-one calendar days after the date of notice and demand, a penalty of one-half of one per cent, not to exceed a total of ten per cent, shall be added to the amount of tax for each month or fraction of a month during which the failure continues, unless it is shown that the failure is due to reasonable cause and not due to wilful neglect. If the taxpayer is also subject to penalty under subsection A of this section for the same tax period, the total penalties under subsection A of this

section and this subsection shall not exceed twenty-five per cent. For the purpose of computing the penalty imposed under this subsection, any amount required to be shown on any return shall be reduced by the amount of any part of the tax that is paid on or before the beginning of that month and by the amount of any credit against the tax that may be claimed on the return.

F. In the case of a deficiency, for which a determination is made of an additional amount due, which is due to negligence but without intent to defraud, the person shall pay a penalty of ten per cent of the amount of the deficiency.

G. If part of a deficiency is due to fraud with intent to evade tax, fifty per cent of the total amount of the tax, in addition to the deficiency, interest and other penalties provided in this section, shall be assessed, collected and paid as if it were a deficiency.

H. If the amount, whether determined by the department or the taxpayer, required to be withheld by the employer pursuant to title 43, chapter 4 is not paid to the department on or before the date prescribed for its remittance, the department may add a penalty of twenty-five per cent of the amount required to be withheld and paid, unless it is shown that the failure is due to reasonable cause and not due to wilful neglect.

I. A person who, with or without intent to evade any requirement of this article or any lawful administrative rule of the department of revenue under this article, fails to file a return or to supply information required under this article or who, with or without such intent, makes, prepares, renders, signs or verifies a false or fraudulent return or statement or supplies false or fraudulent information shall pay a penalty of not more than one thousand dollars. This penalty shall be recovered by the department of law in the name of this state by an action in any court of competent jurisdiction.

J. If the taxpayer files what purports to be a return of any tax administered pursuant to this article but ~~which~~ THAT is frivolous or ~~which~~ THAT is made with the intent to delay or impede the administration of the tax laws, that person shall pay a penalty of five hundred dollars.

K. If a taxpayer who is required to file or provide an information return under this title or title 43 fails to file the return at the prescribed time or files a return ~~which~~ THAT fails to show the information required, that taxpayer shall pay a penalty of one hundred dollars for each month or fraction of a month during which the failure continues unless it is shown that the failure is due to reasonable cause and not due to wilful neglect. The total penalties under this subsection shall not exceed five hundred dollars.

L. If it appears to the superior court that proceedings before it have been instituted or maintained by a taxpayer primarily for delay or that the taxpayer's position is frivolous or groundless, the court may award damages in an amount not to exceed one thousand dollars to this state. Damages so awarded shall be collected as a part of the tax.

M. A person who is required under section 43-413 to furnish a statement to an employee and who wilfully furnishes a false or fraudulent statement, or who wilfully fails to furnish a statement required by section 43-413, is for each such failure subject to a penalty of fifty dollars.

N. A person who is required to collect or truthfully account for and pay a tax administered pursuant to this article, including any luxury privilege tax, and who wilfully fails to collect the tax or truthfully account for and pay the tax, or wilfully attempts in any manner to evade or defeat the tax or its payment, is, in addition to other penalties provided by law, liable for a penalty equal to the total amount of the tax evaded, not collected or not accounted for and paid. Except as provided in subsections T, U and V of this section, no other penalty under this section relating to failure to pay tax may be imposed for any offense to which this subsection applies.

O. For reporting periods beginning from and after February 28, 2011, if a taxpayer who is required under section 42-1129 to make payment by electronic funds transfer fails to do so, that taxpayer shall pay a penalty of five per cent of the amount of ~~tax due on the return~~ THE PAYMENT NOT MADE BY ELECTRONIC FUNDS TRANSFER unless it is shown that the failure is due to reasonable cause and not due to wilful neglect.

P. Unless due to reasonable cause and not to wilful neglect:

1. A person who fails to provide that person's taxpayer identification number in any return, statement or other document as required by section 42-1105, subsection A shall pay a penalty of five dollars for each such failure.

2. A person, when filing any return, statement or other document for compensation on behalf of a taxpayer, who fails to include that person's own taxpayer identification number and the taxpayer's identification number shall pay a penalty of fifty dollars for each such failure.

3. A person, when filing any return, statement or other document without compensation on behalf of a taxpayer, who fails to include that person's own taxpayer identification number and the taxpayer's identification number is not subject to a penalty.

No other penalty under this section may be imposed if the only violation is failure to provide taxpayer identification numbers.

Q. If a taxpayer fails to pay the full amount of estimated tax required by title 43, chapter 5, article 6, a penalty is assessed equal to the amount of interest that would otherwise accrue under section 42-1123 on the amount not paid for the period of nonpayment, not exceeding ten per cent of the amount not paid. The penalty prescribed by this subsection is in lieu of any other penalty otherwise prescribed by this section and in lieu of interest prescribed by section 42-1123.

R. The department of law, with the consent of the department of revenue, may compromise any penalty for which it may bring an action under this section.

S. Penalties shall not be assessed under subsection D of this section on additional amounts of tax paid by a taxpayer at the time the taxpayer voluntarily files an amended return. This subsection does not apply if:

1. The taxpayer is under audit by the department.

2. The amended return was filed on demand or request by the department.

3. The total additional tax paid and due for the tax period represents a substantial understatement of tax liability. For the purposes of this paragraph, there is a substantial understatement of tax for any tax period if the amount of the understatement for the tax period exceeds the greater of ten per cent of the actual tax liability for the tax period or two thousand dollars.

T. In addition to other penalties provided by law, a person who knowingly and intentionally does not comply with any requirement under chapter 3, article 5 of this title relating to cigarettes shall pay a penalty of one thousand dollars. A person who knowingly and intentionally does not pay any luxury tax that relates to cigarettes imposed by chapter 3 of this title shall pay a penalty that is equal to ten per cent of the amount of the unpaid tax.

U. A cigarette manufacturer, cigarette importer or cigarette distributor, as defined in section 42-3001, who knowingly and intentionally sells or possesses cigarettes with false manufacturing labels or cigarettes with counterfeit tax stamps, or who obtains cigarettes through the use of a counterfeit license, shall pay the following penalties:

1. For a first violation involving two thousand or more cigarettes, one thousand dollars.

2. For a subsequent violation involving two thousand or more cigarettes, five thousand dollars.

V. The civil penalties in this section are in addition to any civil penalty under chapter 3, article 5 of this title.

W. For the purposes of this section, and only as applied to the taxes imposed by chapter 5, articles 1 through 6 and chapter 6, articles 1, 2 and 3 of this title, "reasonable cause" means a reasonable basis for the taxpayer to believe that the tax did not apply to the business activity or the storage, use or consumption of the taxpayer's tangible personal property in this state.

Sec. 16. Section 42-2001, Arizona Revised Statutes, is amended to read:

42-2001. <u>Definitions</u>

In this article, unless the context otherwise requires:

~~1. "Affidavits" includes forms received to report nontaxable estates.~~

~~2.~~ 1. "Confidential information":

(a) Includes the following information whether it concerns individual taxpayers or is aggregate information for specifically identified taxpayers:

(i) Returns and reports filed with the department for income tax, withholding tax, transaction privilege tax, luxury tax, use tax, ~~rental occupancy tax,~~ property tax~~, estate tax~~ and severance tax.

~~(ii) Affidavits, reports or other information filed relating to taxable and nontaxable estates.~~

~~(iii)~~ (ii) Applications for transaction privilege licenses, luxury tax licenses, use tax licenses and withholding licenses.

~~(iv)~~ (iii) Information discovered concerning taxes and receipts by the department, whether or not by compulsory process.

~~(v)~~ (iv) Return information obtained from the United States internal revenue service and United States bureau of alcohol, tobacco and firearms.

~~(vi)~~ (v) Information supplied at the special request of the department by a taxpayer which the taxpayer requests to be held in confidence.

~~(vii)~~ (vi) Guidelines, standards or procedures that are established by the department for, or other information relating to, selecting returns or taxpayers for examination or settling or compromising any tax liability.

~~(viii)~~ (vii) A taxpayer's identity, the nature, source or amount of the taxpayer's income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments or tax payments, whether the taxpayer's return was, is being or will be examined or subject to investigation, collection or processing or any other data received by, recorded by, prepared by, furnished to or collected by the department with respect to a return or with respect to the termination, or possible existence, of liability of any person for any tax, penalty or interest imposed pursuant to this title or title 43.

~~(ix)~~ (viii) Information supplied by an employee to an employer regarding the employee's election to have the employee's withholding tax reduced for the purposes of contributions to qualifying charitable organizations, qualified school tuition organizations or public schools pursuant to section 43-401, subsection ~~H~~ G.

(b) Does not include information ~~which~~ THAT is otherwise a public record.

~~3.~~ 2. "Report" includes a notice of insurance payments, a request for a release of a bank account and an inventory of a safe deposit box.

~~4.~~ 3. "Return" includes any form prescribed by the department and any supporting schedules, attachments and lists.

~~5.~~ 4. "Tax administration" includes assessment, collection, investigation, litigation, statistical gathering functions, enforcement, policy making functions or management of those functions of the tax revenue laws of this state.

~~6.~~ 5. "Taxpayer", with respect to a joint return, means either party.

Sec. 17. Section 42-2003, Arizona Revised Statutes, is amended to read:

42-2003. Authorized disclosure of confidential information

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.

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. 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 which will be affected by the confidential information.

5. 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 ~~which~~ THAT will be affected by the confidential information.

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

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

B. Confidential information may be disclosed to:

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

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

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

4. Other state tax officials whose official duties require the disclosure for proper tax administration purposes if the information is

sought in connection with an investigation or any other proceeding conducted by the official. Any disclosure is limited to information of a taxpayer who is being investigated or who is a party to a proceeding conducted by the official.

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

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

(b) A state tax official of another state.

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

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

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

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

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

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

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

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

8. The office of administrative hearings relating to taxes administered by the department pursuant to section 42-1101, but the department shall not disclose any confidential information:

(a) Regarding income tax~~,~~ OR withholding tax ~~or estate tax~~.

(b) On any tax issue relating to information associated with the reporting of income tax~~,~~ OR withholding tax ~~or estate tax~~.

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

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

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

12. The department of commerce for its use in:

(a) Qualifying motion picture production companies for the tax incentives provided for motion picture production under chapter 5 of this title and sections 43-1075 and 43-1163.

(b) Qualifying applicants for the motion picture infrastructure project tax credits under sections 43-1075.01 and 43-1163.01.

(c) Qualifying renewable energy operations for the tax incentives under sections 42-12006, 43-1083.01 and 43-1164.01.

(d) Fulfilling its annual reporting responsibility pursuant to section 41-1511, subsections U and V and section 41-1517, subsections S and T.

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

14. The state fire marshal for use in determining compliance with and enforcing title 41, chapter 16, article 3.1.

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

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

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

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

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

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

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

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

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

E. The department, ~~upon~~ ON the request of any person, shall provide the names and addresses of bingo licensees as defined in section 5-401, verify whether or not a person has a privilege license and number, a distributor's license and number or a withholding license and number or disclose the information to be posted on the department's website or

otherwise publicly accessible pursuant to section 42-1124, subsection F and section 42-3201, subsection A.

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

G. If an organization is exempt from this state's income tax as provided in section 43-1201 for any taxable year, the name and address of the organization and the application filed by the organization ~~upon~~ ON which the department made its determination for exemption together with any papers submitted in support of the application and any letter or document issued by the department concerning the application are open to public inspection.

H. Confidential information relating to transaction privilege tax, use tax, severance tax, jet fuel excise and use tax ~~and rental occupancy tax~~ AND ANY OTHER TAX COLLECTED BY THE DEPARTMENT ON BEHALF OF THE COUNTY may be disclosed to any county, city or town tax official if the information relates to a taxpayer who is or may be taxable by the county, city or town. Any taxpayer information released by the department to the county, city or town:

1. May only be used for internal purposes.

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

I. The department may disclose statistical information gathered from confidential information if it does not disclose confidential information attributable to any one taxpayer. The department may disclose statistical information gathered from confidential information, even if it discloses confidential information attributable to a taxpayer, to:

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

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

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

K. Except as provided in section 42-2002, subsection C, confidential information, described in section 42-2001, paragraph ~~2~~ 1, subdivision (a), item ~~(iii)~~ (ii), may be disclosed to law enforcement agencies for law enforcement purposes.

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

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

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

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

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

Q. Except as provided in section 42-2002, subsection D, the department of revenue shall release confidential information as requested by the department of economic security pursuant to section 42-1122 or 46-291. Information disclosed under this subsection is limited to the same type of information that the United States internal revenue service is authorized to disclose under section 6103(l)(6) of the internal revenue code.

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

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

T. The department shall release confidential information as requested by the attorney general for purposes of determining compliance with and enforcing section 44-7101, the master settlement agreement referred to therein and subsequent agreements to which the state is a party that amend or implement the master settlement agreement. Information disclosed under this subsection is limited to luxury tax information relating to tobacco manufacturers, distributors, wholesalers and retailers and information collected by the department pursuant to section 44-7101(2)(j).

U. For proceedings before the department, the office of administrative hearings, the board of tax appeals or any state or federal court involving penalties that were assessed against a return preparer, an electronic return preparer or a payroll service company pursuant to section 42-1103.02, 42-1125.01 or 43-419, confidential information may be disclosed only before the judge or administrative law judge adjudicating the proceeding, the parties to the proceeding and the parties' representatives in the proceeding prior to its introduction into evidence in the proceeding. The confidential information may be introduced as evidence in the proceeding only if the taxpayer's name, the names of any dependents listed on the return, all social security numbers, the taxpayer's address, the taxpayer's signature and any attachments containing any of the foregoing information are redacted and if either:

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

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

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

V. The department may disclose to the attorney general confidential information received under section 44-7111 and requested by the attorney general for purposes of determining compliance with and enforcing section 44-7111. The department and attorney general shall share with each other the information received under section 44-7111, and may share the information with other federal, state or local agencies only for the purposes of enforcement of section 44-7101, section 44-7111 or corresponding laws of other states.

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

Sec. 18. Section 42-3001, Arizona Revised Statutes, is amended to read:

42-3001. <u>Definitions</u>

In this chapter, unless the context otherwise requires:

1. "Affix" and "affixed" includes imprinting tax meter stamps on packages and individual containers as authorized by the department.

2. "Cider" means vinous liquor that is made from the normal alcoholic fermentation of the juice of sound, ripe apples, including flavored, sparkling and carbonated cider and cider made from condensed apple must, and that contains more than one-half of one per cent of alcohol by volume but not more than seven per cent of alcohol by volume.

3. "Cigar" means any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco other than any roll of tobacco that is a cigarette, as defined in paragraph 4, subdivision (b) of this section.

4. "Cigarette" means either of the following:

(a) Any roll of tobacco or any substitute for tobacco wrapped in paper or any substance not containing tobacco.

(b) Any roll of tobacco wrapped in any substance containing tobacco that, because of its appearance, the type of tobacco used in the filler or its packaging and labeling, is likely to be offered to or purchased by a consumer as a cigarette described in subdivision (a) of this paragraph. This subdivision shall be interpreted consistently with the classification guidelines established by the federal alcohol and tobacco tax and trade bureau.

5. "Cigarette distributor" means a distributor of cigarettes without stamps affixed as required by this article who is required to be licensed under section 42-3201. Cigarette distributor does not include a retailer or any person who holds a permit as a cigarette manufacturer, export warehouse proprietor or importer under 26 United States Code section 5712 if the person sells or distributes cigarettes in this state only to licensed cigarette distributors or to another person who holds a permit under 26 United States Code section 5712 as an export warehouse proprietor or manufacturer.

6. "Cigarette importer" means a distributor who directly or indirectly imports into the United States a finished cigarette for sale or distribution and who is required to be licensed under section 42-3201.

7. "Cigarette manufacturer" means a distributor who manufactures, fabricates, assembles, processes or labels a finished cigarette and who is required to be licensed under section 42-3201.

8. "Consumer" means a person in this state who comes into possession of any luxury subject to the tax imposed by this chapter and who, on coming into possession of the luxury, is not a distributor intending to sell or distribute the luxury, retailer or wholesaler.

9. "Distributor" means any person who manufactures, produces, ships, transports or imports into this state or in any manner acquires or possesses for the purpose of making the first sale of the following:

(a) Cigarettes without stamps affixed as required by this article.

(b) Other tobacco products upon which the taxes have not been paid as required by this chapter.

10. "Domestic farm winery" has the same meaning prescribed in section 4-101.

11. "Domestic microbrewery" has the same meaning prescribed in section 4-101.

12. "First sale" means the initial sale or distribution in intrastate commerce or the initial use or consumption of cigarettes or other tobacco products.

13. "Luxury" means any article, object or device upon which a tax is imposed under this chapter.

14. "Malt liquor" means any liquid that contains more than one-half of one per cent alcohol by volume and that is made by the process of fermentation and not distillation of hops or grains, but not including:

(a) Liquids made by the process of distillation of such substances.

(b) Medicines that are unsuitable for beverage purposes.

15. "Person" means any individual, firm, partnership, joint venture, association, corporation, municipal corporation, estate, trust, club, society or other group or combination acting as a unit, and the plural as well as the singular number.

16. "Retailer" means any person who comes into possession of any luxury subject to the taxes imposed by this chapter for the purpose of selling it for consumption and not for resale.

17. "Spirituous liquor" means any liquid that contains more than one-half of one per cent alcohol by volume, that is produced by distillation of any fermented substance and that is used or prepared for use as a beverage. Spirituous liquor does not include medicines that are unsuitable for beverage purposes.

18. "Tobacco products" means all luxuries included in section 42-3052, paragraphs 5 through 9~~, except that for the purposes of article 5.1 of this chapter tobacco products has the same meaning prescribed in section 42-3221~~.

19. "Vinous liquor" means any liquid that contains more than one-half of one per cent alcohol by volume and that is made by the process of fermentation of grapes, berries, fruits, vegetables or other substances but does not include:

(a) Liquids in which hops or grains are used in the process of fermentation.

(b) Liquids made by the process of distillation of hops or grains.

(c) Medicines that are unsuitable for beverage purposes.

20. "Wholesaler" means a person who sells any spirituous, vinous or malt liquor taxed under this chapter to retail dealers or for the purposes of resale only.

Sec. 19. Repeal

Title 42, chapter 3, article 5.1, Arizona Revised Statutes, is repealed.

Sec. 20. Section 42-5009, Arizona Revised Statutes, is amended to read:

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

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

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

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

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

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

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

E. If a seller is entitled to a deduction by complying with subsection B of this section, the department may require the purchaser to establish the accuracy and completeness of the information provided to the seller that entitled the seller to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article if the seller had not complied with subsection B of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of

this chapter. The amount shall be treated as tax revenues collected from the seller in order to designate the distribution base for purposes of section 42-5029.

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

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

H. From and after December 31, 2005 through December 31, 2010, the department shall prescribe a form for a certificate used to establish entitlement to the deductions described in section 42-5061, subsection B, paragraph 23, section 42-5066, subsection B, paragraph 5, section 42-5070, subsection C, paragraph 2, section 42-5074, subsection B, paragraph 10, section 42-5075, subsection B, paragraph ~~20~~ 19 and section 42-5159, subsection B, paragraph 23 relating to motion picture production. The certificate is effective for twelve consecutive calendar months from and

after the date of issuance and is subject to the following requirements and conditions:

1. A motion picture production company as defined in section 41-1517 may use a certificate issued pursuant to this subsection only with respect to production costs described in section 41-1517, subsection A, paragraph 2 that are subject to taxation under article 2 or 4 of this chapter.

2. The department shall issue the certificate to a motion picture production company on receiving the company's letter of qualification from the department of commerce, except as otherwise provided in this subsection.

3. The department shall not issue a certificate to a motion picture production company that has a delinquent tax balance owing to the department under this title or title 43.

4. If the department determines that a motion picture production company no longer qualifies for a certificate or has used the certificate for unauthorized purposes, the department shall revoke the certificate and the motion picture production company is liable for an amount equal to the transaction privilege and use taxes that would have been due on taxable transactions during the time the company did not qualify for or improperly used the certificate, with interest and penalties as provided by law.

5. The department shall maintain annual data on the total amount of monies exempted through the use of certificates issued pursuant to this subsection and shall provide those data to the department of commerce on request.

6. The department of revenue, with the cooperation of the department of commerce, shall adopt rules and publish and prescribe forms and procedures as necessary to effectuate the purposes of this subsection.

7. If, after audit, the department determines that a motion picture production company failed to meet any of the requirements prescribed by this subsection, any deductions from taxation from the use of the certificate are subject to recapture and payment by the motion picture production company to the department.

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

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

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

3. A legible copy of a current valid driver license issued to the purchaser by another state or foreign country that indicates an address outside of this state. For the sale of a motor vehicle to a nonresident

entity, the entity's representative must have a current valid driver license issued by the same jurisdiction as that in which the entity is located.

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

J. Notwithstanding subsection A, paragraph 2 of this section, if a motor vehicle dealer has established entitlement to a deduction by complying with subsection I 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.

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

Sec. 21. Section 42-5061, Arizona Revised Statutes, is amended to read:

42-5061. Retail classification; definitions

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

1. Professional or personal service occupations or businesses ~~which~~ 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 ~~which~~ THAT is properly included in any other business classification ~~which~~ THAT is taxable under this article.

7. The sale of stocks and bonds.

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

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

10. Insulin, insulin syringes and glucose test strips.

11. Prescription eyeglasses or contact lenses.

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

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

14. Sales to nonresidents of this state for use outside this state if the vendor ships or delivers the tangible personal property out of this state.

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

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

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

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

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

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

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

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

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

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

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

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

25. Tangible personal property sold to:

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

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

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

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

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

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

low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

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

27. Tangible personal property sold to a person that is subject to tax under this article by reason of being engaged in business classified under the prime contracting classification under section 42-5075, or to a subcontractor working under the control of a prime contractor that is subject to tax under article 1 of this chapter, if the property so sold is any of the following:

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

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

~~(c) Incorporated or fabricated by the person into any lake facility development in a commercial enhancement reuse district under conditions prescribed for the deduction allowed by section 42-5075, subsection B, paragraph 8.~~

28. The sale of a motor vehicle to:

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

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

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

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

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

32. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),

501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

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

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

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

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

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

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

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

40. 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 ~~upon~~ 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.

41. 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.

42. 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.

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

44. 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.

45. 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.

46. 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, ~~which~~ THAT are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

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

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

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

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

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

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

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

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

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

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

55. 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.

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

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

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

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

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

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

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

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

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

(b) Any foreign government ~~for use by such government outside of this state~~.

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

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

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

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

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

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

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

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

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

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

1 social sciences or psychology, computer software research that is not
2 included in the definition of research and development, or other
3 nontechnological activities or technical services.
4 15. Machinery and equipment that are purchased by or on behalf of the
5 owners of a soundstage complex and primarily used for motion picture,
6 multimedia or interactive video production in the complex. This paragraph
7 applies only if the initial construction of the soundstage complex begins
8 after June 30, 1996 and before January 1, 2002 and the machinery and
9 equipment are purchased before the expiration of five years after the start
10 of initial construction. For the purposes of this paragraph:
11 (a) "Motion picture, multimedia or interactive video production"
12 includes products for theatrical and television release, educational
13 presentations, electronic retailing, documentaries, music videos, industrial
14 films, CD-ROM, video game production, commercial advertising and television
15 episode production and other genres that are introduced through developing
16 technology.
17 (b) "Soundstage complex" means a facility of multiple stages,
18 including production offices, construction shops and related areas, prop and
19 costume shops, storage areas, parking for production vehicles and areas that
20 are leased to businesses that complement the production needs and orientation
21 of the overall facility.
22 16. Tangible personal property that is used by either of the following
23 to receive, store, convert, produce, generate, decode, encode, control or
24 transmit telecommunications information:
25 (a) Any direct broadcast satellite television or data transmission
26 service that operates pursuant to 47 Code of Federal Regulations part 25.
27 (b) Any satellite television or data transmission facility, if both of
28 the following conditions are met:
29 (i) Over two-thirds of the transmissions, measured in megabytes,
30 transmitted by the facility during the test period were transmitted to or on
31 behalf of one or more direct broadcast satellite television or data
32 transmission services that operate pursuant to 47 Code of Federal Regulations
33 part 25.
34 (ii) Over two-thirds of the transmissions, measured in megabytes,
35 transmitted by or on behalf of those direct broadcast television or data
36 transmission services during the test period were transmitted by the facility
37 to or on behalf of those services.
38 For the purposes of subdivision (b) of this paragraph, "test period" means
39 the three hundred sixty-five day period beginning on the later of the date on
40 which the tangible personal property is purchased or the date on which the
41 direct broadcast satellite television or data transmission service first
42 transmits information to its customers.
43 17. Clean rooms that are used for manufacturing, processing,
44 fabrication or research and development, as defined in paragraph 14 of this
45 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.

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

19. 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.

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

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

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

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

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

22. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2014 by a qualified business under section 41-1516 for harvesting or the initial processing of qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this deduction, the qualified business at the time of purchase must present its certification approved by the department.

23. Machinery, equipment and other tangible personal property used directly in motion picture production by a motion picture production company. To qualify for this deduction, at the time of purchase, the motion picture production company must present to the retailer its certificate that is issued pursuant to section 42-5009, subsection H and that establishes its qualification for the deduction.

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

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

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 16 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.

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

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

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

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

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

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

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

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

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

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

3. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in

1 performing a subcontract with a government contractor who is a manufacturer,
2 modifier, assembler or repairer, to which title passes to the government
3 under the terms of the contract or subcontract.
4 4. Sales of overhead materials or other tangible personal property to
5 a manufacturer, modifier, assembler or repairer if the gross proceeds of
6 sales or gross income derived from the property by the manufacturer,
7 modifier, assembler or repairer will be exempt under paragraph 3 of this
8 subsection.
9 K. There shall be deducted from the tax base fifty per cent of the
10 gross proceeds or gross income from any sale of tangible personal property
11 made directly to the United States government or its departments or agencies,
12 which is not deducted under subsection J of this section.
13 L. The department shall require every person claiming a deduction
14 provided by subsection J or K of this section to file on forms prescribed by
15 the department at such times as the department directs a sworn statement
16 disclosing the name of the purchaser and the exact amount of sales on which
17 the exclusion or deduction is claimed.
18 M. In computing the tax base, gross proceeds of sales or gross income
19 does not include:
20 1. A manufacturer's cash rebate on the sales price of a motor vehicle
21 if the buyer assigns the buyer's right in the rebate to the retailer.
22 2. The waste tire disposal fee imposed pursuant to section 44-1302.
23 N. There shall be deducted from the tax base the amount received from
24 sales of solar energy devices. The retailer shall register with the
25 department as a solar energy retailer. By registering, the retailer
26 acknowledges that it will make its books and records relating to sales of
27 solar energy devices available to the department for examination.
28 O. In computing the tax base in the case of the sale or transfer of
29 wireless telecommunications equipment as an inducement to a customer to enter
30 into or continue a contract for telecommunications services that are taxable
31 under section 42-5064, gross proceeds of sales or gross income does not
32 include any sales commissions or other compensation received by the retailer
33 as a result of the customer entering into or continuing a contract for the
34 telecommunications services.
35 P. For the purposes of this section, a sale of wireless
36 telecommunications equipment to a person who holds the equipment for sale or
37 transfer to a customer as an inducement to enter into or continue a contract
38 for telecommunications services that are taxable under section 42-5064 is
39 considered to be a sale for resale in the regular course of business.
40 Q. Retail sales of prepaid calling cards or prepaid authorization
41 numbers for telecommunications services, including sales of reauthorization
42 of a prepaid card or authorization number, are subject to tax under this
43 section.

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

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

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

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

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

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

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

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

V. For the purposes of this section:

1. "Aircraft" includes:

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

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

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

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

W. For the purposes of subsection J of this section:

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

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

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

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

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

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

1 Sec. 22. Section 42-5070, Arizona Revised Statutes, is amended to
2 read:
3 42-5070. Transient lodging classification; definition
4 A. The transient lodging classification is comprised of the business
5 of operating, for occupancy by transients, a hotel or motel, including an
6 inn, tourist home or house, dude ranch, resort, campground, studio or
7 bachelor hotel, lodging house, rooming house, apartment house, dormitory,
8 public or private club, mobile home or house trailer at a fixed location or
9 other similar structure, and also including a space, lot or slab ~~which~~ THAT
10 is occupied or intended or designed for occupancy by transients in a mobile
11 home or house trailer furnished by them for such occupancy.
12 B. The transient lodging classification does not include:
13 1. Operating a convalescent home or facility, home for the aged,
14 hospital, jail, military installation or fraternity or sorority house or
15 operating any structure exclusively by an association, institution,
16 governmental agency or corporation for religious, charitable or educational
17 purposes, if no part of the net earnings of the association, corporation or
18 other entity inures to the benefit of any private shareholder or individual.
19 2. A lease or rental of a mobile home or house trailer at a fixed
20 location or any other similar structure, and also including a space, lot or
21 slab ~~which~~ THAT is occupied or intended or designed for occupancy by
22 transients in a mobile home or house trailer furnished by them for such
23 occupancy for thirty or more consecutive days.
24 3. Leasing or renting four or fewer rooms of an owner-occupied
25 residential home, together with furnishing no more than a breakfast meal, to
26 transient lodgers at no more than a fifty per cent average annual occupancy
27 rate.
28 C. The tax base for the transient lodging classification is the gross
29 proceeds of sales or gross income derived from the business, except that the
30 tax base does not include:
31 1. Gross proceeds of sales or gross income derived from business
32 activity that is properly included in another business classification under
33 this article and that is taxable to the person engaged in that business
34 classification, but the gross proceeds of sales or gross income to be
35 deducted shall not exceed the consideration paid to the person conducting the
36 activity.
37 2. Gross proceeds of sales or gross income from leases or rentals of
38 lodging space to a motion picture production company if, at the time of lease
39 or rental, the motion picture production company presents to the business its
40 certificate of qualification that is issued pursuant to section 42-5009,
41 subsection H.
42 D. For the purposes of this section, the tax base for the transient
43 lodging classification does not include gross proceeds of sales or gross
44 income derived from:

1. Transactions or activities that are not limited to transients and that would not be taxable if engaged in by a person not subject to tax 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).

~~E.~~ 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. 23. Section 42-5073, Arizona Revised Statutes, is amended to read:

42-5073. Amusement classification

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

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

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

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

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

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

6. Operating or sponsoring rodeos that feature primarily farm and ranch animals in this state and that are sponsored, conducted or operated 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 and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

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

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

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

8. Activities and events of, or fees and assessments received by, a homeowners organization from persons who are members of the organization or accompanied guests of members. For the purposes of this paragraph, "homeowners organization" means a mandatory membership organization comprised of owners of residential property within a specified residential real estate subdivision development or similar area and established to own property for the benefit of its members where both of the following apply:

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

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

9. Activities and events of, or fees received 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.

10. Arranging an amusement activity as a service to a person's customers if that person is not otherwise engaged in the business of operating or conducting an amusement personally or through others. This exception does not apply to businesses that operate or conduct amusements pursuant to customer orders and send the billings and receive the payments associated with that activity, including when the amusement is performed by third party independent contractors. For the purposes of this paragraph,

1 "arranging" includes billing for or collecting amusement charges from a
2 person's customers on behalf of the persons providing the amusement.
3 B. The tax base for the amusement classification is the gross proceeds
4 of sales or gross income derived from the business, except that the following
5 shall be deducted from the tax base:
6 1. The gross proceeds of sales or gross income derived from
7 memberships, including initiation fees, which provide for the right to use a
8 health or fitness establishment or a private recreational establishment, or
9 any portion of an establishment, including tennis and other racquet courts at
10 that establishment, for participatory purposes for twenty-eight days or more
11 and fees charged for use of the health or fitness establishment or private
12 recreational establishment by bona fide accompanied guests of members, except
13 that this paragraph does not include additional fees, other than initiation
14 fees, charged by a health or fitness establishment or a private recreational
15 establishment for purposes other than memberships which provide for the right
16 to use a health or fitness establishment or private recreational
17 establishment, or any portion of an establishment, for participatory purposes
18 for twenty-eight days or more and accompanied guest use fees.
19 2. Amounts that are exempt under section 5-111, subsection H.
20 3. The gross proceeds of sales or gross income derived from membership
21 fees, including initiation fees, that provide for the right to use a
22 transient lodging recreational establishment, including golf courses and
23 tennis and other racquet courts at that establishment, for participatory
24 purposes for twenty-eight days or more, except that this paragraph does not
25 include additional fees, other than initiation fees, that are charged by a
26 transient lodging recreational establishment for purposes other than
27 memberships and that provide for the right to use a transient lodging
28 recreational establishment or any portion of the establishment for
29 participatory purposes for twenty-eight days or more.
30 4. The gross proceeds of sales or gross income derived from sales to
31 persons engaged in the business of transient lodging classified under section
32 42-5070, if all of the following apply:
33 (a) The persons who are engaged in the transient lodging business sell
34 the amusement to another person for consideration.
35 (b) The consideration received by the transient lodging business is
36 equal to or greater than the amount to be deducted under this subsection.
37 (c) The transient lodging business has provided an exemption
38 certificate to the person engaging in business under this section.
39 5. The gross proceeds of sales or gross income derived from:
40 (a) Business activity that is properly included in any other business
41 classification under this article and that is taxable to the person engaged
42 in that classification, but the gross proceeds of sales or gross income to be
43 deducted shall not exceed the consideration paid to the person conducting the
44 activity.

1 (b) Business activity that is arranged by the person who is subject to
2 tax under this section and that is not taxable to the person conducting the
3 activity due to an exclusion, exemption or deduction under this section or
4 section 42-5062, but the gross proceeds of sales or gross income to be
5 deducted shall not exceed the consideration paid to the person conducting the
6 activity.
7 (c) Business activity that is arranged by a person who is subject to
8 tax under this section and that is taxable to another person under this
9 section who conducts the activity, but the gross proceeds of sales or gross
10 income to be deducted shall not exceed the consideration paid to the person
11 conducting the activity.
12 C. For the purposes of subsection B of this section:
13 1. "Health or fitness establishment" means a facility whose primary
14 purpose is to provide facilities, equipment, instruction or education to
15 promote the health and fitness of its members and at least eighty per cent of
16 the monthly gross revenue of the facility is received through accounts of
17 memberships and accompanied guest use fees which provide for the right to use
18 the facility, or any portion of the facility, under the terms of the
19 membership agreement for participatory purposes for twenty-eight days or
20 more.
21 2. "Private recreational establishment" means a facility whose primary
22 purpose is to provide recreational facilities, such as tennis, golf and
23 swimming, for its members and where at least eighty per cent of the monthly
24 gross revenue of the facility is received through accounts of memberships and
25 accompanied guest use fees which provide for the right to use the facility,
26 or any portion of the facility, for participatory purposes for twenty-eight
27 days or more.
28 3. "Transient lodging recreational establishment" means a facility
29 whose primary purpose is to provide facilities for transient lodging, that is
30 subject to taxation under this chapter and that also provides recreational
31 facilities, such as tennis, golf and swimming, for members for a period of
32 twenty-eight days or more.
33 D. Until December 31, 1988, the revenues from hayrides and other
34 animal-drawn amusement rides, from horseback riding and riding instruction
35 and from recreational tours using motor vehicles designed to operate on and
36 off public highways are exempt from the tax imposed by this section.
37 Beginning January 1, 1989, the gross proceeds or gross income from hayrides
38 and other animal-drawn amusement rides, from horseback riding and from
39 recreational tours using motor vehicles designed to operate on and off public
40 highways are subject to taxation under this section. Tax liabilities,
41 penalties and interest paid for taxable periods before January 1, 1989 shall
42 not be refunded unless the taxpayer requesting the refund provides proof
43 satisfactory to the department that the taxes will be returned to the
44 customer.

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

F. THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES COLLECTED UNDER THE AMUSEMENT CLASSIFICATION FOR THE PURPOSES OF SECTION 42-5029, SUBSECTION D, PARAGRAPH 4, SUBDIVISION (b).

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

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

2. 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.

Sec. 24. Section 42-5074, Arizona Revised Statutes, is amended to read:

42-5074. <u>Restaurant classification</u>

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

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

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

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

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

4. Sales 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

1 if the organization is associated with a major league baseball team or a
2 national touring professional golfing association and no part of the
3 organization's net earnings inures to the benefit of any private shareholder
4 or individual.
5 5. Sales at a rodeo featuring primarily farm and ranch animals in this
6 state by a nonprofit organization that is exempt from taxation under section
7 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal
8 revenue code and no part of the organization's net earnings inures to the
9 benefit of any private shareholder or individual.
10 6. Sales by any nonprofit organization organized and operated
11 exclusively for charitable purposes and recognized by the United States
12 internal revenue service under section 501(c)(3) of the internal revenue
13 code.
14 7. Sales to qualifying hospitals as defined in section 42-5001.
15 8. Sales to a qualifying health care organization as defined in
16 section 42-5001 if the tangible personal property is used by the organization
17 solely to provide health and medical related educational and charitable
18 services.
19 9. Sales of food, drink and condiment for consumption within the
20 premises of any prison, jail or other institution under the jurisdiction of
21 the state department of corrections, the department of public safety, the
22 department of juvenile corrections or a county sheriff.
23 10. Sales of catered food, drink and condiment to a motion picture
24 production company. To qualify for this deduction, at the time of purchase,
25 the motion picture production company must present to the business its
26 certificate of qualification that is issued pursuant to section 42-5009,
27 subsection H and that establishes its qualification for the deduction.
28 11. Sales of articles of prepared or unprepared food, drink or
29 condiment and accessory tangible personal property to a school district or
30 charter school if the articles and accessory tangible personal property are
31 served to persons for consumption on the premises of a public school in the
32 school district or charter school during school hours.
33 12. Prepared food, drink or condiment donated by a restaurant to a
34 nonprofit charitable organization that has qualified under section 501(c)(3)
35 of the internal revenue code and that regularly serves meals to the needy and
36 indigent on a continuing basis at no cost.
37 C. The tax imposed on the restaurant classification pursuant to this
38 section does not apply to the gross proceeds of sales or gross income from
39 tangible personal property sold to a commercial airline consisting of food,
40 beverages and condiments and accessories used for serving the food and
41 beverages, if those items are to be provided without additional charge to
42 passengers for consumption in flight. For the purposes of this subsection,
43 "commercial airline" means a person holding a federal certificate of public
44 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.

D. THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES COLLECTED UNDER THE RESTAURANT CLASSIFICATION FOR THE PURPOSES OF SECTION 42-5029, SUBSECTION D, PARAGRAPH 4, SUBDIVISION (b).

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

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

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.

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

42-5075. Prime contracting classification; exemptions; definitions

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

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

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

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

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

4. The gross proceeds of sales or gross income received from a contract entered into for the construction, alteration, repair, addition, subtraction, improvement, movement, wrecking or demolition of any building, highway, road, railroad, excavation, manufactured building or other

structure, project, development or improvement located in a military reuse zone for providing aviation or aerospace services or for a manufacturer, assembler or fabricator of aviation or aerospace products within an active military reuse zone after the zone is initially established or renewed under section 41-1531. To be eligible to qualify for this deduction, before beginning work under the contract, the prime contractor must have applied for a letter of qualification from the department of revenue.

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

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

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

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

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

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

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

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

7. The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of machinery, equipment or other tangible personal property that is deducted from the tax base of the retail classification pursuant to section 42-5061, subsection B, or that is exempt from use tax pursuant to section 42-5159, subsection B, and that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement. If the ownership of the realty is separate from the ownership of the machinery, equipment or tangible personal property, the determination as to permanent attachment shall be made as if the ownership were the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity ~~which~~ THAT consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of machinery, equipment or other tangible personal property that is deducted from the tax base of the retail classification pursuant to section 42-5061, subsection B or that is exempt from use tax pursuant to section 42-5159, subsection B. For the purposes of this paragraph, "permanent attachment" means at least one of the following:

(a) To be incorporated into real property.

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

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

~~8. Through December 31, 2009, the gross proceeds of sales or gross income received from a contract for constructing any lake facility development in a commercial enhancement reuse district that is designated pursuant to section 9-499.08 if the prime contractor maintains the following records in a form satisfactory to the department and to the city or town in which the property is located:~~

~~(a) The certificate of qualification of the lake facility development issued by the city or town pursuant to section 9-499.08, subsection D.~~

~~(b) All state and local transaction privilege tax returns for the period of time during which the prime contractor received gross proceeds of sales or gross income from a contract to construct a lake facility development in a designated commercial enhancement reuse district, showing the amount exempted from state and local taxation.~~

~~(c) Any other information that the department considers to be necessary.~~

~~9.~~ 8. The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from transaction privilege and use tax under:

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

(b) Section 42-5061, subsection B.

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

(d) Section 42-5159, subsection B.

~~10.~~ 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.

~~11.~~ 10. The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

~~12.~~ 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 17.

~~13.~~ 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.

~~14.~~ 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.

~~15.~~ 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.

~~16.~~ 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.

~~17.~~ 16. The gross proceeds of sales or gross income derived from contracts to perform postconstruction treatment of real property for termite and general pest control, including wood destroying organisms.

~~18.~~ 17. The gross proceeds of sales or gross income received from contracts entered into before July 1, 2006 for constructing a state

university research infrastructure project if the project has been reviewed by the joint committee on capital review before the university enters into the construction contract for the project. For the purposes of this paragraph, "research infrastructure" has the same meaning prescribed in section 15-1670.

~~19.~~ 18. The gross proceeds of sales or gross income received from a contract for the construction of any building, or other structure, project, development or improvement owned by a qualified business under section 41-1516 for harvesting or the initial processing of qualifying forest products removed from qualifying projects as defined in section 41-1516 if actual construction begins before January 1, 2010. To qualify for this deduction, the prime contractor must obtain a letter of qualification from the department of commerce before beginning work under the contract.

~~20.~~ 19. The gross proceeds of sales or gross income received from a contract for the construction of any building or other structure associated with motion picture production in this state. To qualify for the deduction, at the time the contract is entered into the motion picture production company must present to the prime contractor its certificate that is issued pursuant to section 42-5009, subsection H and that establishes its qualification for the deduction.

~~21.~~ 20. Any amount of the gross proceeds of sales or gross income attributable to development fees that are incurred in relation to a contract for construction, development or improvement of real property and that are paid by a prime contractor or subcontractor. For the purposes of this paragraph:

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

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

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

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

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

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

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

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

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

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

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

E. Amounts received by a contractor for a project are excluded from the contractor's gross proceeds of sales or gross income derived from the business if the person who hired the contractor executes and provides a certificate to the contractor stating that the person providing the certificate is a prime contractor and is liable for the tax under article 1

of this chapter. The department shall prescribe the form of the certificate. If the contractor has reason to believe that the information contained on the certificate is erroneous or incomplete, the department may disregard the certificate. If the person who provides the certificate is not liable for the tax as a prime contractor, that person is nevertheless deemed to be the prime contractor in lieu of the contractor and is subject to the tax under this section on the gross receipts or gross proceeds received by the contractor.

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

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

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

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

J. 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.

K. 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.

1 Constructing roads to a landfill or solid waste disposal facility and
2 constructing cells within a landfill or solid waste disposal facility may be
3 deemed prime contracting under this section.
4 L. The following apply to manufactured buildings:
5 1. For sales in this state where the dealership of manufactured
6 buildings contracts to deliver the building to a setup site or to perform the
7 setup in this state, the taxable situs is the setup site.
8 2. For sales in this state where the dealership of manufactured
9 buildings does not contract to deliver the building to a setup site or does
10 not perform the setup, the taxable situs is the location of the dealership
11 where the building is delivered to the buyer.
12 3. For sales in this state where the dealership of manufactured
13 buildings contracts to deliver the building to a setup site that is outside
14 this state, the situs is outside this state and the transaction is excluded
15 from tax.
16 M. The gross proceeds of sales or gross income attributable to a
17 separate, written design phase services contract or professional services
18 contract, executed before modification begins, is not subject to tax under
19 this section, regardless of whether the services are provided sequential to
20 or concurrent with prime contracting activities that are subject to tax under
21 this section. This subsection does not include the gross proceeds of sales
22 or gross income attributable to construction phase services. For the
23 purposes of this subsection:
24 1. "Construction phase services" means services for the execution and
25 completion of any modification, including the following:
26 (a) Administration or supervision of any modification performed on the
27 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 list"
32 means minor items of modification work performed after substantial completion
33 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 this
42 item, "guaranteed maximum price" means the amount guaranteed to be the
43 maximum amount due to a prime contractor for the performance of all
44 modification work for the project.

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

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

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

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

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

(i) Master schedule updates.

(ii) Modification work cash flow projection updates.

(iii) Site reports made on a periodic basis.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(vi) Any bond and insurance premiums.

(vii) Any applicable taxes.

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

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

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

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

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

1 income received for the modifications shall be determined according to the
2 following methodology:
3 1. If any part of the contract for sale of the property specifies
4 amounts to be paid to the original owner for the modifications to be made in
5 the period subsequent to the transfer of title, the amounts are included in
6 the original owner's gross proceeds of sale or gross income under this
7 section. Proceeds from the sale of the property that are received after
8 transfer of title and that are unrelated to the modifications made subsequent
9 to the transfer of title are not considered gross proceeds of sale or gross
10 income from the modifications.
11 2. If the original owner enters into an agreement separate from the
12 contract for sale of the real property providing for amounts to be paid to
13 the original owner for the modifications to be made in the period subsequent
14 to the transfer of title to the property, the amounts are included in the
15 original owner's gross proceeds of sale or gross income received for the
16 modifications made subsequent to the transfer of title.
17 3. If the original owner is responsible to the new owner for
18 modifications made to the property in the period subsequent to the transfer
19 of title and derives any gross proceeds of sale or gross income from the
20 project subsequent to the transfer of title other than a delayed disbursement
21 from escrow unrelated to the modifications, it is presumed that the amounts
22 are received for the modifications made subsequent to the transfer of title
23 unless the contrary is established by the owner through its books, records
24 and papers kept in the regular course of business.
25 4. The tax base of the original owner is computed in the same manner
26 as a prime contractor under this section.
27 O. For the purposes of this section:
28 1. "Contracting" means engaging in business as a contractor.
29 2. "Contractor" is synonymous with the term "builder" and means any
30 person or organization that undertakes to or offers to undertake to, or
31 purports to have the capacity to undertake to, or submits a bid to, or does
32 personally or by or through others, modify any building, highway, road,
33 railroad, excavation, manufactured building or other structure, project,
34 development or improvement, or to do any part of such a project, including
35 the erection of scaffolding or other structure or works in connection with
36 such a project, and includes subcontractors and specialty contractors. For
37 all purposes of taxation or deduction, this definition shall govern without
38 regard to whether or not such contractor is acting in fulfillment of a
39 contract.
40 3. "Dealership of manufactured buildings" means a dealer who either:
41 (a) Is licensed pursuant to title 41, chapter 16 and who sells
42 manufactured buildings to the final consumer.
43 (b) Supervises, performs or coordinates the excavation and completion
44 of site improvements, setup or moving of a manufactured building including

1 the contracting, if any, with any subcontractor or specialty contractor for
2 the completion of the contract.
3 4. "Manufactured building" means a manufactured home, mobile home or
4 factory-built building, as defined in section 41-2142.
5 5. "Modification" means construction, alteration, repair, addition,
6 subtraction, improvement, movement, wreckage or demolition.
7 6. "Modify" means to construct, alter, repair, add to, subtract from,
8 improve, move, wreck or demolish.
9 7. "Prime contracting" means engaging in business as a prime
10 contractor.
11 8. "Prime contractor" means a contractor who supervises, performs or
12 coordinates the modification of any building, highway, road, railroad,
13 excavation, manufactured building or other structure, project, development or
14 improvement including the contracting, if any, with any subcontractors or
15 specialty contractors and who is responsible for the completion of the
16 contract. Except as provided in subsections E and N of this section, a
17 person who owns real property, who engages one or more contractors to modify
18 that real property and who does not itself modify that real property is not a
19 prime contractor within the meaning of this paragraph regardless of the
20 existence of a contract for sale or the subsequent sale of that real
21 property.
22 9. "Sale of a used manufactured building" does not include a lease of
23 a used manufactured building.
24 Sec. 26. Section 42-5159, Arizona Revised Statutes, is amended to
25 read:
26 42-5159. Exemptions
27 A. The tax levied by this article does not apply to the storage, use
28 or consumption in this state of the following described tangible personal
29 property:
30 1. Tangible personal property sold in this state, the gross receipts
31 from the sale of which are included in the measure of the tax imposed by
32 articles 1 and 2 of this chapter.
33 2. Tangible personal property the sale or use of which has already
34 been subjected to an excise tax at a rate equal to or exceeding the tax
35 imposed by this article under the laws of another state of the United States.
36 If the excise tax imposed by the other state is at a rate less than the tax
37 imposed by this article, the tax imposed by this article is reduced by the
38 amount of the tax already imposed by the other state.
39 3. Tangible personal property, the storage, use or consumption of
40 which the constitution or laws of the United States prohibit this state from
41 taxing or to the extent that the rate or imposition of tax is
42 unconstitutional under the laws of the United States.
43 4. Tangible personal property which directly enters into and becomes
44 an ingredient or component part of any manufactured, fabricated or processed
45 article, substance or commodity for sale in the regular course of business.

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

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

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

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

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

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

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

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

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

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

13. Tangible personal property purchased by:

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

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

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

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

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

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

(g) A person that is subject to tax under article 1 of this chapter by reason of being engaged in business classified under the prime contracting classification under section 42-5075, or a subcontractor working under the control of a prime contractor, if the tangible personal property is any of the following:

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

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

~~(iii) Incorporated or fabricated by the person into any lake facility development in a commercial enhancement reuse district under conditions prescribed for the deduction allowed by section 42-5075, subsection B, paragraph 8.~~

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

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

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

(k) A person engaged in business under the transient lodging classification if the property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, which

1 are furnished without additional charge to and intended to be consumed by the
2 transient during the transient's occupancy.
3 (l) For taxable periods beginning from and after June 30, 2001, a
4 nonprofit charitable organization that has qualified under section 501(c)(3)
5 of the internal revenue code and that provides residential apartment housing
6 for low income persons over sixty-two years of age in a facility that
7 qualifies for a federal housing subsidy, if the tangible personal property is
8 used by the organization solely to provide residential apartment housing for
9 low income persons over sixty-two years of age in a facility that qualifies
10 for a federal housing subsidy.
11 14. Commodities, as defined by title 7 United States Code section 2,
12 that are consigned for resale in a warehouse in this state in or from which
13 the commodity is deliverable on a contract for future delivery subject to the
14 rules of a commodity market regulated by the United States commodity futures
15 trading commission.
16 15. Tangible personal property sold by:
17 (a) Any nonprofit organization organized and operated exclusively for
18 charitable purposes and recognized by the United States internal revenue
19 service under section 501(c)(3) of the internal revenue code.
20 (b) A nonprofit organization that is exempt from taxation under
21 section 501(c)(3) or 501(c)(6) of the internal revenue code if the
22 organization is associated with a major league baseball team or a national
23 touring professional golfing association and no part of the organization's
24 net earnings inures to the benefit of any private shareholder or individual.
25 (c) A nonprofit organization that is exempt from taxation under
26 section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the
27 internal revenue code if the organization sponsors or operates a rodeo
28 featuring primarily farm and ranch animals and no part of the organization's
29 net earnings inures to the benefit of any private shareholder or individual.
30 16. Drugs and medical oxygen, including delivery hose, mask or tent,
31 regulator and tank, on the prescription of a member of the medical, dental or
32 veterinarian profession who is licensed by law to administer such substances.
33 17. Prosthetic appliances, as defined in section 23-501, prescribed or
34 recommended by a person who is licensed, registered or otherwise
35 professionally credentialed as a physician, dentist, podiatrist,
36 chiropractor, naturopath, homeopath, nurse or optometrist.
37 18. Prescription eyeglasses and contact lenses.
38 19. Insulin, insulin syringes and glucose test strips.
39 20. Hearing aids as defined in section 36-1901.
40 21. Durable medical equipment which has a centers for medicare and
41 medicaid services common procedure code, is designated reimbursable by
42 medicare, is prescribed by a person who is licensed under title 32, chapter
43 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
44 used to serve a medical purpose, is generally not useful to a person in the
45 absence of illness or injury and is appropriate for use in the home.

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

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

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

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

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

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

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

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

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

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

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

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

(b) Public educational institutions.

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

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

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

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

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

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

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

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

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

1 expense account and allocated to various contracts based upon generally
2 accepted accounting principles and consistent with government contract
3 accounting standards.
4 (b) "Subcontract" means an agreement between a contractor and any
5 person who is not an employee of the contractor for furnishing of supplies or
6 services that, in whole or in part, are necessary to the performance of one
7 or more government contracts, or under which any portion of the contractor's
8 obligation under one or more government contracts is performed, undertaken or
9 assumed, and that includes provisions causing title to overhead materials or
10 other tangible personal property used in the performance of the subcontract
11 to pass to the government or that includes provisions incorporating such
12 title passing clauses in a government contract into the subcontract.
13 40. Through December 31, 1994, tangible personal property sold pursuant
14 to a personal property liquidation transaction, as defined in section
15 42-5061. From and after December 31, 1994, tangible personal property sold
16 pursuant to a personal property liquidation transaction, as defined in
17 section 42-5061, if the gross proceeds of the sales were included in the
18 measure of the tax imposed by article 1 of this chapter or if the personal
19 property liquidation was a casual activity or transaction.
20 41. Wireless telecommunications equipment that is held for sale or
21 transfer to a customer as an inducement to enter into or continue a contract
22 for telecommunications services that are taxable under section 42-5064.
23 42. Alternative fuel, as defined in section 1-215, purchased by a used
24 oil fuel burner who has received a permit to burn used oil or used oil fuel
25 under section 49-426 or 49-480.
26 43. Tangible personal property purchased by a commercial airline and
27 consisting of food, beverages and condiments and accessories used for serving
28 the food and beverages, if those items are to be provided without additional
29 charge to passengers for consumption in flight. For the purposes of this
30 paragraph, "commercial airline" means a person holding a federal certificate
31 of public convenience and necessity or foreign air carrier permit for air
32 transportation to transport persons, property or United States mail in
33 intrastate, interstate or foreign commerce.
34 44. Alternative fuel vehicles if the vehicle was manufactured as a
35 diesel fuel vehicle and converted to operate on alternative fuel and
36 equipment that is installed in a conventional diesel fuel motor vehicle to
37 convert the vehicle to operate on an alternative fuel, as defined in section
38 1-215.
39 45. Gas diverted from a pipeline, by a person engaged in the business
40 of:
41 (a) Operating a natural or artificial gas pipeline, and used or
42 consumed for the sole purpose of fueling compressor equipment that
43 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.

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

and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media which are components of carrier systems.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15. Machinery and equipment that are purchased by or on behalf of the owners of a soundstage complex and primarily used for motion picture, multimedia or interactive video production in the complex. This paragraph applies only if the initial construction of the soundstage complex begins after June 30, 1996 and before January 1, 2002 and the machinery and equipment are purchased before the expiration of five years after the start of initial construction. For the purposes of this paragraph:

(a) "Motion picture, multimedia or interactive video production" includes products for theatrical and television release, educational presentations, electronic retailing, documentaries, music videos, industrial films, CD-ROM, video game production, commercial advertising and television episode production and other genres that are introduced through developing technology.

(b) "Soundstage complex" means a facility of multiple stages including production offices, construction shops and related areas, prop and costume shops, storage areas, parking for production vehicles and areas that are leased to businesses that complement the production needs and orientation of the overall facility.

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

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

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

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

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

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

17. 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.

18. 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.

19. 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.

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

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

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

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

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

22. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2014 by a qualified business under section 41-1516 for harvesting or the initial processing of qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this exemption, the qualified business must obtain and present its certification from the department of commerce at the time of purchase.

23. Machinery, equipment and other tangible personal property used directly in motion picture production by a motion picture production company. To qualify for this exemption, at the time of purchase, the motion picture production company must present to the retailer its certificate that is issued pursuant to section 42-5009, subsection H and that establishes its qualification for the exemption.

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

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

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 16 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.

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

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

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

E. The tax levied by this article does not apply to:

1. The storage, use or consumption in Arizona of machinery, equipment, materials or other tangible personal property if used directly and predominantly to construct a qualified environmental technology manufacturing, producing or processing facility, as described in section 41-1514.02. This paragraph applies for ten full consecutive calendar or fiscal years after the start of initial construction.

2. The purchase of electricity by a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 that is used directly in environmental technology manufacturing, producing or processing. This paragraph shall apply for twenty full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

3. The purchase of solar energy devices from a retailer that is registered with the department as a solar energy retailer or a solar energy contractor.

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

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

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

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

1. "Aircraft" includes:

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

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

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

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

Sec. 27. Repeal

Section 42-6104, Arizona Revised Statutes, is repealed.

Sec. 28. Section 42-6105, Arizona Revised Statutes, is amended to read:

42-6105. County transportation excise tax; counties with population of one million two hundred thousand or more persons

A. If approved by the qualified electors voting at a countywide election, a county with a population of one million two hundred thousand or more persons shall levy and the department shall collect a tax as provided by this section, in addition to all other taxes.

B. The tax shall be levied and collected:

1. At a rate of not more than ten per cent of the transaction privilege tax rate prescribed by section 42-5010, subsection A applying, as of January 1, 1990~~:~~

~~(a)~~ to each person engaging or continuing in the county in a business taxed under chapter 5, article 1 of this title.

~~(b) Except that for the purposes of this paragraph with respect to the prime contracting classification under section 42-5075, the gross proceeds of sales or gross income that is deductible pursuant to section 42-5075, subsection B, paragraph 8 or pursuant to section 42-5061, subsection A, paragraph 27 for sales to a contractor who is exempt under section 42-5075, subsection B, paragraph 8 shall be included in the tax base for purposes of this paragraph.~~

2. In the case of persons subject to the tax imposed under section 42-5352, subsection A, at a rate of not more than .305 cents per gallon of jet fuel sold.

3. On the use or consumption of electricity or natural gas by retail electric or natural gas customers in the county who are subject to use tax under section 42-5155, at a rate equal to the transaction privilege tax rate under paragraph 1 of this subsection applying to persons engaging or continuing in the county in the utilities transaction privilege tax classification.

~~C. A tax under this section may not be levied at the same time as a tax in the county under section 42-6104. A tax levy under this section shall not begin until the expiration of the tax under section 42-6104.~~

~~D.~~ C. The tax levied under this section shall be in effect for a term of twenty years.

~~E.~~ D. The net revenues collected under this section shall be distributed and deposited as follows for use consistent with the regional transportation plan adopted under title 28, chapter 17, article 1:

1. 56.2 per cent to the regional area road fund pursuant to section 28-6303 for freeways and other routes in the state highway system, including capital expense and maintenance.

2. 10.5 per cent to the regional area road fund pursuant to section 28-6303 for major arterial streets and intersection improvements, including capital expense and implementation studies.

3. 33.3 per cent to the public transportation fund pursuant to section 48-5103 for:

(a) Capital costs, maintenance and operation of public transportation classifications.

(b) Capital costs and utility relocation costs associated with a light rail public transit system.

Sec. 29. Section 42-6106, Arizona Revised Statutes, is amended to read:

42-6106. <u>County transportation excise tax</u>

A. If approved by the qualified electors voting at a countywide election, the regional transportation authority in any county shall levy and the department shall collect a transportation excise tax up to the rate authorized by this section in addition to all other taxes.

B. The tax shall be levied and collected:

1. At a rate of not more than ten per cent of the transaction privilege tax rate prescribed by section 42-5010, subsection A in effect on January 1, 1990~~:~~

~~(a)~~ to each person engaging or continuing in the county in a business taxed under chapter 5, article 1 of this title.

~~(b) Except that for the purposes of this paragraph with respect to the prime contracting classification under section 42-5075, the gross proceeds of sales or gross income that is deductible pursuant to section 42-5075,~~

~~subsection B, paragraph 8 or pursuant to section 42-5061, subsection A, paragraph 27 for sales to a contractor who is exempt under section 42-5075, subsection B, paragraph 8 shall be included in the tax base for purposes of this paragraph.~~

2. In the case of persons subject to the tax imposed under section 42-5352, subsection A, at a rate of not more than .305 cents per gallon of jet fuel sold.

3. On the use or consumption of electricity or natural gas by retail electric or natural gas customers in the county who are subject to use tax under section 42-5155, at a rate equal to the transaction privilege tax rate under paragraph 1 applying to persons engaging or continuing in the county in the utilities transaction privilege tax classification.

C. Any subsequent reduction in the transaction privilege tax rate prescribed by chapter 5, article 1 of this title shall not reduce the tax that is approved and collected as prescribed in this section. The department shall collect the tax at a variable rate if the variable rate is specified in the ballot proposition. The department shall collect the tax at a modified rate if approved by a majority of the qualified electors voting.

D. The net revenues collected under this section:

1. In counties with a population exceeding four hundred thousand persons, shall be deposited in the regional transportation fund pursuant to section 48-5307.

2. In counties with a population of four hundred thousand or fewer persons, shall be deposited in the public transportation authority fund pursuant to section 28-9142 or the regional transportation fund pursuant to section 48-5307 or shall be allocated between both funds.

E. The tax shall be levied under this section beginning January 1 or July 1, whichever date occurs first after approval by the voters, and may be in effect for a period of not more than twenty years.

Sec. 30. Section 42-6203, Arizona Revised Statutes, is amended to read:

42-6203. <u>Rates of tax</u>

A. Except as otherwise provided in this section, if a lease of a government property improvement was entered into before June 1, 2010, or if a development agreement, ordinance or resolution was approved by the governing body of the government lessor before June 1, 2010 that authorized a lease on the occurrence of specified conditions and the lease was entered into within ten years after the date the development agreement was entered into or the ordinance or resolution was approved by the governing body:

1. The tax authorized by this article shall be levied and collected at the following rates:

(a) One dollar per square foot of gross building space for office buildings with one floor above ground.

(b) One dollar twenty-five cents per square foot of gross building space for office buildings with more than one but fewer than eight floors above ground.

(c) One dollar seventy-five cents per square foot of gross building space for office buildings with eight floors or more above ground.

(d) One dollar fifty cents per square foot of retail building space, including space that is devoted to the sale of tangible personal property, restaurants, health clubs, hair salons, dry cleaners, travel agencies and other retail services.

(e) One dollar fifty cents per square foot of hotel or motel building space.

(f) Seventy-five cents per square foot of warehouse or industrial building space.

(g) Fifty cents per square foot of residential rental building space.

(h) One hundred dollars per parking space located in a parking garage or deck.

(i) One dollar per square foot of all other government property improvements not included in subdivisions (a) through (h) of this paragraph.

2. The tax rate for government property improvements for which the original certificate of occupancy was issued:

(a) At least ten years but less than twenty years before the date the tax is due is eighty per cent of the rate provided in paragraph 1 of this subsection.

(b) At least twenty years but less than thirty years before the date the tax is due is sixty per cent of the rate provided in paragraph 1 of this subsection.

(c) At least thirty but less than forty years before the date the tax is due is forty per cent of the rate provided in paragraph 1 of this subsection.

(d) At least forty but less than fifty years before the date the tax is due is twenty per cent of the rate provided in paragraph 1 of this subsection.

(e) Fifty or more years before the date the tax is due is zero.

3. If no certificate of occupancy can be located, dated aerial photographs or other evidence of substantial completion may be used to determine the age of the building for purposes of paragraph 2 of this subsection.

4. A lease or development agreement, originally subject to this subsection, that is subsequently amended remains subject to this subsection if the amended lease or development agreement meets all of the following requirements:

(a) The government lessor determines that the amendment furthers the original purpose of the lease or development agreement.

(b) Any land added under the amendment is contiguous to the land under the original lease or development agreement and does not increase the land

area under the original lease or development agreement by more than fifty per cent.

(c) Any government property improvement added under the amendment does not increase the area of gross building space of government property improvements under the original lease or development agreement by more than one hundred per cent.

B. Except as otherwise provided in this section, if a lease of a government property improvement does not meet the conditions for applying subsection A of this section:

1. Subject to paragraphs 2 and 3 of this subsection, the tax authorized by this article shall be levied and collected at the following base rates, which apply through December 31, 2011:

(a) Two dollars per square foot of gross building space for office buildings with one floor above ground.

(b) Two dollars thirty cents per square foot of gross building space for office buildings with more than one but fewer than eight floors above ground.

(c) Three dollars ten cents per square foot of gross building space for office buildings with eight floors or more above ground.

(d) Two dollars fifty-one cents per square foot of retail building space, including space that is devoted to the sale of tangible personal property, restaurants, health clubs, hair salons, dry cleaners, travel agencies and other retail services.

(e) Two dollars per square foot of hotel or motel building space.

(f) One dollar thirty-five cents per square foot of warehouse or industrial building space.

(g) Seventy-six cents per square foot of residential rental building space.

(h) Two hundred dollars per parking space located in a parking garage or deck.

(i) Two dollars per square foot of all other government property improvements not included in subdivisions (a) through (h) of this paragraph.

2. If, in the tax year in which the lease of the government property improvement is entered into, the aggregate of all ad valorem property tax rates of all taxing jurisdictions in which the government property improvement is located is ~~within~~ AT LEAST ninety per cent ~~and one hundred ten per cent~~ of the countywide average combined property tax rates, the rate of tax prescribed by paragraph 1 of this subsection, as currently adjusted pursuant to paragraph 3 of this subsection, applies with respect to that government property improvement. If, in the tax year in which the lease of the government property improvement is entered into, the aggregate of all ad valorem property tax rates of all taxing jurisdictions in which the government property improvement is located is less than ninety per cent of the countywide average combined property tax rates, the rate of tax

1 prescribed by paragraph 1 of this subsection, as currently adjusted pursuant
2 to paragraph 3 of this subsection, shall be reduced by ten per cent.
3 3. On or before December 1, 2011 and December 1 of each year
4 thereafter, for all government property leases that are subject to this
5 subsection the department of revenue shall adjust the tax rates that apply
6 under paragraphs 1 and 2 of this subsection in the following calendar year
7 for each property use according to the average annual positive or negative
8 percentage change for the two most recent fiscal years in the producer price
9 index for new construction or its successor index published by the United
10 States bureau of labor statistics. On or before December 15 of each year,
11 the department shall post the adjusted rates for the following calendar year
12 on its official website and transmit the adjusted rates to each county
13 treasurer.
14 C. The tax rate for a government property improvement that was
15 constructed pursuant to a lease or development agreement entered into from
16 and after June 30, 1996 and that is located outside a slum or blighted area
17 established pursuant to title 36, chapter 12, article 3 is one and one-half
18 times the rate established by subsections A and B of this section.
19 D. Within the first twenty years after the issuance of the original
20 certificate of occupancy, the tax rate on the use or occupancy of a
21 government property improvement is twenty per cent of the rate established in
22 subsections A and B of this section for any of the following:
23 1. Government property improvements that are subject to leases or
24 agreements that were entered into before April 1, 1985, and options and
25 rights contained in the leases or agreements.
26 2. Government property improvements that are subject to leases entered
27 into based on a redevelopment contract, as defined in section 36-1471,
28 entered into before April 1, 1985.
29 3. Government property improvements that are subject to leases entered
30 into based on an agreement for a redevelopment project for which federal
31 grant monies have been received and that was entered into before April 1,
32 1985.
33 4. Government property improvements that are located at an airport
34 that was owned on or before January 1, 1988 by a county having a population
35 of four hundred thousand persons or less or by a city or town that is located
36 in a county having a population of four hundred thousand persons or less if
37 the property is used primarily for manufacturing, retail, distribution,
38 research or commercial purposes. For the purposes of this paragraph,
39 "commercial" includes facilities for office, recreational, hotel, motel and
40 service uses.
41 E. Within the first ten years after the issuance of the certificate of
42 occupancy, the tax rate on the use or occupancy of a government property
43 improvement that is located in a slum or blighted area established pursuant
44 to title 36, chapter 12, article 3, that resulted or will result in an
45 increase in property value of at least one hundred per cent and that is not

eligible for abatement pursuant to section 42-6209 is eighty per cent of the rate established in subsections A and B of this section.

F. The tax rate to be applied under subsection A or B of this section shall be determined by the predominant use to which the government property improvement is devoted, except that in all cases the tax rate prescribed by subsection A, paragraph 1, subdivision (h) or subsection B, paragraph 1, subdivision (h) of this section shall be applied to any parking garage or deck. If there is no single predominant use, the tax shall be determined by applying the appropriate tax rate to the building space devoted to each use identified in that subsection. For the purposes of this subsection, in applying the tax rates under subsection A of this section the functional area of a government property improvement does not include subsidiary, auxiliary or servient areas such as lobbies, stairwells, mechanical rooms and meeting and banquet rooms. For the purposes of this subsection, "predominant use" means the use to which eighty-five per cent or more of the functional area of a government property improvement is devoted.

G. Prime lessees of government property improvements who become taxable or whose taxable status terminates during the calendar year in which the taxes are due, including prime lessees subject to exemption or abatement under sections 42-6208 and 42-6209, shall pay tax for that calendar year on a pro rata basis.

Sec. 31. Section 42-11108, Arizona Revised Statutes, is amended to read:

42-11108. <u>Exemption for grounds and buildings owned by agricultural societies</u>

The grounds and buildings owned by agricultural societies are exempt from taxation if they are used only for those purposes and are not used or held for profit. THIS SECTION INCLUDES PROPERTY THAT IS OWNED BY A NONPROFIT ORGANIZATION AND THAT IS USED FOR A COUNTY FAIR AND SIMILAR AGRICULTURAL AND LIVESTOCK EXHIBITION AND COMPETITION EVENTS, INCLUDING INDOOR AND OUTDOOR EVENT CENTERS, ARENAS, RACE TRACKS, ANIMAL SHELTERS AND GRANDSTANDS, IF THE PROPERTY IS USED EXCLUSIVELY FOR THOSE PURPOSES AND NO PART OF THE NET EARNINGS OF THE ORGANIZATION INURES TO THE BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL.

Sec. 32. Section 42-12052, Arizona Revised Statutes, as amended by Laws 2011, second special session, chapter 1, section 80, is amended to read:

42-12052. <u>Review and verification of class three property; owner's affidavit and notice; civil penalty; appeals</u>

A. Each county assessor shall review assessment information, on a continuing basis, to ensure proper classification of residential dwellings. The assessor may enter into intergovernmental agreements with the department for an exchange of information to ensure a coordinated and comprehensive review and identification of property that may be rented while classified as class three pursuant to section 42-12003.

B. Beginning in ~~2012~~ 2013 and each ~~even-numbered~~ ODD-NUMBERED VALUATION year thereafter the county assessor shall include with the notice of full cash value sent to owners of class three property pursuant to section 42-15101 an affidavit, in a form prescribed by the department, on which the owner must declare, under penalty of perjury, whether the property is the owner's primary residence, or leased or rented to a relative of the owner, as provided by section 42-12053, and used as the relative's primary residence, in the current ~~valuation~~ TAX year. The owner must return the completed affidavit form to the county assessor within sixty days. If the owner indicates on the affidavit that the property is not the owner's or relative's primary residence, if the owner indicates on more than one affidavit that more than one parcel is the owner's primary residence, or if the owner fails to return the affidavit timely to the assessor, the assessor shall reclassify the property as class four pursuant to section 42-12004 or in another classification according to the property's use and within fifteen days notify the owner of the reclassification and of the owner's the right to appeal the reclassification. If for any reason an owner believes that reclassification pursuant to this subsection is erroneous, the owner may file a notice of claim with the assessor pursuant to section 42-16254 to resolve the correct classification.

C. If the assessor has reason to believe that a parcel of property that is classified as class three pursuant to section 42-12003 is not used as the owner's primary residence or is being rented, the assessor shall notify the owner, in a form prescribed by the department as provided by subsection D of this section, and request that the owner respond as to whether the property is occupied as the owner's primary residence, is a secondary residence or is used as a rental property. If the owner responds that the property is not the owner's primary residence, or if the owner fails to respond to the assessor within thirty days after the notice is mailed, the assessor shall mail the owner a final notice within thirty days requesting that the owner provide information as to whether or not the property is the owner's primary residence, a secondary residence or used as a rental property. If the owner fails to respond to the assessor within fifteen days after the final notice is mailed, the assessor shall:

1. Reclassify the property as class four. In addition to other appeal procedures provided by law, the owner of the property that is reclassified as class four under this paragraph may appeal the reclassification to the county board of supervisors within thirty days after the notice of classification is mailed. If the owner proves to the board's satisfaction that the property is occupied as the owner's primary residence, the board shall order the property to be reclassified as class three property pursuant to section 42-12003.

2. Notify the county treasurer who shall assess a civil penalty against the property equal to twice the amount of additional state aid paid pursuant to section 15-972 with respect to the property in the preceding tax year. The owner of the property shall pay a penalty under this paragraph to

the county treasurer within thirty days after the notice of the penalty is mailed. The owner may appeal the penalty to the county board of supervisors within the time required for payment. If the owner proves to the board's satisfaction that the property is occupied by the owner, the board shall waive the penalty, and the property shall be listed as class three pursuant to section 42-12003. Until paid or waived, the penalty constitutes a lien against the property. The county treasurer shall deposit all revenue received from penalties assessed under this paragraph in the county general fund.

D. The department shall:

1. Prescribe all forms used to notify property owners under this section. The forms shall contain information as to criteria for the reclassification of property and the civil penalties that may result if the owner fails to respond to the notice.

2. Monitor and review the procedures and practices used by assessors and treasurers to accomplish the verification of class three property and the assessment and collection of penalties prescribed by this section and propose suggested improvements to establish uniform processes and performance among the counties.

E. The department may inspect the records of county assessors and county treasurers to determine compliance with the requirements of this section and the accuracy of the classification of owner-occupied residential property and rental property.

Sec. 33. Section 42-13353, Arizona Revised Statutes, is amended to read:

42-13353. Depreciated values of personal property of manufacturers, assemblers and fabricators

A. Except as provided in subsection ~~C~~ D and notwithstanding any other statute, the department shall adjust depreciation schedules for use by the assessors to determine the valuation of personal property valued under this article that was or is initially assessed during tax year 1994 through tax year 2007 as follows:

1. For the first tax year of assessment, the assessor shall use thirty-five per cent of the scheduled depreciated value.

2. For the second tax year of assessment, the assessor shall use fifty-one per cent of the scheduled depreciated value.

3. For the third tax year of assessment, the assessor shall use sixty-seven per cent of the scheduled depreciated value.

4. For the fourth tax year of assessment, the assessor shall use eighty-three per cent of the scheduled depreciated value.

5. For the fifth and subsequent tax years of assessment, the assessor shall use the scheduled depreciated value as prescribed by the department's guidelines.

B. Except as provided in subsection ~~C~~ D and notwithstanding any other law, the department shall adjust depreciation schedules for use by the

assessors to determine the valuation of personal property valued under this article that was or is initially assessed during ~~or after~~ tax year 2008 THROUGH TAX YEAR 2011 as follows:

1. For the first tax year of assessment, the assessor shall use thirty per cent of the scheduled depreciated value.

2. For the second tax year of assessment, the assessor shall use forty-six per cent of the scheduled depreciated value.

3. For the third tax year of assessment, the assessor shall use sixty-two per cent of the scheduled depreciated value.

4. For the fourth tax year of assessment, the assessor shall use seventy-eight per cent of the scheduled depreciated value.

5. For the fifth tax year of assessment, the assessor shall use ninety-four per cent of the scheduled depreciated value.

6. For the sixth and subsequent tax years of assessment, the assessor shall use the scheduled depreciated value as prescribed in the department's guidelines.

C. EXCEPT AS PROVIDED IN SUBSECTION D AND NOTWITHSTANDING ANY OTHER LAW, THE DEPARTMENT SHALL ADJUST DEPRECIATION SCHEDULES FOR USE BY THE ASSESSORS TO DETERMINE THE VALUATION OF PERSONAL PROPERTY VALUED UNDER THIS ARTICLE THAT WAS OR IS INITIALLY ASSESSED DURING OR AFTER TAX YEAR 2012 AS FOLLOWS:

1. FOR THE FIRST TAX YEAR OF ASSESSMENT, THE ASSESSOR SHALL USE TWENTY-FIVE PER CENT OF THE SCHEDULED DEPRECIATED VALUE.

2. FOR THE SECOND TAX YEAR OF ASSESSMENT, THE ASSESSOR SHALL USE FORTY-ONE PER CENT OF THE SCHEDULED DEPRECIATED VALUE.

3. FOR THE THIRD TAX YEAR OF ASSESSMENT, THE ASSESSOR SHALL USE FIFTY-SEVEN PER CENT OF THE SCHEDULED DEPRECIATED VALUE.

4. FOR THE FOURTH TAX YEAR OF ASSESSMENT, THE ASSESSOR SHALL USE SEVENTY-THREE PER CENT OF THE SCHEDULED DEPRECIATED VALUE.

5. FOR THE FIFTH TAX YEAR OF ASSESSMENT, THE ASSESSOR SHALL USE EIGHTY-NINE PER CENT OF THE SCHEDULED DEPRECIATED VALUE.

6. FOR THE SIXTH AND SUBSEQUENT TAX YEARS OF ASSESSMENT, THE ASSESSOR SHALL USE THE SCHEDULED DEPRECIATED VALUE AS PRESCRIBED IN THE DEPARTMENT'S GUIDELINES.

~~C.~~ D. The additional depreciation prescribed in ~~subsection A~~ THIS SECTION shall not reduce the valuation below the minimum value prescribed by the department for property in use.

Sec. 34. Section 42-15006, Arizona Revised Statutes, is amended to read:

42-15006. <u>Assessed valuation of class six property</u>

The assessed valuation of class six property described in section 42-12006 is ~~based on the following percentages to~~ FIVE PER CENT OF the full cash value or limited valuation of class six property, as applicable. ~~:~~

~~1. Property described in section 42-12006, paragraphs 1, 2, 3, 5, 6, 7, 8 and 9, five per cent.~~

~~2. Property described in section 42-12006, paragraph 4:~~

~~(a) For primary property tax purposes, five per cent.~~

~~(b) Except as provided in subdivision (c), for secondary property tax purposes:~~

~~(i) Twenty-five per cent through December 31, 2006.~~

~~(ii) Twenty-four per cent beginning from and after December 31, 2006 through December 31, 2007.~~

~~(iii) Twenty-three per cent beginning from and after December 31, 2007 through December 31, 2008.~~

~~(iv) Twenty-two per cent beginning from and after December 31, 2008 through December 31, 2009.~~

~~(v) Twenty-one per cent beginning from and after December 31, 2009 through December 31, 2010.~~

~~(vi) Twenty per cent beginning from and after December 31, 2010.~~

~~(c) If subdivision (b) is finally adjudicated to be invalid, for secondary property tax purposes, five per cent.~~

Sec. 35. Section 42-15103, Arizona Revised Statutes, as amended by Laws 2011, second special session, chapter 1, section 87, is amended to read:

42-15103. Contents of notice form

The notice form shall:

1. Prominently display a statement:

(a) In ~~even~~ ODD-numbered valuation years informing property owners that if the parcel of property is listed on the notice as class three pursuant to section 42-12003, the owner must complete and return the enclosed affidavit to the county assessor declaring whether the property is the owner's residence, or leased or rented to a relative of the owner, as provided by section 42-12053, and used as the relative's primary residence, for the current TAX year. The statement shall include the following text in at least twelve point type:

If your property qualifies as your primary residence, you may receive a reduction on your property taxes up to $600.

(b) Informing property owners that if a parcel of property is used as a rental unit and the property is listed on the notice as class three pursuant to section 42-12003, the owner must notify the county assessor of the rental use of the property or be subject to a civil penalty prescribed by section 42-12052.

2. Include with each notice for property classified as class three an affidavit form described by section 42-12052, subsection B, with simplified instructions, for the owner to declare whether the property is the owner's primary residence.

3. Include a form with instructions on the procedure and deadlines for appealing the assessed valuation shown on the notice. The appeal form for property that is listed as class three pursuant to section 42-12003 shall contain simplified instructions and shall be separate from the appeal form for other classes of property.

4. Provide in a separate addendum a statement informing owners of property that is used for residential rental purposes that:

(a) The parcel must be listed on the notice as class four, and the owner must register the residential rental property with the county assessor pursuant to section 33-1902 or the owner may be subject to a penalty.

(b) If the owner is required to register the rental property with the county assessor and fails to do so after receipt of this notice, the city or town may impose a civil penalty payable to the city or town in the amount of one hundred fifty dollars per day for each day of violation, and the city or town may impose enhanced inspection and enforcement measures on the property.

(c) If the city or town in which the property is located requires the lessor to pay transaction privilege tax on residential rent, a notice of applicable requirements imposed by the city or town and that failure to pay the applicable tax could result in a penalty or fine by the city or town.

(d) Residential rental properties are required to comply with the landlord tenant law pursuant to title 33, chapters 10 and 11.

Sec. 36. Repeal

Section 43-106, Arizona Revised Statutes, is repealed.

Sec. 37. Section 43-222, Arizona Revised Statutes, is amended to read:

43-222. Income tax credit review schedule

The joint legislative income tax credit review committee shall review the following income tax credits:

1. For years ending in 0 and 5, sections 43-1075, 43-1075.01, 43-1079.01, 43-1087, 43-1088, 43-1090.01, 43-1163, 43-1163.01, 43-1167.01, 43-1175 and 43-1182.

2. For years ending in 1 and 6, sections 43-1074.02, 43-1083, 43-1083.02, 43-1085.01, 43-1089.03, 43-1164.02, 43-1164.03 and 43-1183.

3. For years ending in 2 and 7, sections 43-1073, 43-1079, 43-1080, 43-1085, 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1090, 43-1164, 43-1167, 43-1169, 43-1176 and 43-1181.

4. For years ending in 3 and 8, sections 43-1074.01, 43-1081, 43-1168, 43-1170 and 43-1178.

5. For years ending in 4 and 9, sections 43-1076, 43-1081.01, 43-1083.01, 43-1084, 43-1162, 43-1164.01, 43-1170.01 and 43-1184.

Sec. 38. Section 43-401, Arizona Revised Statutes, is amended to read:

43-401. Withholding tax; rates; election by employee

A. Except as provided by subsection B of this section, every employer at the time of the payment of wages, salary, bonus or other emolument to any employee whose compensation is for services performed within this state shall deduct and retain from the compensation an amount PRESCRIBED BY TABLES ADOPTED BY THE DEPARTMENT. ~~that is determined by the department pursuant to subsection D of this section or that is equal to a percentage, determined pursuant to subsection C of this section, of the total amount of the federal income tax deducted and withheld by an employer from the total value of such wages, bonus or other emolument of an employee under the provisions of the~~

~~United States internal revenue code computed without deductions for any amount withheld.~~

B. An employer may voluntarily elect to not withhold tax during December by notifying:

1. The department on a form prescribed by the department.

2. The employer's employees in writing in a manner prescribed by the department.

~~C. The percentage deducted and retained under subsection A of this section:~~

~~1. Through April 30, 2009 shall be:~~

~~(a) If the employee's annual compensation is less than fifteen thousand dollars, ten per cent, nineteen per cent, twenty-three per cent, twenty-five per cent, thirty-one per cent or thirty-seven per cent, at the employee's election pursuant to subsection G of this section.~~

~~(b) If the employee's annual compensation is fifteen thousand dollars or more, nineteen per cent, twenty-three per cent, twenty-five per cent, thirty-one per cent or thirty-seven per cent, at the employee's election pursuant to subsection G of this section.~~

~~(c) Zero per cent at the election of an employee who had no state income tax liability in the prior taxable year and expects to have no state income tax liability for the current taxable year.~~

~~2. Beginning from and after April 30, 2009 through December 31, 2009, if an employee's rate of withholding under paragraph 1 of this subsection immediately before May 1, 2009 was:~~

~~(a) Zero per cent at the election of an employee who had no state income tax liability in the prior taxable year and expects to have no state income tax liability for the current taxable year, the withholding tax rate shall remain zero per cent.~~

~~(b) Ten per cent, the withholding tax rate shall be increased to 11.5 per cent.~~

~~(c) Nineteen per cent, the withholding tax rate shall be increased to 21.9 per cent.~~

~~(d) Twenty-three per cent, the withholding tax rate shall be increased to 26.5 per cent.~~

~~(e) Twenty-five per cent, the withholding tax rate shall be increased to 28.8 per cent.~~

~~(f) Thirty-one per cent, the withholding tax rate shall be increased to 35.7 per cent.~~

~~(g) Thirty-seven per cent, the withholding tax rate shall be increased to 42.6 per cent.~~

~~3. Beginning from and after December 31, 2009 through June 30, 2010, if an employee's rate of withholding under paragraph 2 of this subsection immediately before January 1, 2010 was:~~

~~(a) Zero per cent at the election of an employee who had no state income tax liability in the prior taxable year and expects to have no state~~

~~income tax liability for the current taxable year, the withholding tax rate shall remain zero per cent.~~

~~(b) 11.5 per cent, the withholding tax rate shall be decreased to 10.7 per cent.~~

~~(c) 21.9 per cent, the withholding tax rate shall be decreased to 20.3 per cent.~~

~~(d) 26.5 per cent, the withholding tax rate shall be decreased to 24.5 per cent.~~

~~(e) 28.8 per cent, the withholding tax rate shall be decreased to 26.7 per cent.~~

~~(f) 35.7 per cent, the withholding tax rate shall be decreased to 33.1 per cent.~~

~~(g) 42.6 per cent, the withholding tax rate shall be decreased to 39.5 per cent.~~

~~D. Beginning from and after June 30, 2010, the amount deducted and retained under subsection A of this section shall be prescribed by tables adopted by the department. On or before March 15, 2010, the department shall submit to the joint legislative budget committee a copy of the table.~~

~~E.~~ C. If the amount collected and payable by the employer to the department in each of the preceding four calendar quarters did not exceed an average of one thousand five hundred dollars, the amount collected shall be paid to the department on or before April 30, July 31, October 31 and January 31 for the preceding calendar quarter. If such amount exceeded one thousand five hundred dollars in each of the preceding four calendar quarters, the employer shall pay to the department the amount the employer deducts and retains pursuant to this section at the same time as the employer is required to make deposits of federal tax pursuant to section 6302 of the internal revenue code. On or before April 30, July 31, October 31 and January 31 each year the employer shall reconcile the amounts payable during the preceding calendar quarter in a manner prescribed by the department, except that if the full amount collected and payable is paid timely to the department under this subsection, the employer may reconcile the amounts on or before May 10, August 10, November 10 and February 10 each year. The department by rule may allow and determine which employers qualify for annual payments of withholding taxes, with an annual report by the employer pursuant to section 43-412, subsection B, if the qualifying employer has established sufficient payment history to indicate that the employer is current and in good standing pursuant to standards established by rule. For any business which has not had a withholding certificate for the four preceding consecutive quarters, the quarterly average shall be computed in a manner prescribed by the department.

~~F.~~ D. If an employer fails to make a timely monthly payment because prior to that reporting period it reported on a quarterly basis instead of on a monthly basis, the department shall notify the employer that it is out of compliance with this section. Notwithstanding section 42-1125, the

department shall not assess a penalty against an employer for failing to make a timely monthly payment if the employer had filed and remitted all taxes due on a quarterly basis and brings all filings and payments into current compliance within thirty days after being notified by the department.

~~G.~~ E. Each employee shall elect the amount authorized by subsection ~~C~~ A of this section to be withheld for application toward the employee's state income tax liability. The election provided under this subsection shall be exercised by each employee, in writing on a form prescribed by the department. The election shall be made within five days of employment. Each employer shall notify the employees of the election made available under this subsection and shall have election forms available at all times. Each form shall be completed in triplicate, with one copy each for the department, the employer and the employee. The employer shall file a copy of each completed form with the department. Any employee failing to complete an election form as prescribed shall be deemed to have elected the ~~smallest applicable~~ withholding percentage PRESCRIBED BY THE DEPARTMENT.

~~H.~~ F. Before July 1 of each year, each employer who chooses to not withhold tax pursuant to subsection B of this section shall notify each employee that:

1. State income taxes will not be withheld from compensation in December.

2. The employee may elect to change the rate of withholding tax prescribed by this section to compensate for the resulting change in annual withholdings from the employee's compensation.

~~I.~~ G. At an employee's written request, the employer may agree to reduce the amount withheld under this section by the amount of credit that the employee represents to the employer that the employee will qualify for and be entitled to under sections 43-1088, 43-1089, ~~and~~ 43-1089.01 AND 43-1089.03. The employee's request must include the name and address of the qualifying charitable organization, qualified school tuition organization or public school. Within thirty days after agreeing to the employee's request, the employer shall reduce the withholding amount by the amount of the credit, but not below zero, prorated for the number of pay periods remaining in the employee's taxable year after the employee makes the request. If an employer agrees to reduce the withholding amount pursuant to this subsection, the following apply:

1. Within fifteen days after the end of each calendar quarter, the employer must pay the entire amount of the reduction in withholding tax for that quarter to the designated charitable organization, school tuition organization or public school. These payments are considered to be on the employee's behalf, and not the employer's, for the purposes of qualifying for the income tax credits under sections 43-1088, 43-1089, ~~and~~ 43-1089.01 AND 43-1089.03.

2. The employee is responsible and accountable for the accuracy and the amount of reduction in withholding tax and the payments to the charitable organization, school tuition organization or public school.

3. The employer is responsible and accountable to the charitable organization, school tuition organization or public school, to the employee and to the department for actually making the required payments.

4. Within thirty days after the end of each calendar year, or within fifteen days after the termination of employment, the employer must furnish to each electing employee and to the department a statement of the amount withheld and paid on behalf of the employee during that year.

Sec. 39. Section 43-403, Arizona Revised Statutes, is amended to read:

43-403. Employment excluded from withholding

A. No amount shall be deducted or retained from:

1. Wages or salary paid to an employee of a common carrier when such employee is a nonresident of this state as defined in section 43-104 and regularly performs services both within and without this state.

2. Wages paid for domestic service in a private home.

3. Wages paid for casual labor not in the course of the employer's trade or business.

4. Wages paid to part-time or seasonal employees whose services to the employer consist solely of labor in connection with the planting, cultivating, harvesting or field packing of seasonal agricultural crops, except such employees whose principal duties are operating any mechanically-driven device in such operations.

5. Wages or salary paid to a nonresident of this state who is:

(a) An employee of an individual, fiduciary, partnership, corporation or limited liability company having property, payroll and sales in this state, or of a related entity having more than fifty per cent direct or indirect common ownership.

(b) Physically present in this state for less than sixty days in a calendar year for the purpose of performing a service that will benefit the employer or the related entity. For purposes of determining the number of days of service in this state, days spent in the following activities are not included:

(i) In transit.

(ii) Engaging in personal activities.

(iii) Participating in training or professional development activities or attending meetings that are not directly connected to the Arizona operations of the employer or the related entity.

B. In addition to the exemptions from the withholding provisions contained in subsection A of this section, because of the temporary nature of such employment, no amount shall be deducted or retained from wages paid to a nonresident of this state engaged in any phase of motion picture production when, prior to the time of payment of such wages, an application is made by the employer to the department, on forms prescribed by the department, for an

exemption from the withholding provisions of this section and the department determines that the nonresident would be allowed a credit under section 43-1096 against all of the taxes upon such wages imposed by this chapter.

C. Subsection A, paragraph 5 of this section does not apply to a nonresident employee who is in this state solely for athletic or entertainment purposes.

D. Notwithstanding subsection A, paragraph 5 of this section:

1. The nonresident employee may elect to have withholding deducted in the manner prescribed by section 43-401, subsection ~~G~~ E and the employer shall withhold tax pursuant to that election.

2. The employer may elect to withhold tax from the nonresident employee before the sixty day limitation has elapsed.

Sec. 40. Section 43-404, Arizona Revised Statutes, is amended to read:

43-404. Extension of withholding to military retirement pensions and to other annuities; definition

A. For the purposes of this title, any payment of an amount as retired or retainer pay for service in the military or naval forces of the United States, or payments received under the United States civil service retirement system from the United States government service retirement and disability fund, if at the time the payment is made a request by the individual that such pay be subject to withholding under this section is in effect, shall be treated as if it were a payment of wages by an employer to an employee for a payroll period. In addition, a payment of any other annuity to an individual, if at the time the payment is made a request by the individual that such annuity be subject to withholding under this section is in effect, shall be treated as if it were a payment of wages by an employer to an employee for a payroll period.

B. A request that retired or retainer pay or an annuity be subject to withholding under this section shall be made by the payee in writing to the person making the annuity payments and shall be accompanied by a form, prescribed by the department, executed in accordance with section 43-401, subsection ~~G~~ E. Such a request may be terminated by furnishing to the person making the payment a written statement of termination.

C. For the purposes of this section, "annuity" means any amount paid to an individual as a pension or annuity, but only to the extent that the amount is includible in the Arizona gross income of such individual.

Sec. 41. Section 43-412, Arizona Revised Statutes, is amended to read:

43-412. Returns of withholding to be filed with department

A. Every employer at the time of filing a reconciliation pursuant to section 43-401, subsection ~~E~~ C shall deliver to the department a return in the form prescribed by the department showing the total amount of wages, salaries, bonuses or other emoluments paid to employees, the amount deducted pursuant to this chapter and such other information as the department may require. The employer shall advise the employee of the amount of monies withheld, in accordance with such rules as the department may prescribe,

using printed forms furnished by the department for such purposes or, when requested by the employer, ~~upon~~ ON forms approved by the department.

B. The employer shall make an annual return for the calendar year to the department on forms provided by it summarizing the total compensation paid and the tax withheld for each employee during the calendar year and shall file such return with the department on or before February 28 of the year following the year for which the report is made. The department may extend the filing deadline on a showing of good cause by the employer. The return required by this section shall contain or be verified by a written declaration that it is made under the penalties of perjury.

Sec. 42. Section 43-419, Arizona Revised Statutes, is amended to read:

43-419. Electronic remittance and filing required by payroll service company; penalty; definitions

A. For withholding tax returns due to be filed from and after May 31, 2011, a payroll service company remitting amounts due as prescribed in section 43-401, subsection ~~E~~ C on behalf of a client shall make all payments electronically. If a payroll service company remits a payment in a manner other than electronically, the payroll service company shall pay a penalty in the amount of twenty-five dollars per client, per payment, unless it is shown that the failure to pay electronically is due to reasonable cause and not due to wilful neglect.

B. For withholding tax returns due to be filed from and after May 31, 2011, a payroll service company reconciling amounts payable during the preceding quarter in accordance with section 43-401, subsection ~~E~~ C on behalf of a client shall file all required quarterly returns electronically. If a payroll service company files a required quarterly return in a manner other than electronically, the payroll service company shall pay a penalty in the amount of twenty-five dollars per client, per return, unless it is shown that the failure to file electronically is due to reasonable cause and not due to wilful neglect.

C. For withholding tax returns due to be filed from and after May 31, 2011, a payroll service company filing an annual payment return as allowed by rule and in accordance with section 43-401, subsection ~~E~~ C on behalf of a client shall file all required annual returns electronically. If a payroll service company files a required annual return in a manner other than electronically, the payroll service company shall pay a penalty in the amount of twenty-five dollars per client, per return, unless it is shown that the failure to file electronically is due to reasonable cause and not due to wilful neglect.

D. For the purposes of this section, "client", "payroll service company" and "person" have the same meanings prescribed in section 43-418.

1 Sec. 43. Section 43-1021, Arizona Revised Statutes, is amended to
2 read:
3 43-1021. Additions to Arizona gross income
4 In computing Arizona adjusted gross income, the following amounts shall
5 be added to Arizona gross income:
6 1. A beneficiary's share of the fiduciary adjustment to the extent
7 that the amount determined by section 43-1333 increases the beneficiary's
8 Arizona gross income.
9 2. An amount equal to the "ordinary income portion" of a lump sum
10 distribution that was excluded from federal adjusted gross income pursuant to
11 section 402(d) of the internal revenue code.
12 3. The amount of interest income received on obligations of any state,
13 territory or possession of the United States, or any political subdivision
14 thereof, located outside the state of Arizona, reduced, for tax years
15 beginning from and after December 31, 1996, by the amount of any interest on
16 indebtedness and other related expenses that were incurred or continued to
17 purchase or carry those obligations and that are not otherwise deducted or
18 subtracted in arriving at Arizona gross income.
19 4. Annuity income received during the taxable year to the extent that
20 the sum of the proceeds received from such annuity in all taxable years prior
21 to and including the current taxable year exceeds the total consideration and
22 premiums paid by the taxpayer. This paragraph applies only to those
23 annuities with respect to which the first payment was received prior to
24 December 31, 1978.
25 5. The excess of a partner's share of partnership taxable income
26 required to be included under chapter 14, article 2 of this title over the
27 income required to be reported under section 702(a)(8) of the internal
28 revenue code.
29 6. The excess of a partner's share of partnership losses determined
30 pursuant to section 702(a)(8) of the internal revenue code over the losses
31 allowable under chapter 14, article 2 of this title.
32 7. The amount by which the adjusted basis of property described in
33 this paragraph and computed pursuant to the internal revenue code exceeds the
34 adjusted basis of such property computed pursuant to this title and the
35 income tax act of 1954, as amended. This paragraph shall apply to all
36 property which is held for the production of income and which is sold or
37 otherwise disposed of during the taxable year, except depreciable property
38 used in a trade or business.
39 8. The amount of depreciation or amortization of costs of any capital
40 investment that is deducted pursuant to section 167 or 179 of the internal
41 revenue code by a qualified defense contractor with respect to which an
42 election is made to amortize pursuant to section 43-1024.
43 9. The amount of gain from the sale or other disposition of a capital
44 investment which a qualified defense contractor has elected to amortize
45 pursuant to section 43-1024.

10. Amounts withdrawn from the Arizona state retirement system, the corrections officer retirement plan, the public safety personnel retirement system, the elected officials' retirement plan or a county or city retirement plan by an employee upon termination of employment before retirement to the extent they were deducted in arriving at Arizona taxable income in any year.

11. That portion of the net operating loss included in federal adjusted gross income which has already been taken as a net operating loss for Arizona purposes or which is separately taken as a subtraction under the special net operating loss transition rule.

12. Any nonitemized amount deducted pursuant to section 170 of the internal revenue code representing contributions to an educational institution which denies admission, enrollment or board and room accommodations on the basis of race, color or ethnic background except those institutions primarily established for the education of American Indians.

13. The amount paid as taxes on property in this state with respect to which a credit is claimed under section 43-1078.

14. Amounts withdrawn from a medical savings account by the individual during the taxable year computed pursuant to section 220(f) of the internal revenue code and not included in federal adjusted gross income.

15. Any amount of agricultural water conservation expenses that were deducted pursuant to the internal revenue code for which a credit is claimed under section 43-1084.

16. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under section 43-1080 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

17. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under section 43-1080 and which is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1080.

18. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under either section 43-1081 or 43-1081.01 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

19. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under section 43-1074.02, 43-1081 or 43-1081.01 and which is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1074.02, 43-1081 or 43-1081.01, as applicable.

20. The deduction referred to in section 1341(a)(4) of the internal revenue code for restoration of a substantial amount held under a claim of right.

21. The amount by which a net operating loss carryover or capital loss carryover allowable pursuant to section 1341(b)(5) of the internal revenue code exceeds the net operating loss carryover or capital loss carryover allowable pursuant to section 43-1029, subsection F.

22. Any amount deducted pursuant to section 170 of the internal revenue code representing contributions to a school tuition organization or a public school for which a credit is claimed under section 43-1089, ~~or~~ 43-1089.01 OR 43-1089.03.

23. Any amount deducted in computing Arizona gross income as expenses for installing solar stub outs or electric vehicle recharge outlets in this state with respect to which a credit is claimed pursuant to section 43-1090.

24. Any wage expenses deducted pursuant to the internal revenue code for which a credit is claimed under section 43-1087 and representing net increases in qualified employment positions for employment of temporary assistance for needy families recipients.

25. Any amount deducted for conveying ownership or development rights of property to an agricultural preservation district under section 48-5702 for which a credit is claimed under section 43-1081.02.

26. The amount of any depreciation allowance allowed pursuant to section 167(a) of the internal revenue code to the extent not previously added.

27. With respect to property for which an expense deduction was taken pursuant to section 179 of the internal revenue code, the amount in excess of twenty-five thousand dollars.

28. The amount of any deductions that are claimed in computing federal adjusted gross income representing expenses for which a credit is claimed under either section 43-1075 or 43-1075.01 or both.

29. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under section 43-1090.01 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

30. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under section 43-1090.01 and which is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1090.01.

31. The amount of a nonqualified withdrawal, as defined in section 15-1871, from a college savings plan established pursuant to section 529 of the internal revenue code that is made to a distributee to the extent the amount is not included in computing federal adjusted gross income, except that the amount added under this paragraph shall not exceed the difference

between the amount subtracted under section 43-1022 in prior taxable years and the amount added under this section in any prior taxable years.

32. The amount of unemployment compensation that is excluded from federal adjusted gross income pursuant to section 85(c) of the internal revenue code as added by section 1007 of the American recovery and reinvestment act of 2009 (P.L. 111-5).

33. The amount of discharge of indebtedness income that is deferred and excluded from the computation of federal adjusted gross income or federal taxable income in the current taxable year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5).

34. The amount of any previously deferred original issue discount that was deducted in computing federal adjusted gross income or federal taxable income in the current year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5), to the extent that the amount was previously subtracted from Arizona gross income pursuant to section 43-1022, paragraph 33.

Sec. 44. Section 43-1074, Arizona Revised Statutes, as added by Laws 2011, second special session, chapter 1, section 95, is amended to read:

43-1074. Credit for new employment

A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER JUNE 30, 2011, a credit is allowed against the taxes imposed by this title for net increases in full-time employees RESIDING IN THIS STATE AND hired in qualified employment positions IN THIS STATE as COMPUTED, AND certified by the Arizona commerce authority, pursuant to section 41-1525.

B. Subject to subsection E of this section, the amount of the credit is equal to three thousand dollars for each full-time employee hired ~~for the full~~ DURING THE taxable year in a qualified employment position in each of the first three years of employment, but not more than four hundred employees in any taxable year. EMPLOYEES HIRED IN THE LAST NINETY DAYS OF THE TAXABLE YEAR ARE EXCLUDED FOR THAT TAXABLE YEAR AND ARE CONSIDERED TO BE NEW EMPLOYEES IN THE FOLLOWING TAXABLE YEAR.

C. To qualify for a credit under this section, the taxpayer and the employment positions must meet the requirements prescribed by section 41-1525.

D. A credit is allowed for employment in the second and third year only for qualified employment positions for which a credit was claimed and allowed in the first year.

E. The net increase in the number of qualified employment positions AT EACH BUSINESS LOCATION is the lesser of the total number of filled qualified employment positions AT THE BUSINESS LOCATION created during the taxable year or the difference between the average number of full-time employees AT THE BUSINESS LOCATION in the current tax year and the average number of full-time employees AT THE BUSINESS LOCATION during the immediately preceding taxable year. AN EMPLOYEE WHO IS TRANSFERRED BY THE SAME EMPLOYER FROM ONE LOCATION

IN THIS STATE TO ANOTHER LOCATION IN THIS STATE SHALL NOT BE INCLUDED IN THE AVERAGE NUMBER OF FULL-TIME EMPLOYEES IN THAT TAXABLE YEAR AT THE NEW LOCATION, BUT IN THE FOLLOWING TAXABLE YEAR THE EMPLOYEE SHALL BE INCLUDED IN THE AVERAGE NUMBER OF FULL-TIME EMPLOYEES FOR THE PRIOR TAXABLE YEAR FOR THE NEW LOCATION. The net increase in the number of qualified employment positions computed under this subsection may not exceed four hundred qualified employment positions per taxpayer each year.

F. A taxpayer who claims a credit under section 43-1077, 43-1079 or 43-1083.01 shall not claim a credit under this section with respect to the same employment positions.

G. If the allowable tax credit exceeds the income taxes otherwise due on the claimant's income, or if there are no state income taxes due on the claimant's income, the amount of the claim not used as an offset against the income taxes may be carried forward as a tax credit against subsequent years' income tax liability for a period not exceeding five taxable years.

H. Co-owners of a business, including partners in a partnership and shareholders of an S corporation, as defined in section 1361 of the internal revenue code, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners of the business may not exceed the amount that would have been allowed for a sole owner of the business.

I. If the business is sold or changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim first year credits only for the qualified employment positions that it created and filled with an eligible employee after the purchase or reorganization was complete. If a person purchases a taxpayer that had qualified for first or second year credits or changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim the second or third year credits if it meets other eligibility requirements of this section. Credits for which a taxpayer qualified before the changes described in this subsection are terminated and lost at the time the changes are implemented.

J. A failure to timely report and certify to the Arizona commerce authority the information prescribed by section 41-1525, subsection D, and in the manner prescribed by section 41-1525, subsection E disqualifies the taxpayer from the credit under this section. The department shall require written evidence of the timely report to the Arizona commerce authority.

K. A tax credit under this section is subject to recovery for a violation described in section 41-1525, subsection G.

Sec. 45. Section 43-1074.01, Arizona Revised Statutes, as amended by Laws 2011, second special session, chapter 1, section 96, is amended to read:

43-1074.01. <u>Credit for increased research activities</u>

A. A credit is allowed against the taxes imposed by this title in an amount determined pursuant to section 41 of the internal revenue code, except that:

1. The amount of the credit is based on the excess, if any, of the qualified research expenses for the taxable year over the base amount as defined in section 41(c) of the internal revenue code and is computed as follows:

(a) If the excess is two million five hundred thousand dollars or less, the credit is equal to twenty-four per cent of that amount.

(b) If the excess is over two million five hundred thousand dollars, the credit is equal to six hundred thousand dollars plus fifteen per cent of any amount exceeding two million five hundred thousand dollars, except that:

(i) For taxable years beginning from and after December 31, 2000 through December 31, 2001, the credit shall not exceed one million five hundred thousand dollars.

(ii) For taxable years beginning from and after December 31, 2001 through December 31, 2002, the credit shall not exceed two million five hundred thousand dollars.

(c) For taxable years beginning from and after December 31, 2011, an additional credit amount is allowed if the taxpayer made basic research payments during the taxable year to a university under the jurisdiction of the Arizona board of regents. The additional credit amount is equal to ten per cent of the EXCESS, IF ANY, OF THE basic research payments ~~that constitute excess expenses for the taxable year~~ over the QUALIFIED ORGANIZATION base PERIOD amount FOR THE TAXABLE YEAR. The department shall not allow credit amounts under this subdivision and section 43-1168, subsection A, paragraph 1, subdivision (d) that exceed, in the aggregate, a combined total of ten million dollars in any calendar year. Subject to that limit, on application by the taxpayer, the department shall preapprove credit amounts under this subdivision and section 43-1168, subsection A, paragraph 1, subdivision (d) based on priority placement established by the date that the taxpayer filed the application. THE ADDITIONAL CREDIT AMOUNT UNDER THIS SUBDIVISION SHALL NOT EXCEED THE AMOUNT ALLOWED BASED ON ACTUAL BASIC RESEARCH PAYMENTS OR THE DEPARTMENT'S PREAPPROVAL, WHICHEVER IS LESS. IF AN APPLICATION, IF PREAPPROVED IN FULL, WOULD EXCEED THE TEN MILLION DOLLAR LIMIT, THE DEPARTMENT SHALL PREAPPROVE ONLY AN AMOUNT WITHIN THAT LIMIT. AFTER THE LIMIT IS ATTAINED, THE DEPARTMENT SHALL DENY ANY SUBSEQUENT APPLICATIONS REGARDLESS OF WHETHER OTHER PREAPPROVED AMOUNTS ARE NOT ACTUALLY CLAIMED AS A CREDIT OR OTHER TAXPAYERS FAIL TO QUALIFY TO ACTUALLY CLAIM PREAPPROVED AMOUNTS. Notwithstanding subsections B and C of this section, any amount of the additional credit under this subdivision that exceeds the taxes otherwise due under this title is not refundable, but may be carried forward to the next five consecutive taxable years. For the purposes of this subdivision, "basic research payments" ~~has~~ AND "QUALIFIED ORGANIZATION BASE PERIOD AMOUNT" HAVE the same ~~meaning~~ MEANINGS prescribed by section 41(e) of the internal revenue code without regard TO whether the taxpayer is or is not a corporation.

2. Qualified research includes only research conducted in this state including research conducted at a university in this state and paid for by the taxpayer.

3. If two or more taxpayers, including partners in a partnership and shareholders of an S corporation, as defined in section 1361 of the internal revenue code, share in the eligible expenses, each taxpayer is eligible to receive a proportionate share of the credit.

4. The credit under this section applies only to expenses incurred from and after December 31, 2000.

5. The termination provisions of section 41 of the internal revenue code do not apply.

B. Except as provided by subsection C of this section, if the allowable credit under this section exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the amount of the credit not used to offset taxes may be carried forward to the next fifteen consecutive taxable years. The amount of credit carryforward from taxable years beginning from and after December 31, 2000 through December 31, 2002 that may be used in any taxable year may not exceed the taxpayer's tax liability under this title or five hundred thousand dollars, whichever is less, minus the credit under this section for the current taxable year's qualified research expenses. The amount of credit carryforward from taxable years beginning from and after December 31, 2002 that may be used in any taxable year may not exceed the taxpayer's tax liability under this title minus the credit under this section for the current taxable year's qualified research expenses. A taxpayer who carries forward any amount of credit under this subsection may not thereafter claim a refund of any amount of the credit under subsection C of this section.

C. For taxable years beginning from and after December 31, 2009, if a taxpayer who claims a credit under this section employs fewer than one hundred fifty persons in the taxpayer's trade or business and if the allowable credit under this section exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, in lieu of carrying the excess amount of credit forward to subsequent taxable years under subsection B of this section, the taxpayer may elect to receive a refund as follows:

1. The taxpayer must apply to the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY for qualification for the refund pursuant to section 41-1507 and submit a copy of the ~~department of commerce's~~ AUTHORITY'S certificate of qualification to the department of revenue with the taxpayer's income tax return.

2. The amount of the refund is limited to seventy-five per cent of the amount by which the allowable credit under this section exceeds the taxpayer's tax liability under this title for the taxable year. The remainder of the excess amount of the credit is waived.

3. The refund shall be paid in the manner prescribed by section 42-1118.

4. The refund is subject to setoff under section 42-1122.

5. If the department determines that a credit refunded pursuant to this subsection is incorrect or invalid, the excess credit issued may be treated as a tax deficiency pursuant to section 42-1108.

D. A taxpayer that claims a credit for increased research and development activity under this section shall not claim a credit under section 43-1085.01 for the same expenses.

Sec. 46. Section 43-1074.01, Arizona Revised Statutes, as amended by Laws 2011, second special session, chapter 1, section 97, is amended to read:

43-1074.01. Credit for increased research activities

A. A credit is allowed against the taxes imposed by this title in an amount determined pursuant to section 41 of the internal revenue code, except that:

1. The amount of the credit is based on the excess, if any, of the qualified research expenses for the taxable year over the base amount as defined in section 41(c) of the internal revenue code and is computed as follows:

(a) If the excess is two million five hundred thousand dollars or less, the credit is equal to twenty per cent of that amount.

(b) If the excess is over two million five hundred thousand dollars, the credit is equal to five hundred thousand dollars plus eleven per cent of any amount exceeding two million five hundred thousand dollars, except that:

(i) For taxable years beginning from and after December 31, 2000 through December 31, 2001, the credit shall not exceed one million five hundred thousand dollars.

(ii) For taxable years beginning from and after December 31, 2001 through December 31, 2002, the credit shall not exceed two million five hundred thousand dollars.

(c) For taxable years beginning from and after December 31, 2011, an additional credit amount is allowed if the taxpayer made basic research payments during the taxable year to a university under the jurisdiction of the Arizona board of regents. The additional credit amount is equal to ten per cent of the EXCESS, IF ANY, OF THE basic research payments ~~that constitute excess expenses for the taxable year~~ over the QUALIFIED ORGANIZATION base PERIOD amount FOR THE TAXABLE YEAR. The department shall not allow credit amounts under this subdivision and section 43-1168, subsection A, paragraph 1, subdivision (d) that exceed, in the aggregate, a combined total of ten million dollars in any calendar year. Subject to that limit, on application by the taxpayer, the department shall preapprove credit amounts under this subdivision and section 43-1168, subsection A, paragraph 1, subdivision (d) based on priority placement established by the date that the taxpayer filed the application. THE ADDITIONAL CREDIT AMOUNT UNDER THIS SUBDIVISION SHALL NOT EXCEED THE AMOUNT ALLOWED BASED ON ACTUAL BASIC

RESEARCH PAYMENTS OR THE DEPARTMENT'S PREAPPROVAL, WHICHEVER IS LESS. IF AN APPLICATION, IF PREAPPROVED IN FULL, WOULD EXCEED THE TEN MILLION DOLLAR LIMIT, THE DEPARTMENT SHALL PREAPPROVE ONLY AN AMOUNT WITHIN THAT LIMIT. AFTER THE LIMIT IS ATTAINED, THE DEPARTMENT SHALL DENY ANY SUBSEQUENT APPLICATIONS REGARDLESS OF WHETHER OTHER PREAPPROVED AMOUNTS ARE NOT ACTUALLY CLAIMED AS A CREDIT OR OTHER TAXPAYERS FAIL TO QUALIFY TO ACTUALLY CLAIM PREAPPROVED AMOUNTS. Notwithstanding subsections B and C of this section, any amount of the additional credit under this subdivision that exceeds the taxes otherwise due under this title is not refundable, but may be carried forward to the next five consecutive taxable years. For the purposes of this subdivision, "basic research payments" ~~has~~ AND "QUALIFIED ORGANIZATION BASE PERIOD AMOUNT" HAVE the same ~~meaning~~ MEANINGS prescribed by section 41(e) of the internal revenue code without regard TO whether the taxpayer is or is not a corporation.

2. Qualified research includes only research conducted in this state including research conducted at a university in this state and paid for by the taxpayer.

3. If two or more taxpayers, including partners in a partnership and shareholders of an S corporation, as defined in section 1361 of the internal revenue code, share in the eligible expenses, each taxpayer is eligible to receive a proportionate share of the credit.

4. The credit under this section applies only to expenses incurred from and after December 31, 2000.

5. The termination provisions of section 41 of the internal revenue code do not apply.

B. Except as provided by subsection C of this section, if the allowable credit under this section exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the amount of the credit not used to offset taxes may be carried forward to the next fifteen consecutive taxable years. The amount of credit carryforward from taxable years beginning from and after December 31, 2000 through December 31, 2002 that may be used in any taxable year may not exceed the taxpayer's tax liability under this title or five hundred thousand dollars, whichever is less, minus the credit under this section for the current taxable year's qualified research expenses. The amount of credit carryforward from taxable years beginning from and after December 31, 2002 that may be used in any taxable year may not exceed the taxpayer's tax liability under this title minus the credit under this section for the current taxable year's qualified research expenses. A taxpayer who carries forward any amount of credit under this subsection may not thereafter claim a refund of any amount of the credit under subsection C of this section.

C. For taxable years beginning from and after December 31, 2009, if a taxpayer who claims a credit under this section employs fewer than one hundred fifty persons in the taxpayer's trade or business and if the allowable credit under this section exceeds the taxes otherwise due under

this title on the claimant's income, or if there are no taxes due under this title, in lieu of carrying the excess amount of credit forward to subsequent taxable years under subsection B of this section, the taxpayer may elect to receive a refund as follows:

1. The taxpayer must apply to the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY for qualification for the refund pursuant to section 41-1507 and submit a copy of the ~~department of commerce's~~ AUTHORITY'S certificate of qualification to the department of revenue with the taxpayer's income tax return.

2. The amount of the refund is limited to seventy-five per cent of the amount by which the allowable credit under this section exceeds the taxpayer's tax liability under this title for the taxable year. The remainder of the excess amount of the credit is waived.

3. The refund shall be paid in the manner prescribed by section 42-1118.

4. The refund is subject to setoff under section 42-1122.

5. If the department determines that a credit refunded pursuant to this subsection is incorrect or invalid, the excess credit issued may be treated as a tax deficiency pursuant to section 42-1108.

D. A taxpayer that claims a credit for increased research and development activity under this section shall not claim a credit under section 43-1085.01 for the same expenses.

Sec. 47. Section 43-1088, Arizona Revised Statutes, is amended to read:

43-1088. <u>Credit for contribution to qualifying charitable organizations; definitions</u>

A. A credit is allowed against the taxes imposed by this title for voluntary cash contributions by the taxpayer or on the taxpayer's behalf pursuant to section 43-401, subsection ~~H~~ G during the taxable year to a qualifying charitable organization not to exceed:

1. Two hundred dollars in any taxable year for a single individual or a head of household.

2. Four hundred dollars in any taxable year for a married couple filing a joint return.

B. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax credit that would have been allowed for a joint return.

C. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry forward the amount of the claim not used to offset the taxes under this title for not more than five consecutive taxable years' income tax liability.

D. The credit allowed by this section:

1. Is allowed only if the taxpayer itemizes deductions pursuant to section 43-1042 for the taxable year.

2. Is in lieu of a deduction pursuant to section 170 of the internal revenue code and taken for state tax purposes.

E. Taxpayers taking a credit authorized by this section shall provide the name of the qualifying charitable organization and the amount of the contribution to the department of revenue on forms provided by the department.

F. A qualifying charitable organization shall provide the department of revenue with a written certification that it meets all criteria to be considered a qualifying charitable organization. The organization shall also notify the department of any changes that may affect the qualifications under this section.

G. The charitable organization's written certification must be signed by an officer of the organization under penalty of perjury. The written certification must include the following:

1. Verification of the organization's status under section 501(c)(3) of the internal revenue code or verification that the organization is a designated community action agency that receives community services block grant program monies pursuant to 42 United States Code section 9901.

2. Financial data indicating the organization's budget for the organization's prior operating year and the amount of that budget spent on services to residents of this state who either:

(a) Receive temporary assistance for needy families benefits.

(b) Are low income residents of this state.

(c) Are chronically ill or physically disabled children.

3. A statement that the organization plans to continue spending at least fifty per cent of its budget on services to residents of this state who receive temporary assistance for needy families benefits, who are low income residents of this state or who are chronically ill or physically disabled children.

H. The department shall review each written certification and determine whether the organization meets all the criteria to be considered a qualifying charitable organization and notify the organization of its determination. The department may also periodically request recertification from the organization. The department shall compile and make available to the public a list of the qualifying charitable organizations.

I. For the purposes of this section:

1. "Chronically ill or physically disabled children" has the same meaning prescribed in section 36-262.

2. "Low income residents" means persons whose household income is less than one hundred fifty per cent of the federal poverty level.

3. "Qualifying charitable organization" means a charitable organization that is exempt from federal income taxation under section 501(c)(3) of the internal revenue code or is a designated community action agency that receives community services block grant program monies pursuant to 42 United States Code section 9901. The organization must spend at least

fifty per cent of its budget on services to residents of this state who receive temporary assistance for needy families benefits or low income residents of this state and their households or to chronically ill or physically disabled children who are residents of this state. Taxpayers choosing to make donations through an umbrella charitable organization that collects donations on behalf of member charities shall designate that the donation be directed to a member charitable organization that would qualify under this section on a stand-alone basis.

4. "Services" means cash assistance, medical care, child care, food, clothing, shelter, job placement and job training services or any other assistance that is reasonably necessary to meet immediate basic needs and that is provided and used in this state.

Sec. 48. Section 43-1089, Arizona Revised Statutes, is amended to read:

43-1089. Credit for contributions to school tuition organization; definitions

A. A credit is allowed against the taxes imposed by this title for the amount of voluntary cash contributions by the taxpayer or on the taxpayer's behalf pursuant to section 43-401, subsection ~~I~~ G during the taxable year to a school tuition organization that is certified pursuant to chapter 16 of this title at the time of donation. Except as provided by subsection C of this section, the amount of the credit shall not exceed:

1. Five hundred dollars in any taxable year for a single individual or a head of household.

2. One thousand dollars in any taxable year for a married couple filing a joint return.

B. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax credit that would have been allowed for a joint return.

C. For each taxable year beginning on or after January 1, the department shall adjust the dollar amounts prescribed by subsection A, paragraphs 1 and 2 of this section according to the average annual change in the metropolitan Phoenix consumer price index published by the United States bureau of labor statistics, except that the dollar amounts shall not be revised downward below the amounts allowed in the prior taxable year. The revised dollar amounts shall be raised to the nearest whole dollar.

D. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry the amount of the claim not used to offset the taxes under this title forward for not more than five consecutive taxable years' income tax liability.

E. The credit allowed by this section is in lieu of any deduction pursuant to section 170 of the internal revenue code and taken for state tax purposes.

F. A TAXPAYER MAY CLAIM A CREDIT UNDER THIS SECTION AND ALSO UNDER SECTION 43-1089.03 WITH RESPECT TO DIFFERENT CONTRIBUTIONS.

~~F.~~ G. The tax credit is not allowed if the taxpayer designates the taxpayer's contribution to the school tuition organization for the direct benefit of any dependent of the taxpayer or if the taxpayer designates a student beneficiary as a condition of the taxpayer's contribution to the school tuition organization. The tax credit is not allowed if the taxpayer, with the intent to benefit the taxpayer's dependent, agrees with one or more other taxpayers to designate each taxpayer's contribution to the school tuition organization for the direct benefit of the other taxpayer's dependent.

~~G.~~ H. For the purposes of this section, a contribution, for which a credit is claimed, that is made on or before the fifteenth day of the fourth month following the close of the taxable year may be applied to either the current or preceding taxable year and is considered to have been made on the last day of that taxable year.

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

1. "Handicapped student" means a student who has any of the following conditions:

(a) Hearing impairment.

(b) Visual impairment.

(c) Developmental delay.

(d) Preschool severe delay.

(e) Speech/language impairment.

2. "Qualified school":

(a) Means a nongovernmental primary school or secondary school or a preschool for handicapped students that is located in this state, that does not discriminate on the basis of race, color, handicap, familial status or national origin and that satisfies the requirements prescribed by law for private schools in this state on January 1, 1997.

(b) Does not include a charter school or programs operated by charter schools.

Sec. 49. Section 43-1089.01, Arizona Revised Statutes, is amended to read:

43-1089.01. <u>Tax credit; public school fees and contributions; definitions</u>

A. A credit is allowed against the taxes imposed by this title for the amount of any fees or cash contributions by a taxpayer or on the taxpayer's behalf pursuant to section 43-401, subsection ~~I~~ G during the taxable year to a public school located in this state for the support of extracurricular activities or character education programs of the public school, but not exceeding:

1. Two hundred dollars for a single individual or a head of household.

2. Three hundred dollars in taxable year 2005 for a married couple filing a joint return.

1 3. Four hundred dollars in taxable year 2006 and any subsequent
2 taxable year for a married couple filing a joint return.
3 B. A husband and wife who file separate returns for a taxable year in
4 which they could have filed a joint return may each claim only one-half of
5 the tax credit that would have been allowed for a joint return.
6 C. The credit allowed by this section is in lieu of any deduction
7 pursuant to section 170 of the internal revenue code and taken for state tax
8 purposes.
9 D. If the allowable tax credit exceeds the taxes otherwise due under
10 this title on the claimant's income, or if there are no taxes due under this
11 title, the taxpayer may carry the amount of the claim not used to offset the
12 taxes under this title forward for not more than five consecutive taxable
13 years' income tax liability.
14 E. The site council of the public school that receives contributions
15 that are not designated for a specific purpose shall determine how the
16 contributions are used at the school site. If a charter school does not have
17 a site council, the principal, director or chief administrator of the charter
18 school shall determine how the contributions that are not designated for a
19 specific purpose are used at the school site.
20 F. A public school that receives fees or a cash contribution pursuant
21 to subsection A of this section shall report to the department, in a form
22 prescribed by the department, by February 28 of each year the following
23 information:
24 1. The total number of fee and cash contribution payments received
25 during the previous calendar year.
26 2. The total dollar amount of fees and contributions received during
27 the previous calendar year.
28 3. The total dollar amount of fees and contributions spent by the
29 school during the previous calendar year.
30 G. For the purposes of this section:
31 1. "Character education programs" means a program described in section
32 15-719.
33 2. "Extracurricular activities" means school sponsored activities that
34 require enrolled students to pay a fee in order to participate, including
35 fees for:
36 (a) Band uniforms.
37 (b) Equipment or uniforms for varsity athletic activities.
38 (c) Scientific laboratory materials.
39 (d) In-state or out-of-state trips that are solely for competitive
40 events. Extracurricular activities do not include any senior trips or events
41 that are recreational, amusement or tourist activities.
42 3. "Public school" means a school that is part of a school district, a
43 joint technical education district or a charter school.

1 Sec. 50. Title 43, chapter 10, article 5, Arizona Revised Statutes, is
2 amended by adding section 43-1089.03, to read:
3 43-1089.03. Credit for contributions to certified school
4 tuition organizations
5 A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR THE
6 AMOUNT OF VOLUNTARY CASH CONTRIBUTIONS BY THE TAXPAYER OR ON THE TAXPAYER'S
7 BEHALF PURSUANT TO SECTION 43-401, SUBSECTION I DURING THE TAXABLE YEAR TO A
8 SCHOOL TUITION ORGANIZATION THAT IS CERTIFIED PURSUANT TO SECTION 43-1502 AT
9 THE TIME OF DONATION. EXCEPT AS PROVIDED BY SUBSECTION C OF THIS SECTION,
10 THE AMOUNT OF THE CREDIT SHALL NOT EXCEED:
11 1. TWO HUNDRED FIFTY DOLLARS IN ANY TAXABLE YEAR FOR A SINGLE
12 INDIVIDUAL OR A HEAD OF HOUSEHOLD.
13 2. FIVE HUNDRED DOLLARS IN ANY TAXABLE YEAR FOR A MARRIED COUPLE
14 FILING A JOINT RETURN.
15 B. A HUSBAND AND WIFE WHO FILE SEPARATE RETURNS FOR A TAXABLE YEAR IN
16 WHICH THEY COULD HAVE FILED A JOINT RETURN MAY EACH CLAIM ONLY ONE-HALF OF
17 THE TAX CREDIT THAT WOULD HAVE BEEN ALLOWED FOR A JOINT RETURN.
18 C. FOR EACH TAXABLE YEAR BEGINNING ON OR AFTER JANUARY 1, THE
19 DEPARTMENT SHALL ADJUST THE DOLLAR AMOUNTS PRESCRIBED BY SUBSECTION A,
20 PARAGRAPHS 1 AND 2 OF THIS SECTION ACCORDING TO THE AVERAGE ANNUAL CHANGE IN
21 THE METROPOLITAN PHOENIX CONSUMER PRICE INDEX PUBLISHED BY THE UNITED STATES
22 BUREAU OF LABOR STATISTICS, EXCEPT THAT THE DOLLAR AMOUNTS SHALL NOT BE
23 REVISED DOWNWARD BELOW THE AMOUNTS ALLOWED IN THE PRIOR TAXABLE YEAR. THE
24 REVISED DOLLAR AMOUNTS SHALL BE RAISED TO THE NEAREST WHOLE DOLLAR.
25 D. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE TAXES OTHERWISE DUE UNDER
26 THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS
27 TITLE, THE TAXPAYER MAY CARRY THE AMOUNT OF THE CLAIM NOT USED TO OFFSET THE
28 TAXES UNDER THIS TITLE FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE
29 YEARS' INCOME TAX LIABILITY.
30 E. THE CREDIT ALLOWED BY THIS SECTION IS IN LIEU OF ANY DEDUCTION
31 PURSUANT TO SECTION 170 OF THE INTERNAL REVENUE CODE AND TAKEN FOR STATE TAX
32 PURPOSES.
33 F. A TAXPAYER MAY CLAIM A CREDIT UNDER THIS SECTION AND ALSO UNDER
34 SECTION 43-1089 WITH RESPECT TO DIFFERENT CONTRIBUTIONS.
35 G. THE TAX CREDIT IS NOT ALLOWED IF THE TAXPAYER DESIGNATES THE
36 TAXPAYER'S CONTRIBUTION TO THE SCHOOL TUITION ORGANIZATION FOR THE DIRECT
37 BENEFIT OF ANY DEPENDENT OF THE TAXPAYER OR IF THE TAXPAYER DESIGNATES A
38 STUDENT BENEFICIARY AS A CONDITION OF THE TAXPAYER'S CONTRIBUTION TO THE
39 SCHOOL TUITION ORGANIZATION. THE TAX CREDIT IS NOT ALLOWED IF THE TAXPAYER,
40 WITH THE INTENT TO BENEFIT THE TAXPAYER'S DEPENDENT, AGREES WITH ONE OR MORE
41 OTHER TAXPAYERS TO DESIGNATE EACH TAXPAYER'S CONTRIBUTION TO THE SCHOOL
42 TUITION ORGANIZATION FOR THE DIRECT BENEFIT OF THE OTHER TAXPAYER'S
43 DEPENDENT.
44 H. FOR THE PURPOSES OF THIS SECTION, A CONTRIBUTION, FOR WHICH A
45 CREDIT IS CLAIMED, THAT IS MADE ON OR BEFORE THE FIFTEENTH DAY OF THE FOURTH

MONTH FOLLOWING THE CLOSE OF THE TAXABLE YEAR MAY BE APPLIED TO EITHER THE CURRENT OR PRECEDING TAXABLE YEAR AND IS CONSIDERED TO HAVE BEEN MADE ON THE LAST DAY OF THAT TAXABLE YEAR.

Sec. 51. Section 43-1161, Arizona Revised Statutes, as added by Laws 2011, second special session, chapter 1, section 107, is amended to read:

43-1161. Credit for new employment

A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER JUNE 30, 2011, a credit is allowed against the taxes imposed by this title for net increases in full-time employees RESIDING IN THIS STATE AND hired in qualified employment positions IN THIS STATE as COMPUTED, AND certified by the Arizona commerce authority, pursuant to section 41-1525.

B. Subject to subsection E of this section, the amount of the credit is equal to three thousand dollars for each full-time employee hired ~~for the full~~ DURING THE taxable year in a qualified employment position in each of the first three years of employment, but not more than four hundred employees in any taxable year. EMPLOYEES HIRED IN THE LAST NINETY DAYS OF THE TAXABLE YEAR ARE EXCLUDED FOR THAT TAXABLE YEAR AND ARE CONSIDERED TO BE NEW EMPLOYEES IN THE FOLLOWING TAXABLE YEAR.

C. To qualify for a credit under this section, the taxpayer and the employment positions must meet the requirements prescribed by section 41-1525.

D. A credit is allowed for employment in the second and third year only for qualified employment positions for which a credit was claimed and allowed in the first year.

E. The net increase in the number of qualified employment positions AT EACH BUSINESS LOCATION is the lesser of the total number of filled qualified employment positions AT THE BUSINESS LOCATION created during the taxable year or the difference between the average number of full-time employees AT THE BUSINESS LOCATION in the current tax year and the average number of full-time employees AT THE BUSINESS LOCATION during the immediately preceding taxable year. AN EMPLOYEE WHO IS TRANSFERRED BY THE SAME EMPLOYER FROM ONE LOCATION IN THIS STATE TO ANOTHER LOCATION IN THIS STATE SHALL NOT BE INCLUDED IN THE AVERAGE NUMBER OF FULL-TIME EMPLOYEES IN THAT TAXABLE YEAR AT THE NEW LOCATION, BUT IN THE FOLLOWING TAXABLE YEAR THE EMPLOYEE SHALL BE INCLUDED IN THE AVERAGE NUMBER OF FULL-TIME EMPLOYEES FOR THE PRIOR TAXABLE YEAR FOR THE NEW LOCATION. The net increase in the number of qualified employment positions computed under this subsection may not exceed four hundred qualified employment positions per taxpayer each year.

F. A taxpayer who claims a credit under section 43-1164.01, 43-1165 or 43-1167 shall not claim a credit under this section with respect to the same employment positions.

G. If the allowable tax credit exceeds the income taxes otherwise due on the claimant's income, or if there are no state income taxes due on the claimant's income, the amount of the claim not used as an offset against the

income taxes may be carried forward as a tax credit against subsequent years' income tax liability for a period not exceeding five taxable years.

H. Co-owners of a business, including corporate partners in a partnership, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners of the business may not exceed the amount that would have been allowed for a sole owner of the business.

I. If the business is sold or changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim first year credits only for the qualified employment positions that it created and filled with an eligible employee after the purchase or reorganization was complete. If a person purchases a taxpayer that had qualified for first or second year credits or changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim the second or third year credits if it meets other eligibility requirements of this section. Credits for which a taxpayer qualified before the changes described in this subsection are terminated and lost at the time the changes are implemented.

J. A failure to timely report and certify to the Arizona commerce authority the information prescribed by section 41-1525, subsection D, and in the manner prescribed by section 41-1525, subsection E disqualifies the taxpayer from the credit under this section. The department shall require written evidence of the timely report to the Arizona commerce authority.

K. A tax credit under this section is subject to recovery for a violation described in section 41-1525, subsection G.

Sec. 52. Section 43-1168, Arizona Revised Statutes, as amended by Laws 2011, second special session, chapter 1, section 113, is amended to read:

43-1168. Credit for increased research activities

A. A credit is allowed against the taxes imposed by this title in an amount determined pursuant to section 41 of the internal revenue code, except that:

1. The amount of the credit is computed as follows:

(a) Add:

(i) The excess, if any, of the qualified research expenses for the taxable year over the base amount as defined in section 41(c) of the internal revenue code.

(ii) The basic research payments determined under section 41(e)(1)(A) of the internal revenue code.

(b) If the sum computed under subdivision (a) is two million five hundred thousand dollars or less, the credit is equal to twenty-four per cent of that amount.

(c) If the sum computed under subdivision (a) is over two million five hundred thousand dollars, the credit is equal to six hundred thousand dollars plus fifteen per cent of any amount exceeding two million five hundred thousand dollars, except that:

(i) For taxable years beginning from and after December 31, 2000 through December 31, 2001, the credit shall not exceed one million five hundred thousand dollars.

(ii) For taxable years beginning from and after December 31, 2001 through December 31, 2002, the credit shall not exceed two million five hundred thousand dollars.

(d) For taxable years beginning from and after December 31, 2011, an additional credit amount is allowed if the taxpayer made basic research payments during the taxable year to a university under the jurisdiction of the Arizona board of regents. The additional credit amount is equal to ten per cent of the EXCESS, IF ANY, OF THE basic research payments ~~that constitute excess expenses for the taxable year~~ over the QUALIFIED ORGANIZATION base PERIOD amount FOR THE TAXABLE YEAR. The department shall not allow credit amounts under this subdivision and section 43-1074.01, subsection A, paragraph 1, subdivision (c) that exceed, in the aggregate, a combined total of ten million dollars in any calendar year. Subject to that limit, on application by the taxpayer, the department shall preapprove credit amounts under this subdivision and section 43-1074.01, subsection A, paragraph 1, subdivision (c) based on priority placement established by the date that the taxpayer filed the application. THE ADDITIONAL CREDIT AMOUNT UNDER THIS SUBDIVISION SHALL NOT EXCEED THE AMOUNT ALLOWED BASED ON ACTUAL BASIC RESEARCH PAYMENTS OR THE DEPARTMENT'S PREAPPROVAL, WHICHEVER IS LESS. IF AN APPLICATION, IF PREAPPROVED IN FULL, WOULD EXCEED THE TEN MILLION DOLLAR LIMIT, THE DEPARTMENT SHALL PREAPPROVE ONLY AN AMOUNT WITHIN THAT LIMIT. AFTER THE LIMIT IS ATTAINED, THE DEPARTMENT SHALL DENY ANY SUBSEQUENT APPLICATIONS REGARDLESS OF WHETHER OTHER PREAPPROVED AMOUNTS ARE NOT ACTUALLY CLAIMED AS A CREDIT OR OTHER TAXPAYERS FAIL TO QUALIFY TO ACTUALLY CLAIM PREAPPROVED AMOUNTS. Notwithstanding subsections B and D of this section, any amount of the additional credit under this subdivision that exceeds the taxes otherwise due under this title is not refundable, but may be carried forward to the next five consecutive taxable years. FOR THE PURPOSES OF THIS SUBDIVISION, "BASIC RESEARCH PAYMENTS" AND "QUALIFIED ORGANIZATION BASE PERIOD AMOUNT" HAVE THE SAME MEANINGS PRESCRIBED BY SECTION 41(e) OF THE INTERNAL REVENUE CODE.

2. Qualified research includes only research conducted in this state including research conducted at a university in this state and paid for by the taxpayer.

3. If two or more taxpayers, including corporate partners in a partnership, share in the eligible expenses, each taxpayer is eligible to receive a proportionate share of the credit.

4. The credit under this section applies only to expenses incurred from and after December 31, 1993.

5. The termination provisions of section 41 of the internal revenue code do not apply.

B. Except as provided by subsection D of this section, if the allowable credit under this section exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the amount of the credit not used to offset taxes may be carried forward to the next fifteen consecutive taxable years. The amount of credit carryforward from taxable years beginning from and after December 31, 2000 through December 31, 2002 that may be used under this subsection in any taxable year may not exceed the taxpayer's tax liability under this title or five hundred thousand dollars, whichever is less, minus the credit under this section for the current taxable year's qualified research expenses. The amount of credit carryforward from taxable years beginning from and after December 31, 2002 that may be used under this subsection in any taxable year may not exceed the taxpayer's tax liability under this title minus the credit under this section for the current taxable year's qualified research expenses. A taxpayer that carries forward any amount of credit under this subsection may not thereafter claim a refund of any amount of the credit under subsection D of this section.

C. If a taxpayer has qualified research expenses that are carried forward from taxable years beginning before January 1, 2001, the amount of the expenses carried forward shall be converted to a credit carryforward by multiplying the amount of the qualified expenses carried forward by twenty per cent. A credit carryforward determined under this subsection may be carried forward to not more than fifteen years from the year in which the expenses were incurred. The amount of credit carryforward from taxable years beginning before January 1, 2001 that may be used under this subsection in any taxable year may not exceed the taxpayer's tax liability under this title or five hundred thousand dollars, whichever is less, minus the credit under this section for the current taxable year's qualified research expenses. The total amount of credit carryforward from taxable years beginning before January 1, 2003 that may be used in any taxable year under subsection B and this subsection may not exceed the taxpayer's tax liability under this title or five hundred thousand dollars, whichever is less, minus the credit under this section for the current taxable year's qualified research expenses.

D. For taxable years beginning from and after December 31, 2009, if a taxpayer who claims a credit under this section employs fewer than one hundred fifty persons in the taxpayer's trade or business and if the allowable credit under this section exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, in lieu of carrying the excess amount of credit forward to subsequent taxable years under subsection B of this section, the taxpayer may elect to receive a refund as follows:

1. The taxpayer must apply to the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY for qualification for the refund pursuant to section 41-1507 and submit a copy of the ~~department of commerce's~~ AUTHORITY'S

certificate of qualification to the department of revenue with the taxpayer's income tax return.

2. The amount of the refund is limited to seventy-five per cent of the amount by which the allowable credit under this section exceeds the taxpayer's tax liability under this title for the taxable year. The remainder of the excess amount of the credit is waived.

3. The refund shall be paid in the manner prescribed by section 42-1118.

4. The refund is subject to setoff under section 42-1122.

5. If the department determines that a credit refunded pursuant to this subsection is incorrect or invalid, the excess credit issued may be treated as a tax deficiency pursuant to section 42-1108.

E. A taxpayer that claims a credit for increased research and development activity under this section shall not claim a credit under section 43-1164.02 for the same expenses.

Sec. 53. Section 43-1168, Arizona Revised Statutes, as amended by Laws 2011, second special session, chapter 1, section 114, is amended to read:

43-1168. Credit for increased research activity

A. A credit is allowed against the taxes imposed by this title in an amount determined pursuant to section 41 of the internal revenue code, except that:

1. The amount of the credit is computed as follows:

(a) Add:

(i) The excess, if any, of the qualified research expenses for the taxable year over the base amount as defined in section 41(c) of the internal revenue code.

(ii) The basic research payments determined under section 41(e)(1)(A) of the internal revenue code.

(b) If the sum computed under subdivision (a) is two million five hundred thousand dollars or less, the credit is equal to twenty per cent of that amount.

(c) If the sum computed under subdivision (a) is over two million five hundred thousand dollars, the credit is equal to five hundred thousand dollars plus eleven per cent of any amount exceeding two million five hundred thousand dollars, except that:

(i) For taxable years beginning from and after December 31, 2000 through December 31, 2001, the credit shall not exceed one million five hundred thousand dollars.

(ii) For taxable years beginning from and after December 31, 2001 through December 31, 2002, the credit shall not exceed two million five hundred thousand dollars.

(d) For taxable years beginning from and after December 31, 2011, an additional credit amount is allowed if the taxpayer made basic research payments during the taxable year to a university under the jurisdiction of the Arizona board of regents. The additional credit amount is equal to ten

per cent of the EXCESS, IF ANY, OF THE basic research payments ~~that constitute excess expenses for the taxable year~~ over the QUALIFIED ORGANIZATION base PERIOD amount FOR THE TAXABLE YEAR. The department shall not allow credit amounts under this subdivision and section 43-1074.01, subsection A, paragraph 1, subdivision (c) that exceed, in the aggregate, a combined total of ten million dollars in any calendar year. Subject to that limit, on application by the taxpayer, the department shall preapprove credit amounts under this subdivision and section 43-1074.01, subsection A, paragraph 1, subdivision (c) based on priority placement established by the date that the taxpayer filed the application. THE ADDITIONAL CREDIT AMOUNT UNDER THIS SUBDIVISION SHALL NOT EXCEED THE AMOUNT ALLOWED BASED ON ACTUAL BASIC RESEARCH PAYMENTS OR THE DEPARTMENT'S PREAPPROVAL, WHICHEVER IS LESS. IF AN APPLICATION, IF PREAPPROVED IN FULL, WOULD EXCEED THE TEN MILLION DOLLAR LIMIT, THE DEPARTMENT SHALL PREAPPROVE ONLY AN AMOUNT WITHIN THAT LIMIT. AFTER THE LIMIT IS ATTAINED, THE DEPARTMENT SHALL DENY ANY SUBSEQUENT APPLICATIONS REGARDLESS OF WHETHER OTHER PREAPPROVED AMOUNTS ARE NOT ACTUALLY CLAIMED AS A CREDIT OR OTHER TAXPAYERS FAIL TO QUALIFY TO ACTUALLY CLAIM PREAPPROVED AMOUNTS. Notwithstanding subsections B and D of this section, any amount of the additional credit under this subdivision that exceeds the taxes otherwise due under this title is not refundable, but may be carried forward to the next five consecutive taxable years. FOR THE PURPOSES OF THIS SUBDIVISION, "BASIC RESEARCH PAYMENTS" AND "QUALIFIED ORGANIZATION BASE PERIOD AMOUNT" HAVE THE SAME MEANINGS PRESCRIBED BY SECTION 41(e) OF THE INTERNAL REVENUE CODE.

2. Qualified research includes only research conducted in this state including research conducted at a university in this state and paid for by the taxpayer.

3. If two or more taxpayers, including corporate partners in a partnership, share in the eligible expenses, each taxpayer is eligible to receive a proportionate share of the credit.

4. The credit under this section applies only to expenses incurred from and after December 31, 1993.

5. The termination provisions of section 41 of the internal revenue code do not apply.

B. Except as provided by subsection D of this section, if the allowable credit under this section exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the amount of the credit not used to offset taxes may be carried forward to the next fifteen consecutive taxable years. The amount of credit carryforward from taxable years beginning from and after December 31, 2000 through December 31, 2002 that may be used under this subsection in any taxable year may not exceed the taxpayer's tax liability under this title or five hundred thousand dollars, whichever is less, minus the credit under this section for the current taxable year's qualified research expenses. The amount of credit carryforward from taxable years beginning from and after

December 31, 2002 that may be used under this subsection in any taxable year may not exceed the taxpayer's tax liability under this title minus the credit under this section for the current taxable year's qualified research expenses. A taxpayer that carries forward any amount of credit under this subsection may not thereafter claim a refund of any amount of the credit under subsection D of this section.

C. If a taxpayer has qualified research expenses that are carried forward from taxable years beginning before January 1, 2001, the amount of the expenses carried forward shall be converted to a credit carryforward by multiplying the amount of the qualified expenses carried forward by twenty per cent. A credit carryforward determined under this subsection may be carried forward to not more than fifteen years from the year in which the expenses were incurred. The amount of credit carryforward from taxable years beginning before January 1, 2001 that may be used under this subsection in any taxable year may not exceed the taxpayer's tax liability under this title or five hundred thousand dollars, whichever is less, minus the credit under this section for the current taxable year's qualified research expenses. The total amount of credit carryforward from taxable years beginning before January 1, 2003 that may be used in any taxable year under subsection B and this subsection may not exceed the taxpayer's tax liability under this title or five hundred thousand dollars, whichever is less, minus the credit under this section for the current taxable year's qualified research expenses.

D. For taxable years beginning from and after December 31, 2009, if a taxpayer who claims a credit under this section employs fewer than one hundred fifty persons in the taxpayer's trade or business and if the allowable credit under this section exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, in lieu of carrying the excess amount of credit forward to subsequent taxable years under subsection B of this section, the taxpayer may elect to receive a refund as follows:

1. The taxpayer must apply to the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY for qualification for the refund pursuant to section 41-1507 and submit a copy of the ~~department of commerce's~~ AUTHORITY'S certificate of qualification to the department of revenue with the taxpayer's income tax return.

2. The amount of the refund is limited to seventy-five per cent of the amount by which the allowable credit under this section exceeds the taxpayer's tax liability under this title for the taxable year. The remainder of the excess amount of the credit is waived.

3. The refund shall be paid in the manner prescribed by section 42-1118.

4. The refund is subject to setoff under section 42-1122.

5. If the department determines that a credit refunded pursuant to this subsection is incorrect or invalid, the excess credit issued may be treated as a tax deficiency pursuant to section 42-1108.

E. A taxpayer that claims a credit for increased research and development activity under this section shall not claim a credit under section 43-1164.02 for the same expenses.

Sec. 54. Section 43-1502, Arizona Revised Statutes, is amended to read:

43-1502. Certification as a school tuition organization

A. A nonprofit organization in this state that is exempt or has applied for exemption from federal taxation under section 501(c)(3) of the internal revenue code may apply to the department of revenue for certification as a school tuition organization, and the department shall certify the school tuition organization if it meets the requirements prescribed by this chapter. An organization must apply for certification on a form prescribed and furnished on request by the department.

B. The department shall:

1. Maintain a public registry of currently certified school tuition organizations.

2. Make the registry available to the public on request.

3. Post the registry on the department's official website.

C. The department shall send written notice by certified mail to a school tuition organization if the department determines that the school tuition organization has engaged in any of the following activities:

1. Failing or refusing to allocate at least ninety per cent of annual revenues FROM CONTRIBUTIONS MADE FOR THE PURPOSES OF SECTIONS 20-224.06, 20-224.07, 43-1089.03, 43-1183 AND 43-1184 for educational scholarships or tuition grants.

2. Failing or refusing to file the annual reports required by section 43-1506.

3. Limiting availability of scholarships to students of only one school.

4. Encouraging, facilitating or knowingly permitting taxpayers to engage in actions prohibited by this article.

D. A school tuition organization that receives notice from the department pursuant to subsection C of this section has ninety days to correct the violation identified by the department in the notice. If a school tuition organization fails or refuses to comply after ninety days, the department may remove the organization from the list of certified school tuition organizations and shall make available to the public notice of removal as soon as possible. An organization that is removed from the list of certified school tuition organizations must notify any taxpayer who attempts to make a contribution that the contribution is not eligible for the tax credit and offer to refund all donations received after the date of the notice of termination of certification.

E. A school tuition organization may request an administrative hearing on the revocation of its certification as provided by title 41, chapter 6, article 10. Except as provided in section 41-1092.08, subsection H, a

decision of the department is subject to judicial review pursuant to title 12, chapter 7, article 6.

Sec. 55. Section 43-1503, Arizona Revised Statutes, is amended to read:

43-1503. Operational requirements for school tuition organizations

A. A certified school tuition organization must be established to receive contributions from taxpayers for the purposes of income tax credits under sections 43-1183 and 43-1184 insurance premium tax credits under sections 20-224.06 and 20-224.07 and to pay educational scholarships or tuition grants to allow students to attend any qualified school of their parents' or custodians' choice.

B. To be eligible for certification and retain certification, the school tuition organization:

1. Must allocate at least ninety per cent of its annual revenue FROM CONTRIBUTIONS MADE FOR THE PURPOSES OF SECTIONS 20-224.06, 20-224.07, 43-1089.03, 43-1183 AND 43-1184 for educational scholarships or tuition grants.

2. Shall not limit the availability of educational scholarships or tuition grants to only students of one school.

3. Must allow the department of revenue to verify that the educational scholarships and tuition grants that are issued are awarded to students who attend a qualified school.

Sec. 56. Section 43-1504, Arizona Revised Statutes, is amended to read:

43-1504. Special provisions; corporate donations for low-income scholarships; rules

A. A school tuition organization that receives contributions from a corporation for the purposes of section 20-224.06 or 43-1183 must use at least ninety per cent of those contributions to provide educational scholarships or tuition grants only to children whose family income does not exceed one hundred eighty-five per cent of the income limit required to qualify a child for reduced price lunches under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1785) and who either:

1. Attended a governmental primary or secondary school as a full-time student as defined in section 15-901 for at least the first one hundred days of the prior fiscal year and transferred from a governmental primary or secondary school to a qualified school.

2. Enroll in a qualified school in a kindergarten program.

3. Received an educational scholarship or tuition grant under paragraph 1 or 2 if the children continue to attend a qualified school in a subsequent year.

B. A child is eligible to receive an educational scholarship or tuition grant under subsection A of this section if the child meets the

criteria to receive a reduced price lunch but does not actually claim that benefit.

C. In 2006, a school tuition organization shall not issue an educational scholarship or a tuition grant for the purposes of section 20-224.06 or 43-1183 in an amount that exceeds four thousand two hundred dollars for students in a kindergarten program or grades one through eight or five thousand five hundred dollars for students in grades nine through twelve. In each year after 2006, the limitation amount for a scholarship or a grant under this subsection shall be increased by one hundred dollars.

D. A school tuition organization shall require that student beneficiaries use the educational scholarships or tuition grants on a full-time basis. If a child leaves the school before completing an entire school year, the school shall refund a prorated amount of the educational scholarship or tuition grant to the school tuition organization that issued the scholarship or grant. The school tuition organization shall allocate any refunds it receives under this subsection for educational scholarships or tuition grants ~~in the following year~~.

E. Students who receive an educational scholarship or tuition grant under this section shall be allowed to attend any qualified school of their parents' choice.

F. The department of revenue, with the cooperation of the department of insurance, shall adopt rules and publish and prescribe forms and procedures necessary for the administration of this section.

Sec. 57. Section 43-1505, Arizona Revised Statutes, is amended to read:

43-1505. Special provisions; corporate donations for displaced students and students with disabilities; definition

A. A school tuition organization that receives contributions for the purposes of section ~~28-224.07~~ 20-224.07 or 43-1184 must use at least ninety per cent of those contributions to provide educational scholarships or tuition grants to qualified students who either:

1. Received a grant or scholarship under title 15, chapter 8, article 1.2 or 8 in order to attend a qualified school during the 2008-2009 academic year.

2. Attended a governmental primary or secondary school as a full-time student as defined in section 15-901 for at least the first one hundred days of the prior fiscal year and transferred from a governmental primary or secondary school to a qualified school.

3. Qualified for an educational scholarship or tuition grant under paragraph 1 or 2 OF THIS SUBSECTION if the qualified student continues to attend a qualified school in a subsequent year.

B. The amount of an educational scholarship or a tuition grant that is issued by a school tuition organization under this section shall not exceed the cost of tuition for the student to attend the qualified school or ninety per cent of the amount of state aid that otherwise would be computed for the

student as provided in title 15, chapter 9, article 5, whichever is less. On request from a school tuition organization, the department of education shall provide to the school tuition organization in a timely manner the amount computed for the student under this subsection that represents the ninety per cent limitation prescribed in this subsection.

C. A school tuition organization shall require that student beneficiaries use the educational scholarships or tuition grants on a full-time basis. If a child leaves the school before completing an entire school year, the school shall refund a prorated amount of the educational scholarship or tuition grant to the school tuition organization that issued the scholarship or grant. The school tuition organization shall allocate any refunds it receives under this subsection for educational scholarships or tuition grants ~~in the following year~~.

D. Qualified students who receive an educational scholarship or tuition grant under this section shall be allowed to attend any qualified school of their custodians' choice.

E. For the purposes of this section, "qualified student" means a student who has been either:

1. Placed in foster care pursuant to title 8, chapter 5 at any time before the student graduates from high school or obtains a general equivalency diploma.

2. Identified as having a disability under section 504 of the rehabilitation act (29 United States Code section 794) or identified by a school district as a child with a disability as defined in section 15-761 or a child with a disability who is eligible to receive services from a school district under section 15-763.

Sec. 58. Section 43-1507, Arizona Revised Statutes, is amended to read:

43-1507. Audits and financial reviews

A. On or before September 30 of each year, each school tuition organization that received one million dollars or more in total donations in the previous fiscal year shall provide for a financial audit of the organization. The audit must be conducted in accordance with generally accepted auditing standards and must evaluate the organization's compliance with ~~the fiscal requirements of this article~~ SECTION 43-1503, SUBSECTION B, PARAGRAPH 1. The audit must be conducted by an independent certified public accountant licensed in this state. The certified public accountant and the firm the certified public accountant is affiliated with shall be independent with respect to the organization, its officers and directors, services performed and all other independent relationships prescribed by generally accepted ~~accounting~~ AUDITING standards.

B. On or before September 30 of each year, each school tuition organization that received less than one million dollars in total donations in the previous fiscal year shall provide for a financial review of the organization. The review must be conducted in accordance with standards for

accounting and review services and must evaluate the organization's compliance with the fiscal requirements of this article. The review must be conducted by an independent certified public accountant licensed in this state. The certified public accountant and the firm the certified public accountant is affiliated with shall be independent with respect to the organization, its officers and directors, services performed and all other independent relationships prescribed by generally accepted ~~accounting~~ AUDITING standards.

C. Within five days after receiving the audit or financial review, the school tuition organization shall file a signed copy of the audit or financial review with the department.

D. The school tuition organization shall pay the fees and costs of the certified public accountant under this section from the organization's operating monies. The fees and costs shall be excluded from the calculation of total revenues spent on scholarships and tuition grants.

Sec. 59. Section 43-1602, Arizona Revised Statutes, is amended to read:

43-1602. Certification as a school tuition organization

A. A nonprofit organization in this state that is exempt or has applied for exemption from federal taxation under section 501(c)(3) of the internal revenue code may apply to the department of revenue for certification as a school tuition organization, and the department shall certify the school tuition organization if it meets the requirements prescribed by this chapter. An organization must apply for certification on a form prescribed and furnished on request by the department.

B. The department shall:

1. Maintain a public registry of currently certified school tuition organizations.

2. Make the registry available to the public on request.

3. Post the registry on the department's official website.

C. The department shall send written notice by certified mail to a school tuition organization if the department determines that the school tuition organization has engaged in any of the following activities:

1. Failing or refusing to allocate at least ninety per cent of annual revenues FROM CONTRIBUTIONS MADE FOR THE PURPOSES OF SECTION 43-1089 for educational scholarships or tuition grants.

2. Failing or refusing to file the annual reports required by section 43-1604.

3. Limiting availability of scholarships to students of only one school.

4. Encouraging, facilitating or knowingly permitting taxpayers to engage in actions prohibited by this article.

5. Awarding, restricting or reserving educational scholarships or tuition grants for use by a particular student based solely on the recommendation of the donor.

D. A school tuition organization that receives notice from the department pursuant to subsection C of this section has ninety days to correct the violation identified by the department in the notice. If a school tuition organization fails or refuses to comply after ninety days, the department may remove the organization from the list of certified school tuition organizations and shall make available to the public notice of removal as soon as possible. An organization that is removed from the list of certified school tuition organizations must notify any taxpayer who attempts to make a contribution that the contribution is not eligible for the tax credit and offer to refund all donations received after the date of the notice of termination of certification.

E. A school tuition organization may request an administrative hearing on the revocation of its certification as provided by title 41, chapter 6, article 10. Except as provided in section 41-1092.08, subsection H, a decision of the department is subject to judicial review pursuant to title 12, chapter 7, article 6.

Sec. 60. Section 43-1603, Arizona Revised Statutes, is amended to read:

43-1603. Operational requirements for school tuition organizations; notice; qualified schools

A. A certified school tuition organization must be established to receive contributions from taxpayers for the purposes of income tax credits under section 43-1089 and to pay educational scholarships or tuition grants to allow students to attend any qualified school of their parents' choice.

B. To be eligible for certification and retain certification, the school tuition organization:

1. Must allocate at least ninety per cent of its annual revenue FROM CONTRIBUTIONS MADE FOR THE PURPOSES OF SECTION 43-1089 for educational scholarships or tuition grants.

2. Shall not limit the availability of educational scholarships or tuition grants to only students of one school.

3. May allow donors to recommend student beneficiaries, but shall not award, designate or reserve scholarships solely on the basis of donor recommendations.

4. Shall not allow donors to designate student beneficiaries as a condition of any contribution to the organization, or facilitate, encourage or knowingly permit the exchange of beneficiary student designations in violation of section 43-1089, subsection ~~F~~ G.

C. A school tuition organization shall include the following notice in any printed materials soliciting donations, in applications for scholarships and on its website:

Notice

A school tuition organization cannot award, restrict or reserve scholarships solely on the basis of a donor's recommendation.

A taxpayer may not claim a tax credit if the taxpayer agrees to swap donations with another taxpayer to benefit either taxpayer's own dependent.

D. In evaluating applications and awarding, designating or reserving scholarships, a school tuition organization:

1. Shall not award, designate or reserve a scholarship solely on the recommendation of any person contributing money to the organization, but may consider the recommendation among other factors.

2. Shall consider the financial need of applicants.

~~E. A qualified school shall not accept an educational scholarship or tuition grant from a school tuition organization in an amount that exceeds the school's total cost of educating the student in whose name the scholarship or grant is received.~~

E. IF AN INDIVIDUAL EDUCATIONAL SCHOLARSHIP OR TUITION GRANT EXCEEDS THE BASE TUITION FOR THAT STUDENT, THE AMOUNT IN EXCESS SHALL BE RETURNED TO THE SCHOOL TUITION ORGANIZATION THAT MADE THE AWARD OR GRANT. THE SCHOOL TUITION ORGANIZATION MAY ALLOCATE THE RETURNED MONIES AS A MULTIYEAR AWARD FOR THAT STUDENT AND REPORT THE AWARD PURSUANT TO SECTION 43-1604, PARAGRAPH 5, SUBDIVISION (b) OR MAY ALLOCATE THE RETURNED MONIES FOR EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS FOR OTHER STUDENTS.

Sec. 61. Section 43-1605, Arizona Revised Statutes, is amended to read:

43-1605. Audits and financial reviews

A. On or before September 30 of each year, each school tuition organization that received one million dollars or more in total donations in the previous fiscal year shall provide for a financial audit of the organization. The audit must be conducted in accordance with generally accepted auditing standards and must evaluate the organization's compliance with ~~the fiscal requirements of this article~~ SECTION 43-1603, SUBSECTION B, PARAGRAPH 1. The audit must be conducted by an independent certified public accountant licensed in this state. The certified public accountant and the firm the certified public accountant is affiliated with shall be independent with respect to the organization, its officers and directors, services performed and all other independent relationships prescribed by generally accepted auditing standards.

B. On or before September 30 of each year, each school tuition organization that received less than one million dollars in total donations in the previous fiscal year shall provide for a financial review of the organization. The review must be conducted in accordance with standards for accounting and review services and must evaluate the organization's compliance with the fiscal requirements of this article. The review must be conducted by an independent certified public accountant licensed in this state. The certified public accountant and the firm the certified public accountant is affiliated with shall be independent with respect to the organization, its officers and directors, services performed and all other

independent relationships prescribed by generally accepted auditing standards.

C. Within five days after receiving the audit or financial review, the school tuition organization shall file a signed copy of the audit or financial review with the department.

D. The school tuition organization shall pay the fees and costs of the certified public accountant under this section from the organization's operating monies. The fees and costs shall be excluded from the calculation of total revenues spent on scholarships and tuition grants.

Sec. 62. Section 48-5102, Arizona Revised Statutes, is amended to read:

48-5102. Regional public transportation authority in counties with population of one million two hundred thousand or more persons; establishment

A. Beginning January 1, 1986, a regional public transportation authority is established in a county that has a population of one million two hundred thousand or more persons and that approves a transportation excise tax ~~under section 42-6104~~.

B. An authority is a tax levying public improvement district for all purposes of article XIII, section 7, Constitution of Arizona, and has the powers, privileges and immunities specifically granted by law. The authority's property, bonds, debts and other obligations and interest on and transfer of its bonds and obligations are free from taxation.

C. The authority may operate both within and outside the corporate limits of the member municipalities.

Sec. 63. Section 48-5103, Arizona Revised Statutes, is amended to read:

48-5103. Public transportation fund

A. A public transportation fund is established for the authority. The fund consists of:

1. Monies appropriated by each municipality that is a member of the authority or the county, if it elected to enter into the authority. Each member municipality and member county shall appropriate monies to the public transportation fund in an amount determined by the board.

2. Monies appropriated by a county that has not elected to enter into the authority in an amount determined by the county board of supervisors.

3. Transportation excise tax revenues that are allocated to the fund pursuant to section ~~42-6104 or~~ 42-6105. The board shall separately account for monies from transportation excise tax revenues allocated pursuant to section 42-6105, subsection ~~E~~ D, paragraph 3 for:

(a) A light rail public transit system.

(b) Capital costs for other public transportation.

(c) Operation and maintenance costs for other public transportation.

4. Monies distributed under title 28, chapter 17, article 1.

5. Grants, gifts or donations from public or private sources.

6. Monies granted by the federal government or appropriated by the legislature.

7. Fares or other revenues collected in operating a public transportation system.

B. On behalf of the authority, the fiscal agent shall administer monies paid into the public transportation fund. Monies in the fund may be spent pursuant to or to implement the public transportation element of the regional transportation plan developed and approved by the regional planning agency, including reimbursement for utility relocation costs as prescribed in section 48-5107, adopted pursuant to section 48-5121 and for projects identified in the regional transportation plan adopted by the regional planning agency pursuant to section 28-6308.

C. Monies in the fund shall not be spent to promote or advocate a position, alternative or outcome of an election, to influence public opinion or to pay or contract for consultants or advisors to influence public opinion with respect to an election regarding taxes or other sources of revenue for the fund or regarding the regional transportation plan.

Sec. 64. Repeal

Laws 2010, seventh special session, chapter 9, sections 1 and 8 are repealed.

Sec. 65. Laws 2011, second special session, chapter 1, section 130 is amended to read:

Sec. 130. Effect on preexisting tax credits

A. ~~This act~~ LAWS 2011, SECOND SPECIAL SESSION, CHAPTER 1 does not affect the validity of tax benefits granted under prior law.

B. Any certification or other approval issued under prior law by the department of commerce before the expiration of any tax incentive qualifies the taxpayer, who is otherwise eligible, for the intended tax benefits. No provision of ~~this act~~ LAWS 2011, SECOND SPECIAL SESSION, CHAPTER 1 may be interpreted to terminate tax incentives that were not claimed by qualified taxpayers before ~~the effective date of this act~~ JULY 1, 2011.

C. Taxpayers who qualified for tax incentives under sections 41-1517, ~~and~~ 41-1517.01, ~~title 41, chapter 10, article 2, section 42-12006, paragraph 4 and sections 43-1074,~~ 43-1075, 43-1075.01, ~~43-1161,~~ 43-1163 and 43-1163.01, Arizona Revised Statutes, in effect before ~~the effective date of this act~~ JULY 1, 2011, may use any applicable amounts of those credits, including allowed carryovers, against income tax liabilities for subsequent taxable years as provided by law in effect before ~~the effective date of this act~~ JULY 1, 2011.

D. THE REPEAL OF TITLE 41, CHAPTER 10, ARTICLE 2, ARIZONA REVISED STATUTES, AND SECTIONS 20-224.03, 43-1074 AND 43-1161, ARIZONA REVISED STATUTES, BY LAWS 2006, CHAPTER 387, SECTION 5, EFFECTIVE FROM AND AFTER JUNE 30, 2011, DOES NOT AFFECT THE PRIOR QUALIFICATION UNDER PRIOR LAW WITH RESPECT TO:

1. PROPERTY CLASSIFIED AS CLASS SIX PURSUANT TO SECTION 42-12006, PARAGRAPH 4, ARIZONA REVISED STATUTES, AS IN EFFECT BEFORE JULY 1, 2011. TAXPAYERS WHO QUALIFIED FOR PROPERTY TAX CLASSIFICATION UNDER SECTION 42-12006, PARAGRAPH 4, ARIZONA REVISED STATUTES, AND ON ANNUAL CERTIFICATION BY THE ARIZONA COMMERCE AUTHORITY, MAY RETAIN AN ASSESSMENT RATIO OF FIVE PER CENT FOR PRIMARY PROPERTY TAX PURPOSES, AND A SECONDARY PROPERTY TAX RATIO EQUIVALENT TO PROPERTY ASSESSED PURSUANT TO SECTION 42-15001, ARIZONA REVISED STATUTES, FOR SUBSEQUENT TAXABLE YEARS AS PROVIDED BY LAW IN EFFECT BEFORE JULY 1, 2011.

2. INSURERS AND TAXPAYERS WHO HAVE EMPLOYEES IN THE SECOND AND THIRD YEARS OF EMPLOYMENT IN QUALIFIED EMPLOYMENT POSITIONS UNDER SECTION 20-224.03, SUBSECTION A, PARAGRAPHS 2 AND 3, ARIZONA REVISED STATUTES, SECTION 43-1074, SUBSECTIONS A, B AND C, ARIZONA REVISED STATUTES, AND SECTION 43-1161, SUBSECTIONS A, B AND C, ARIZONA REVISED STATUTES, AS IN EFFECT BEFORE JULY 1, 2011, INCLUDING ANY EXCESS CREDIT AMOUNTS CARRIED FORWARD FROM PRIOR TAXABLE YEARS. THE TAXPAYER MUST CONTINUE TO COMPLY WITH ALL THE REQUIREMENTS OF THE PRIOR LAW, INCLUDING ALL OF THE REPORTING AND FILING REQUIREMENTS IN FORMER SECTION 41-1525, ARIZONA REVISED STATUTES.

Sec. 66. Purpose

Pursuant to section 43-223, Arizona Revised Statutes, the legislature enacts sections 43-1089.03, Arizona Revised Statutes, as added by this act, to encourage individuals to make charitable contributions to school tuition organizations in order to improve education by raising tuition scholarships for children in this state.

Sec. 67. Savings; outstanding tax liabilities

The repeal of section 42-6104, Arizona Revised Statutes, pursuant to this act does not affect or impair any outstanding tax liabilities incurred under that section before the effective date of this act and any penalties and interest accrued on unpaid amounts of those liabilities.

Sec. 68. Effective date

A. Section 43-1074.01, Arizona Revised Statutes, as amended by Laws 2011, second special session, chapter 1, section 97 and this act, is effective for taxable years beginning from and after December 31, 2017.

B. Section 43-1168, Arizona Revised Statutes, as amended by Laws 2011, second special session, chapter 1, section 114 and this act, is effective for taxable years beginning from and after December 31, 2017.

Sec. 69. Retroactivity

Section 42-11108, Arizona Revised Statutes, as amended by this act, applies retroactively to from and after August 31, 2009.

Passed the House April 12, 20 11,

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

Passed the Senate February 3, 20 11,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

President of the Senate

Chauncia Billington

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1186

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House April 20, 2011,

by the following vote: 37 Ayes,

19 Nays, 4 Not Voting

Speaker of the House

Cheryl Laube
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate April 20, 2011,

by the following vote: 20 Ayes,

7 Nays, 3 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 20 day of April, 2011,

at 12:00 o'clock P. M.

Nicole Bendke
Secretary to the Governor

Approved this _____ day of

_____, 20 _____,

at _____ o'clock _____ M.

VETO

_____
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

_____
Secretary of State

S.B. 1186