STATE OF ARIZONA
OFFICE OF THE GOVERNOR

DOUGLAS A. DUCEY
GOVERNOR

EXECUTIVE OFFICE

May 1, 2019

The Honorable Katie Hobbs
Secretary of State
1700 W. Washington, 7th Floor
Phoenix, AZ 85007

Dear Secretary Hobbs:

I am transmitting to you the following bills from the Fifty-fourth Legislature, 1st Regular Session, which I signed on May 1st, 2019:

H.B. 2006 collegiate bowl game special plates (Kavanagh)
H.B. 2179 video service providers (Weninger)
H.B. 2425 school tax credit; contributions (Weninger)

Sincerely,

Douglas A. Ducey
Governor
State of Arizona

cc: Senate Secretary
Chief Clerk of the House of Representatives
Arizona News Service

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House Engrossed

FILED
KATIE HOBBS
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 163

HOUSE BILL 2179

AN ACT

AMENDING SECTIONS 9-461.17, 9-584, 9-591, 11-1801, 13-1801, 13-3709, 13-3712, 16-911, 16-921, 18-502, 26-320, 40-283, 40-341, 40-354, 40-360.24, 40-360.41, 40-491, 41-1954, 42-5063, 42-5064, 42-5069 AND 42-5071, ARIZONA REVISED STATUTES; AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 17, SECTION 1, CHAPTER 249, SECTION 6 AND CHAPTER 341, SECTION 2; AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 17, SECTION 1, CHAPTER 249, SECTION 6, CHAPTER 263, SECTION 3 AND CHAPTER 341, SECTION 2; AMENDING SECTIONS 44-1273, 48-620, 48-5107 AND 48-5315, ARIZONA REVISED STATUTES; RELATING TO VIDEO SERVICE PROVIDERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 9-461.17, Arizona Revised Statutes, is amended to read:

9-461.17. Telecommunications utility relocation: cost reimbursement; definitions

A. To the fullest extent allowed by law, if any construction project in any municipality that is undertaken individually or jointly by an intergovernmental contract and that is funded in whole or in part by voter-approved municipal bond proceeds requires that a telecommunications utility adjust or otherwise relocate the telecommunications utility's facilities, the municipality shall reimburse the telecommunications utility, or cause the telecommunications utility to be reimbursed, for the telecommunications utility's relocation costs incurred on facilities located within the municipal boundaries.

B. If the telecommunications utility has existing land rights, the municipality shall provide at the municipality's expense the telecommunications utility with equal land rights in the new location of the relocated facilities. If the telecommunications utility's existing facilities are located in the right-of-way under a permit, the municipality shall provide at the municipality's expense the telecommunications utility with rights in the new location of the relocated facilities equivalent to the telecommunications utility's existing rights under the permit.

C. A telecommunications utility shall submit a verified itemized claim to the municipality for reimbursement of relocation costs within one hundred eighty days after each calendar quarter in which a telecommunications utility incurs relocation costs.

D. The municipality shall:

1. Review each verified itemized claim submitted pursuant to subsection C of this section. The review may include an audit conducted pursuant to standard industry accounting principles.

2. Reimburse the telecommunications utility for the relocation costs within ninety days after receipt of the verified itemized claim.

3. Reimburse verified itemized claims from all affected telecommunications utilities in the order of receipt.

E. The reimbursement limitation for paid claims of relocation costs for telecommunications utility facilities for which there are no existing land rights is not more than two percent of the total project monies. The total OF THE project monies is the total dollar amount of all voter-approved MUNICIPAL bond proceeds that fund a construction project from time to time.

F. The total amount of reimbursement paid for claims of relocation costs of all telecommunications utility facilities for which there are no existing land rights may not exceed the reimbursement limitation.

G. If a verified itemized claim causes the total amount of all claims for telecommunications utility relocation costs to exceed the reimbursement limitation, that claim shall be reduced so that the total amount of reimbursement paid for all claims for which there are no existing land rights equals the reimbursement limitation.

H. If the dollar amount of the reimbursement limitation increases as a result of an increase in total project funds after the previous reimbursement limitation is exhausted, within thirty days after the reimbursement limitation is increased the municipality shall resume processing previously submitted and new verified itemized claims under this section.

I. The reimbursement limitation does not apply to any claims for reimbursement of relocation costs for telecommunications utility facilities with existing land rights or any amounts paid by the municipality to provide equivalent land or permit rights. These claims and amounts are excluded from the reimbursement limitation.

J. This section does not:

1. Apply to a construction project funded in whole or in part with voter-approved municipal bond proceeds if approval of the bonds was referred to the voters, or the initiative petition for the bonds was applied for, before January 1, 2017.

2. Prohibit a municipality from complying with other applicable law, or with an agreement, that requires the municipality to reimburse a telecommunications utility for more relocation costs than this section provides.

K. For the purposes of this section:

1. "Intergovernmental contract" means the joint exercise of powers authorized by title 11, chapter 7, article 3.

2. "Municipality" includes a charter city.

3. "Relocation costs" means all costs of relocating a telecommunications utility's facilities that the telecommunications utility incurs as a direct result of the construction and operation of a construction project. Relocation costs do not include profit but may include a reasonable allocation of general overhead expenses.

4. "Telecommunications utility" means any public service corporation, licensed cable ~~system~~ TELEVISION operator, VIDEO SERVICE PROVIDER, telephone line or telegraph line corporation, agricultural improvement district or other person engaged in the transmission, sale or delivery of telecommunications, telephone, cable television, VIDEO, internet or telegraph service directly to the public or to other users as to be effectively available directly to the public.

Sec. 2. Section 9-584, Arizona Revised Statutes, is amended to read:

9-584. Microcell equipment in public highways; permits; fees; limitations; definitions

A. A political subdivision shall allow the following persons and their affiliates to install, operate and maintain microcell equipment in the public highways that are under the jurisdiction of the political subdivision:

1. A telecommunications corporation within the licensed area of a license issued by the political subdivision under this article.

2. A telecommunications corporation described in section 9-582, subsection E.

3. A cable operator AS DEFINED IN SECTION 9-505 in the area of jurisdiction licensed by the political subdivision under section 9-506.

4. A VIDEO SERVICE PROVIDER IN THE SERVICE AREA LICENSED BY THE POLITICAL SUBDIVISION.

B. On application a political subdivision shall issue permits for the installation, operation and maintenance of microcell equipment in the public highways within the political subdivision on a competitively neutral and nondiscriminatory basis to all persons specified in subsection A of this section. Only a qualified service provider may use microcell equipment to provide commercial mobile radio service.

C. All application fees, permit fees and charges levied by a political subdivision for applications or permits shall be levied on a competitively neutral and nondiscriminatory basis and directly related to the costs incurred by the political subdivision in providing services relating to the granting or administration of applications or permits. These fees and charges also shall be reasonably related in time to the occurrence of the costs.

D. A political subdivision may not charge a recurring fee, rent or other charge for use of aerial strand-mounted microcell equipment in public highways within the political subdivision if the political subdivision levies a rent, fee or charge on a person identified in subsection A of this section for the use of the public highways to provide a service. This subsection does not prohibit a political subdivision from charging a competitively neutral and nondiscriminatory rent, fee or charge for the use of utility poles or other poles of the political subdivision.

E. Except as the political subdivision agrees in the political subdivision's sole discretion, at each site microcell equipment is limited to:

1. Not more than two strand-mounted antennas and radio pairs that are owned by a person specified in subsection A of this section or a qualified service provider and that are used to provide commercial mobile radio service.

2. Related devices that are owned by a person specified in subsection A of this section and that are mounted on strand between utility poles, including power supplies, housings, cables and similar supporting furnishings and improvements.

F. This section does not:

1. Affect any authority of a political subdivision, an agricultural improvement district or any other special taxing district, or any other person controlling utility poles in the public highways to deny, limit, restrict or determine the terms and conditions for use of or attachment to the utility poles or attachments to other poles of the political subdivision, district or other person by a person specified in subsection A of this section.

2. Prohibit a political subdivision from imposing competitively neutral and nondiscriminatory requirements for a person identified in subsection A of this section to underground aerial facilities to which microcell equipment is attached.

3. Prohibit a political subdivision from imposing a tax, rent, fee or charge on revenue from services provided through microcell equipment.

4. Affect any authority of a political subdivision to manage the public highways within the political subdivision's boundaries or to exercise the political subdivision's police powers and land use powers, including review and approval of an application before issuing a permit.

5. Affect the application of federal law on processing applications, issuing permits and levying charges for the construction, management, installation, operation, maintenance and control of microcell equipment in the public highways.

G. For the purposes of this section:

1. "Affiliate" means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with a person specified in subsection A of this section.

2. "Microcell equipment" means devices that are connected to the aerial facilities of a person specified in subsection A of this section and that are used solely for transmitting, processing and receiving voice and data wireless telecommunications services. Microcell equipment does not include any ground-based equipment.

3. Political subdivision does not include an agricultural improvement district or other special taxing district that controls utility poles or an irrigation district.

4. "Qualified service provider" means a person that has all applicable authorizations required to provide commercial mobile radio service using microcell equipment.

5. "Utility pole" means a pole or similar structure and attached appurtenances including strand that is designed for telecommunications, cable, data or electric functions.

Sec. 3. Section 9-591, Arizona Revised Statutes, is amended to read:

9-591. Definitions

In this article, unless the context otherwise requires:

1. "Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals and that is used in providing wireless services.

2. "Applicable codes" means uniform building, fire, electrical, plumbing or mechanical codes that are adopted by a recognized national code organization or local amendments to those codes that are enacted to address threats of destruction of property or injury to persons and to an extent that is not inconsistent with this article.

3. "Applicant" means any person that submits an application and that is a wireless provider.

4. "Application" means a request that is submitted by an applicant to an authority for a permit to collocate small wireless facilities or to approve the installation, modification or replacement of a utility pole or wireless support structure.

5. "Authority" means any city, town, special district or political subdivision of this state that is authorized to make legislative, quasi-judicial or administrative decisions concerning an application. Authority does not include any state court that has jurisdiction over an authority and does not include a county, special taxing district, or electric cooperative.

6. "Authority utility pole" means a utility pole that is owned or operated by an authority and that is in a right-of-way. Authority utility pole does not include a utility pole for electric distribution.

7. "Cable operator" has the same meaning prescribed in section 9-505 AND INCLUDES A VIDEO SERVICE PROVIDER. Cable operator does not include a special taxing district.

8. "Collocate" or "collocation" means to install, mount, maintain, modify, operate or replace wireless facilities on, within or adjacent to a wireless support structure or utility pole.

9. "Communications service" means cable service as defined in 47 United States Code section 522(6), information service as defined in 47 United States Code section 153(24), telecommunications service as defined in 47 United States Code section 153(53) or wireless service.

10. "Communications service provider" means a cable operator, a provider of information service as defined in 47 United States Code section 153(24), a telecommunications carrier as defined in 47 United States Code section 153(51) or a wireless services provider.

11. "Fee" means a onetime charge.

12. "Law" means any federal, state or local law, statute, common law, code, rule, regulation, order or ordinance.

13. "Monopole" means a wireless support structure that is not more than forty inches in diameter at the ground level and that has all of the wireless facilities mounted on the pole or contained inside of the pole.

14. "Permit" means written permission required by an authority to install, mount, maintain, modify, operate or replace a utility pole or monopole, to collocate a small wireless facility on a utility pole or wireless support structure or to collocate wireless facilities on a monopole.

15. "Person" means an individual, corporation, limited liability company, partnership, association, trust or other entity or organization, including an authority.

16. "Private easement" means an easement or other real property right that is only for the benefit of the grantor and grantee and the grantor's or grantee's successors and assigns.

17. "Rate" means a recurring charge.

18. "Right-of-way" means the area on, below or above a public roadway, highway, street, sidewalk, alley or utility easement. Right-of-way does not include a federal interstate highway, a state highway or state route under the jurisdiction of the department of transportation, a private easement, property that is owned by a special taxing district, or a utility easement that does not authorize the deployment sought by the wireless provider.

19. "Small wireless facility" means a wireless facility that meets both of the following qualifications:

(a) All antennas are located inside an enclosure of not more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of the antenna's exposed elements could fit within an imaginary enclosure of not more than six cubic feet in volume.

(b) All other wireless equipment associated with the facility is cumulatively not more than twenty-eight cubic feet in volume, or fifty cubic feet in volume if the equipment was ground mounted before August 9, 2017. The following types of associated ancillary equipment are not included in the calculation of equipment volume pursuant to this subdivision:

(i) An electric meter.

(ii) Concealment elements.

(iii) A telecommunications demarcation box.

(iv) Grounding equipment.

(v) A power transfer switch.

(vi) A cutoff switch.

(vii) Vertical cable runs for the connection of power and other services.

20. "Special taxing district" means a special district formed pursuant to title 48, chapter 11, 12, 17, 18, 19, 20 or 22.

21. "Utility pole" means a pole or similar structure that is used in whole or in part for communications services, electric distribution, lighting or traffic signals. Utility pole does not include a monopole.

22. "Wireless facility":

(a) Means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including both of the following:

(i) Equipment associated with wireless communications.

(ii) Radio transceivers, antennas, coaxial or fiber-optic cables, regular and backup power supplies and comparable equipment, regardless of technological configuration.

(b) Includes small wireless facilities.

(c) Does not include the structure or improvements on, under or within which the equipment is collocated, wireline backhaul facilities, coaxial or fiber-optic cable that is between wireless support structures or utility poles or coaxial or fiber-optic cable that is otherwise not immediately adjacent to, or directly associated with, an antenna.

(d) Does not include Wi-Fi radio equipment described in section 9-506, subsection I or microcell equipment described in section 9-584, subsection E.

23. "Wireless infrastructure provider" means any person that is authorized to provide telecommunications service in this state and that builds or installs wireless communications transmission equipment, wireless facilities, utility poles or monopoles but that is not a wireless services provider. Wireless infrastructure provider does not include a special taxing district.

24. "Wireless provider" means a cable operator, wireless infrastructure provider or wireless services provider.

25. "Wireless services" means any services that are provided to the public and that use licensed or unlicensed spectrum, whether at a fixed location or mobile, using wireless facilities.

26. "Wireless services provider" means a person that provides wireless services. Wireless services provider does not include a special taxing district.

27. "Wireless support structure":

(a) Means:

(i) A freestanding structure, such as a monopole.

(ii) A tower, either guyed or self-supporting.

(iii) A sign or billboard.

(iv) Any other existing or proposed structure designed to support or capable of supporting small wireless facilities.

(b) Does not include a utility pole.

Sec. 4. Section 11-1801, Arizona Revised Statutes, is amended to read:

11-1801. Definitions

In this article, unless the context otherwise requires:

1. "Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals and that is used in providing wireless services.

2. "Applicable codes" means uniform building, fire, electrical, plumbing or mechanical codes that are adopted by a recognized national code organization or local amendments to those codes that are enacted to address threats of destruction of property or injury to persons and to an extent that is not inconsistent with this article.

3. "Applicant" means any person that submits an application and that is a wireless provider.

4. "Application" means a request that is submitted by an applicant to a county on a form provided by the county for a permit to collocate small wireless facilities or to approve the installation, modification or replacement of a utility pole.

5. "Cable operator" has the same meaning prescribed in section 9-505 AND INCLUDES A VIDEO SERVICE PROVIDER. Cable operator does not include a special taxing district.

6. "Collocate" or "collocation" means to install, mount, maintain, modify, operate or replace wireless facilities on, within or adjacent to a wireless support structure or utility pole.

7. "Communications service" means cable service as defined in 47 United States Code section 522(6), information service as defined in 47 United States Code section 153(24), telecommunications service as defined in 47 United States Code section 153(53) or wireless service.

8. "Communications service provider" means a cable operator, a provider of information service as defined in 47 United States Code section 153(24), a telecommunications carrier as defined in 47 United States Code section 153(51) or a wireless services provider.

9. "County utility pole" means a utility pole that is owned or operated by a county and that is in a right-of-way.

10. "Fee" means a onetime charge to process an application and inspect any work performed by an applicant pursuant to a permit issued by the county.

11. "Law" means any federal, state or local law, statute, common law, code, rule, regulation, order or ordinance.

12. "Permit" means written permission issued by a county to install, mount, maintain, modify, operate or replace a utility pole or to collocate a small wireless facility on a utility pole or wireless support structure.

13. "Person" means an individual, corporation, limited liability company, partnership, association, trust or other entity or organization, including a county.

14. "Private easement" means an easement or other real property right that is only for the benefit of the grantor and grantee and the grantor's or grantee's successors and assigns.

15. "Rate" means a onetime charge for the granting of a right to use a portion of a right-of-way as specified in a permit or to collocate a small wireless facility on or adjacent to a utility pole or to install, modify or replace a utility pole as specified in a permit.

16. "Right-of-way" means the area on, below or above a county roadway, highway, street, sidewalk, alley or utility easement. Right-of-way does not include a federal interstate highway, a state highway or state route under the jurisdiction of the department of transportation, a private easement, property that is owned by a special taxing district, or a utility easement that does not authorize the deployment sought by the wireless provider.

17. "Small wireless facility" means a wireless facility that meets both of the following qualifications:

(a) All antennas are located inside an enclosure of not more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of the antenna's exposed elements could fit within an imaginary enclosure of not more than six cubic feet in volume.

(b) All other wireless equipment associated with the facility is cumulatively not more than twenty-eight cubic feet in volume, or fifty cubic feet in volume if the equipment was ground mounted before August 9, 2017. The following types of associated ancillary equipment are not included in the calculation of equipment volume pursuant to this subdivision:

(i) An electric meter.

(ii) Concealment elements.

(iii) A telecommunications demarcation box.

(iv) Grounding equipment.

(v) A power transfer switch.

(vi) A cutoff switch.

(vii) Vertical cable runs for the connection of power and other services.

18. "Special taxing district" means a special district formed pursuant to title 48, chapter 11, 12, 17, 18, 19, 20 or 22.

19. "Utility pole" means a pole or similar structure that is used in whole or in part for communications services, electric distribution, lighting or traffic signals or a similar function.

20. "Wireless facility":

(a) Means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including both of the following:

(i) Equipment associated with wireless communications.

(ii) Radio transceivers, antennas, coaxial or fiber-optic cables, regular and backup power supplies and comparable equipment, regardless of technological configuration.

(b) Includes small wireless facilities.

(c) Does not include the structure or improvements on, under or within which the equipment is collocated, wireline backhaul facilities, coaxial or fiber-optic cable that is between wireless support structures or utility poles or coaxial or fiber-optic cable that is otherwise not immediately adjacent to, or directly associated with, an antenna.

(d) Does not include Wi-Fi radio equipment described in section 9-506, subsection I or microcell equipment described in section 9-584, subsection E.

21. "Wireless infrastructure provider" means any person that is authorized to provide telecommunications service in this state and that builds or installs wireless communications transmission equipment, wireless facilities or utility poles but that is not a wireless services provider. Wireless infrastructure provider does not include a special taxing district.

22. "Wireless provider" means a cable operator, wireless infrastructure provider or wireless services provider.

23. "Wireless services" means any services that are provided to the public and that use licensed or unlicensed spectrum, whether at a fixed location or mobile, using wireless facilities.

24. "Wireless services provider" means a person that provides wireless services. Wireless services provider does not include a special taxing district.

25. "Wireless support structure":

(a) Means:

(i) A freestanding structure.

(ii) A tower, either guyed or self-supporting.

(iii) Any other existing or proposed structure designed to support or capable of supporting small wireless facilities.

(b) Does not include a utility pole.

Sec. 5. Section 13-1801, Arizona Revised Statutes, is amended to read:

13-1801. <u>Definitions</u>

A. In this chapter, unless the context otherwise requires:

1. "Check" means any check, draft or other negotiable or nonnegotiable instrument of any kind.

2. "Control" or "exercise control" means to act so as to exclude others from using their property except on the defendant's own terms.

3. "Credit" means an express agreement with the drawee for the payment of a check.

4. "Deprive" means to withhold the property interest of another either permanently or for so long a time period that a substantial portion of its economic value or usefulness or enjoyment is lost, to withhold with the intent to restore it only on payment of any reward or other compensation or to transfer or dispose of it so that it is unlikely to be recovered.

5. "Draw" means making, drawing, uttering, preparing, writing or delivering a check.

6. "Funds" means money or credit.

7. "Issue" means to deliver or cause to be delivered a check to a person who thereby acquires a right against the drawer with respect to the check. A person who draws a check with the intent that it be so delivered is deemed to have issued it if the delivery occurs.

8. "Material misrepresentation" means a pretense, promise, representation or statement of present, past or future fact that is fraudulent and that, when used or communicated, is instrumental in causing the wrongful control or transfer of property or services. The pretense may be verbal or it may be a physical act.

9. "Means of transportation" means any vehicle.

10. "Obtain" means to bring about or to receive the transfer of any interest in property, whether to a defendant or to another, or to secure the performance of a service or the possession of a trade secret.

11. "Pass" means, for a payee, holder or bearer of a check that previously has been or purports to have been drawn and issued by another, to deliver a check, for a purpose other than collection, to a third person who by delivery acquires a right with respect to the check.

12. "Property" means any thing of value, tangible or intangible, including trade secrets.

13. "Property of another" means property in which any person other than the defendant has an interest on which the defendant is not privileged to infringe, including property in which the defendant also has an interest, notwithstanding the fact that the other person might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the defendant is not deemed property of another person who has only a security interest in the property, even if legal title is in the creditor pursuant to a security agreement.

14. "Services" includes labor, professional services, transportation, cable ~~television~~ SERVICE AND VIDEO SERVICE, computer or communication services, gas or electricity services, accommodation in

hotels, restaurants or leased premises or elsewhere, admission to exhibitions and use of vehicles or other movable property.

15. "Value" means the fair market value of the property or services at the time of the theft. The value of ferrous metal, AS DEFINED IN SECTION 44-1641, or nonferrous metal~~, as defined in section 44-1641,~~ is the average fair market value of the metal in the local area together with the repair or replacement value of any property from which the metal was removed at the time of the theft. Written instruments that do not have a readily ascertained market value have as their value either the face amount of indebtedness less the portion satisfied or the amount of economic loss involved in deprivation of the instrument, whichever is greater. When property has an undeterminable value the trier of fact shall determine its value and, in reaching its decision, may consider all relevant evidence, including evidence of the property's value to its owner.

B. In determining the classification of the offense, the state may aggregate in the indictment or information amounts taken in thefts committed pursuant to one scheme or course of conduct, whether the amounts were taken from one or several persons.

Sec. 6. Section 13-3709, Arizona Revised Statutes, is amended to read:

13-3709. Obtaining cable television and video services fraudulently; manufacturing, distributing and selling unauthorized decoding devices; classification; definition

A. Any person who with the intent to defraud another of any part of the lawful charge for services that are provided over or by a licensed cable television system as defined in section 9-505~~,~~ OR A LICENSED VIDEO SERVICE NETWORK makes any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, or attaches any unauthorized device or devices to any cable, wire, microwave or other component of a licensed cable television system OR LICENSED VIDEO SERVICE NETWORK, to a television set or to any other instrument that is authorized to be attached to a LICENSED cable television system OR LICENSED VIDEO SERVICE NETWORK is guilty of a class 2 misdemeanor.

B. Any person who manufactures, distributes, sells, rents, lends, offers or advertises for sale, rental or use any device that the person intends to be used by another person to obtain services that are provided over or by a licensed cable television system OR A LICENSED VIDEO SERVICE NETWORK without payment of the charge for those services is guilty of a class 6 felony.

C. For the purposes of subsection B of this section it is a rebuttable presumption that the person intended that the device would be used by another person to obtain services that are provided over or by a licensed cable television system OR A LICENSED VIDEO SERVICE NETWORK

without payment of the charge for those services if, while advertising, selling, renting or lending the device, the person states that the device will enable the person who receives the device to obtain cable television, VIDEO or other services without payment of the charge for those services.

D. For the purposes of subsection B of this section, it is a separate violation for each individual device that is manufactured, distributed, sold, rented, lent, offered or advertised for sale, rental or use in violation of subsection B of this section.

E. A person whose business or property is injured arising out of a violation of this section may bring an action in superior court to recover damages or for an injunction, or both. The successful party to the action may recover reasonable attorney fees.

F. ~~As used in~~ FOR THE PURPOSES OF this section,"device" includes any component or combination of components capable of converting a scrambled, ENCRYPTED or ~~coded~~ ENCODED cable television OR VIDEO SERVICE signal to a signal usable on a standard television receiver.

Sec. 7. Section 13-3712, Arizona Revised Statutes, is amended to read:

13-3712. Interruption of or injury to cable television and video systems; classification

Any person who, without the consent of the owner, knowingly tampers with, removes or injures any cable, wire, microwave or other component of a licensed cable television system as defined in section 9-505 OR LICENSED VIDEO SERVICE NETWORK or knowingly interrupts the service of ~~such a~~ THE licensed cable television system OR LICENSED VIDEO SERVICE NETWORK without the consent of the owner is guilty of a class 2 misdemeanor.

Sec. 8. Section 16-911, Arizona Revised Statutes, is amended to read:

16-911. Exemption from definition of contribution

A. A person may make any contribution not otherwise prohibited by law.

B. The following are not contributions:

1. The value of an individual's volunteer services or expenses that are provided without compensation or reimbursement, including the individual's:

(a) Travel expenses.

(b) Use of real or personal property.

(c) Cost of invitations, food or beverages.

(d) Use of e-mail, internet activity or social media messages, only if the individual's use is not paid for by the individual or any other person and if the e-mails, social media messages or other internet activities do not contain or include transmittal of a paid advertisement or paid fund-raising solicitation.

2. The costs incurred for covering or carrying a news story, commentary or editorial by a broadcasting station or cable television operator, VIDEO SERVICE PROVIDER, an internet website, a newspaper or another periodical publication, including an internet-based or electronic publication, if the cost for the news story, commentary or editorial is not paid for by and the medium is not owned or under the control of a candidate or committee.

3. Any payment to defray the expense of an elected official meeting with constituents or attending an informational tour, conference, seminar or presentation, if the payor or the elected official does not attempt to influence the result of an election and the payment is reported if required pursuant to title 38, chapter 3.1 or title 41, chapter 7, article 8.1, or both.

4. The payment by a political party to support its nominee, including:

(a) The printing or distribution of, or postage expenses for, voter guides, sample ballots, pins, bumper stickers, handbills, brochures, posters, yard signs and other similar materials distributed through the party.

(b) Coordinated ~~political~~ party expenditures.

5. The payment by any person to defray a political party's operating expenses or party-building activities, including:

(a) Party staff and personnel.

(b) Studies and reports.

(c) Voter registration, recruitment, polling and turnout efforts.

(d) Party conventions and party meetings.

(e) Construction, purchase or lease of party buildings or facilities.

6. The value of any of the following to a committee:

(a) Interest earned on the committee's deposits or investments.

(b) Transfers between committees to reimburse expenses and distribute monies raised through a joint fund-raising effort, if the transfers comply with an agreement to reimburse and distribute monies that was executed before the joint fund-raising effort occurred.

(c) Payment of a committee's legal or accounting expenses by any person.

(d) An extension of credit for goods and services on a committee's behalf by a creditor if the terms are substantially similar to extensions of credit to nonpolitical debtors that are of similar risk and size of obligation. The creditor must make a commercially reasonable attempt to collect the debt, except that if an extension of credit remains unsatisfied by the committee after six months the committee is deemed to have received a contribution but the creditor is not deemed to have made a contribution.

7. The value of nonpartisan communications that are intended to encourage voter registration and turnout efforts.

8. Any payment to a filing officer for arguments in a publicity pamphlet.

9. The payment by any sponsor or its affiliate for the costs of establishing, administering and soliciting contributions from its employees, members, executives, stockholders and retirees and their families to the sponsor's separate segregated fund.

10. Any payment by any entity for the costs of communicating with its employees, members, executives, stockholders and retirees and their families about any subject, without regard to whether those communications are made in coordination with any candidate or candidate's agent.

11. The value of allowing a candidate or a committee's representative to appear at any private residence or at the facilities of any entity to speak about the candidate's campaign or about a ballot measure, if the venue is furnished by the venue's owner, is not paid for by a third party and is not a sports stadium, coliseum, convention center, hotel ballroom, concert hall or other similar arena that is generally open to the public.

12. The costs of hosting a debate or candidates' forum, if at least two opposing candidates, with respect to any given office sought, or representatives of at least two opposing ballot measure campaigns, with respect to any measure on the ballot, are invited with the same or similar advance notice and method of invitation.

13. The preparation and distribution of voter guides, subject to the following:

(a) A featured candidate or ballot measure shall not receive greater prominence or substantially more space in the voter guide than any other candidate or ballot measure.

(b) The voter guide shall not include any message that constitutes express advocacy.

14. Monies that are loaned by a financial institution in the ordinary course of business and not for the purpose of influencing the results of an election, except that the loan is deemed a pro rata contribution by any endorser or guarantor, other than the candidate's spouse.

15. The costs of publishing a book or producing a documentary, if the publication and production are for distribution to the general public through traditional distribution mechanisms or a fee is obtained for the purchase of the publication or viewing of the documentary.

C. This section does not imply that any transactions that are not specifically listed in subsection B of this section are contributions unless those transactions otherwise meet the definition of contribution as defined in section 16-901.

1 Sec. 9. Section 16-921, Arizona Revised Statutes, is amended to
2 read:
3 16-921. Exemptions from definition of expenditure
4 A. A person may make any expenditure not otherwise prohibited by
5 law.
6 B. The following are not expenditures:
7 1. The value of an individual's volunteer services or expenses that
8 are provided without compensation or reimbursement, including the
9 individual's:
10 (a) Travel expenses.
11 (b) Use of real or personal property.
12 (c) Cost of invitations, food or beverages.
13 (d) Use of e-mail, internet activity or social media messages, only
14 if the individual's use is not paid for by the individual or any other
15 person and if the e-mails, social media messages or other internet
16 activities do not contain or include transmittal of a paid advertisement
17 or paid fund-raising solicitation.
18 2. The value of any news story, commentary or editorial by any
19 broadcasting station, cable television operator, VIDEO SERVICE PROVIDER,
20 programmer or producer, newspaper, magazine, website or other periodical
21 publication that is not owned or operated by a candidate, a candidate's
22 spouse or any committee.
23 3. The payment by any person to defray a political party's
24 operating expenses or party-building activities, including:
25 (a) Party staff and personnel.
26 (b) Studies and reports.
27 (c) Voter registration, recruitment, polling and turnout efforts.
28 (d) Party conventions and party meetings.
29 (e) Construction, purchase or lease of party buildings or
30 facilities.
31 4. The value of any of the following to a committee:
32 (a) Interest earned on the committee's deposits or investments.
33 (b) Transfers between committees to reimburse expenses and
34 distribute monies raised through a joint fund-raising effort, except that
35 contributions shall be allocated as described in the fund-raising
36 solicitation and expenses shall be allocated in the same proportion as
37 contributions.
38 (c) Payment of a committee's legal or accounting expenses.
39 (d) An extension of credit for goods and services on a committee's
40 behalf by a creditor if the terms are substantially similar to extensions
41 of credit to nonpolitical debtors that are of similar risk and size of
42 obligation. The creditor must make a commercially reasonable attempt to
43 collect the debt, except that if an extension of credit remains
44 unsatisfied by the committee after six months the committee is deemed to

have received a contribution but the creditor is not deemed to have made a contribution.

5. The value of nonpartisan communications that are intended to encourage voter registration and turnout efforts.

6. Any payment by a person that is not a committee to a filing officer for arguments in a publicity pamphlet.

7. Any payment for legal or accounting services that are provided to a committee.

8. The payment of costs of publishing a book or producing a documentary, if the publication and production are for distribution to the general public through traditional distribution mechanisms or a fee is obtained for the purchase of the publication or viewing of the documentary.

C. This section does not imply that any transactions that are not specifically listed in subsection B of this section are expenditures unless those transactions otherwise meet the definition of expenditure as defined in section 16-901.

Sec. 10. Section 18-502, Arizona Revised Statutes, is amended to read:

18-502. Prohibited activities; applicability

A. It is unlawful for any person who is not an owner or operator of a computer to transmit computer software to a computer, with actual knowledge or with conscious avoidance of actual knowledge, and to use the software to do any of the following:

1. Modify, through intentionally deceptive means, settings that control any of the following:

(a) The page that appears when an owner or operator of a computer launches an internet browser or similar computer software used to access and navigate the internet.

(b) The default provider or web proxy that an owner or operator of a computer uses to access or search the internet.

(c) An owner's or operator's list of bookmarks used to access web pages.

2. Collect, through intentionally deceptive means, personally identifiable information:

(a) Through the use of a keystroke logging function that records all keystrokes made by an authorized user who uses the computer and transfers that information from the computer to another person.

(b) In a manner that correlates the information with data respecting all or substantially all of the websites visited by an owner or operator of the computer, other than websites operated by the person collecting the information.

(c) With respect only to information described in section 18-501, paragraph 9, by extracting such information from the hard drive of an owner's or operator's computer.

3. Prevent, through intentionally deceptive means, an owner's or operator's reasonable efforts to block the installation or execution of, or to disable, computer software by causing software that an owner or operator of the computer has properly removed or disabled automatically to reinstall or reactivate on the computer.

4. Intentionally misrepresent that computer software will be uninstalled or disabled by an owner's or operator's action.

5. Through intentionally deceptive means, remove, disable or render inoperative security, antispyware or antivirus computer software installed on the computer.

6. Take control of the computer by:

(a) Accessing or using the modem or internet service for the computer for the purpose of causing damage to the computer or causing an owner or operator to incur financial charges for a service that the owner or operator of the computer has not authorized.

(b) Opening multiple, sequential, stand-alone advertisements in an owner's or operator's internet browser without the authorization of the owner or operator that a reasonable computer user cannot close without turning off the computer or closing the internet browser.

7. Modify any of the following settings related to the computer's access to, or use of, the internet:

(a) Settings that protect information about an owner or operator of the computer for the purpose of stealing personally identifiable information of the owner or operator.

(b) Security settings for the purpose of causing damage to a computer.

8. Prevent an owner's or operator's reasonable efforts to block the installation of, or to disable, computer software, by doing either of the following:

(a) Presenting the owner or operator with an option to decline installation of computer software with knowledge that, if the option is selected, the installation nevertheless proceeds.

(b) Falsely representing that computer software has been disabled.

B. It is unlawful for any person who is not an owner or operator of a computer to do either of the following with regard to the computer:

1. Induce an owner or operator to install a computer software component on the computer by intentionally misrepresenting the extent to which installing the software is necessary for security or privacy reasons or in order to open, view or play a particular type of content.

2. Deceptively cause the execution on the computer of a computer software component with the intent of causing an owner or operator to use the component in a manner that violates any other provision of this section.

C. This section does not apply to any monitoring of, or interaction with, a subscriber's internet or other network connection or service, or a

computer, by a telecommunications carrier, cable operator, VIDEO SERVICE PROVIDER, computer hardware or software provider or provider of information service or interactive computer service for network or computer security purposes, diagnostics, technical support, maintenance, repair, authorized updates of software or system firmware, authorized remote system management or detection or prevention of the unauthorized use of or fraudulent or other illegal activities in connection with a network, service or computer software, including scanning for and removing software prescribed under this article.

Sec. 11. Section 26-320, Arizona Revised Statutes, is amended to read:

26-320. <u>First informer broadcasters; training and certification; access; definitions</u>

A. The division may coordinate with a broadcasting association in this state or a cable television telecommunication association in this state, or both, to develop comprehensive, coordinated plans for preparing for and responding appropriately to an emergency or disaster.

B. The division may designate and authorize a statewide organization that represents broadcasters, cable television communications or any other provider that uses emerging technologies or a federally licensed radio or television station to establish and conduct a program approved by the division to train and certify broadcast engineers and technical personnel that are critical to station operations as first informer broadcasters. Training and certification pursuant to this subsection shall:

1. Be consistent with federal law and guidelines.

2. Include education in restoring, repairing and resupplying any facilities or equipment of a broadcaster in an area affected by an emergency or disaster.

3. Include education concerning the personal safety of a first informer broadcaster in an area affected by an emergency or disaster.

C. To the extent practicable and consistent with not endangering public safety or inhibiting recovery efforts, state and local government agencies shall allow a first informer broadcaster to access an area affected by an emergency or disaster to restore, repair or resupply any facility or equipment critical to the ability of a broadcaster to acquire, produce and transmit essential emergency or disaster related public information programming, including repairing and maintaining transmitters and generators and transporting fuel for generators.

D. For the purposes of this section:

1. "Broadcaster" means a radio broadcasting station, cable TELEVISION operator, VIDEO SERVICE PROVIDER or television broadcasting station primarily engaged in, and deriving income from, the business of facilitating speech via over-the-air communications, both as to pure speech and commercial speech.

2. "First informer broadcaster" means a person who is trained and certified as a first informer broadcaster pursuant to this section.

Sec. 12. Section 40-283, Arizona Revised Statutes, is amended to read:

40-283. Transmission lines; use of public streets for utility right-of-way; notice; election

A. Any person engaged in transportation or transmission business within the state may construct and operate lines connecting any points within the state and connect at the state boundary with like lines, except that within the confines of municipal corporations the use and occupancy of streets shall be under rights acquired by franchises according to law or licenses pursuant to title 9, chapter 5, articles 1.1 and 4, and subject to control and regulation by the municipal authorities. The use of highways, except state highways, by public utilities not within any incorporated city or town shall be regulated by the board of supervisors of the county by license or franchise.

B. A board of supervisors in granting a license or franchise, or at any time after it is granted, may impose restrictions and limitations upon the use of the public roads as it deems best for the public safety or welfare.

C. Every franchise granted under this article shall include provisions requiring the grantee to bear all expenses, including damage and compensation for any alteration of the direction, surface, grade or alignment of a county road, made for the purpose of such franchise. If the surface of a county highway is used by any grantee for trackage, the franchise shall include reasonable regulations for maintenance by the grantee of that portion of the highway so used.

D. A board of supervisors may authorize public service corporations, telecommunications corporations, ~~or~~ cable ~~television systems~~ OPERATORS OR VIDEO SERVICE PROVIDERS to construct a line, plant, service or system within the right-of-way of any road, highway or easement that is designated for access or public use by plat or survey of record of a subdivision, or of unsubdivided land as defined in section 32-2101, provided that any such authorization or construction pursuant to such authorization does not impose on the county the duty of maintaining the road or highway unless the county accepts the road or highway into the county maintenance system by appropriate resolution. ~~Nothing contained in~~ This subsection ~~shall be construed to~~ DOES NOT grant county boards of supervisors additional authority to require public service corporations, telecommunications corporations, ~~or~~ cable ~~television systems~~ OPERATORS OR VIDEO SERVICE PROVIDERS to obtain licenses or franchises.

E. A board of supervisors, before granting any of the privileges authorized under this section, shall give public notice of its intention to ~~make such~~ grant SUCH PRIVILEGES by publishing notice in a newspaper of general circulation, published within the county, at least once a week for

three weeks ~~prior to~~ BEFORE the day set for consideration of such action. If, on or before such date, more than fifty ~~per cent~~ PERCENT of the qualified electors of the county petition the board of supervisors to deny ~~such~~ THE privilege, it shall do so, and any privilege granted against ~~such~~ THE petition ~~shall be~~ IS void.

Sec. 13. Section 40-341, Arizona Revised Statutes, is amended to read:

40-341. Definitions

In this article, unless the context otherwise requires:

1. "Clerk" means the clerk of the board of supervisors or any person or officer who acts as clerk of the board of supervisors.

2. "Convert" or "conversion" means the removal of existing overhead electric or communication facilities and the replacement thereof with underground electric or communication facilities constructed at the same or different locations.

3. "Electric or communication facilities" means any works or improvements used or useful in providing electric, communication or cable television service OR VIDEO SERVICE, including ~~but not limited to~~ poles, supports, tunnels, manholes, vaults, conduits, pipes, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, capacitors, meters, communication circuits, appliances, attachments and appurtenances. ~~"~~Electric facilities~~" shall~~ DOES not include any facilities used or intended to be used for the transmission of electric energy at nominal voltages in excess of twenty-five thousand volts or having a circuit capacity in excess of twelve thousand kva. ~~"~~Communication facilities~~" shall~~ DOES not include facilities used or intended to be used for the transmission of intelligence by microwave or radio, apparatus cabinets or outdoor public telephones.

4. "Local government" means the city or town council if all or any part of the underground conversion service area is located within the limits of an incorporated city or town or the county board of supervisors if the underground conversion service area is located in an unincorporated area.

5. "Lot" includes any portion, piece, parcel or subdivision of land, but not property owned or controlled by any person as a right of way.

6. "Owner" means the person in whom legal title appears by recorded deed, or the person in possession under claim of title, or the person exercising acts of ownership for ~~himself~~ THE PERSON or as the personal representative of the owner, including the boards of trustees of school districts and the boards of education of high school districts owning property within the underground conversion service area.

7. "Overhead electric or communication facilities" means electric or communication facilities located above the surface of the ground, except as provided for in paragraphs 3 and 12 of this section.

8. "Public agency" means any irrigation, power, electrical or agricultural improvement district now or hereafter organized that provides electric or communication service to the public by means of electric or communication facilities.

9. "Public place" includes streets, alleys, roadways, sidewalks, rights of way, easements and similar properties as to which a city, town, county, the state, the public service corporation or the public agency may have a right.

10. "Public service corporation" means any person or corporation that provides electric or communication service to the public by means of electric or communication facilities.

11. "Real property" means the real estate owned in fee, but not inclusive of buildings or structures located thereon, or any property owned or controlled as a railroad or street ~~right of way~~ RIGHT-OF-WAY.

12. "Underground conversion service area" means an area in which existing electric and communication facilities are to be placed underground, exclusive of any lines or facilities used or intended to be used for the transmission of electric energy at nominal voltages in excess of twenty-five thousand volts or having a circuit capacity in excess of twelve thousand kva and facilities used or intended to be used for the transmission of intelligence by microwave or radio and facilities such as transformers, pull boxes, service terminals, pedestal terminals, splice closures, apparatus cabinets and similar facilities ~~which~~ THAT normally are above the surface in areas where service lines are underground in accordance with standard underground practices, and on-the-ground facilities attached to overhead facilities ~~which~~ THAT are used to connect an underground system to overhead facilities.

13. "Underground conversion cost" means the costs to be paid by each owner to each public service corporation or public agency by the property owners within an underground conversion service area, as provided in this article.

Sec. 14. Section 40-354, Arizona Revised Statutes, is amended to read:

40-354. <u>No extension of corporation commission jurisdiction to public agencies, video service networks or cable television systems</u>

Nothing contained in this article ~~shall vest~~ VESTS any jurisdiction over public agencies, VIDEO SERVICE NETWORKS or cable television systems in the Arizona corporation commission.

Sec. 15. Section 40-360.24, Arizona Revised Statutes, is amended to read:

40-360.24. <u>Notice of damage to underground facility</u>

A. In the event of any damage that results in a release from any underground facility that transports natural gas, liquefied petroleum gas, liquefied natural gas, petroleum products or any other hazardous gases or

liquids in connection with any excavation, the person responsible for the excavation operations shall immediately notify the underground facilities operator and 911 or the local emergency response agency.

B. In the event of any damage to or dislocation of any underground facility or detectible underground location device in connection with any excavation the person responsible for the excavation operations shall immediately notify the underground facilities operator and shall not attempt any repair to the damaged facility or device except the temporary emergency repairs allowed by this section.

C. Temporary emergency repairs shall not be made by an excavator to a public utility's or municipal corporation's natural gas, electric, propane, hazardous liquid, communication, cable television SYSTEM OR VIDEO SERVICE NETWORK, sewer system, wastewater or water facilities without the consent of the underground facilities operator.

D. The excavation shall be left open until the arrival of representatives of the underground facilities operator. ~~Upon~~ ON receipt of notice, the underground facilities operator shall dispatch its representatives promptly, but in no event later than two working days, to examine the underground facility and, if necessary, effect repairs. Unless it would interfere with compliance with commission rules or requirements regarding maintenance or restoration of service and repair of facilities, the underground facilities operator shall immediately respond to a notification for emergencies involving injury or damage.

Sec. 16. Section 40-360.41, Arizona Revised Statutes, is amended to read:

40-360.41. Definitions

In this article, unless the context otherwise requires:

1. "Authorized person" means:

(a) An employee of a public utility ~~which~~ THAT produces, transmits or delivers electricity.

(b) An employee of a public utility ~~which~~ THAT provides and whose work relates to communication services or state, county or municipal agencies ~~which~~ THAT have authorized circuit construction on or near the poles or structures of a public utility.

(c) An employee of an industrial plant whose work relates to the electrical system of the industrial plant.

(d) An employee of a cable television OPERATOR, VIDEO SERVICE PROVIDER or communication services company or an employee of a contractor of a cable television OPERATOR, VIDEO SERVICE PROVIDER or communication services company if specifically authorized by the owner of the poles to make ATTACHMENTS FOR cable television or communication services ~~attachments~~ OR VIDEO SERVICES.

(e) An employee or agent of state, county or municipal agencies ~~which~~ THAT have or whose work relates to overhead electrical lines or circuit construction or conductors on poles or structures of any type.

2. "High voltage" means voltage in excess of six hundred volts measured between conductors or between a conductor and the ground.

3. "Overhead line" means all bare or insulated electrical conductors installed aboveground.

4. "Person" or "business entity" means those parties ~~who~~ THAT contract to perform any function or activity ~~upon~~ ON any land, building, highway or other premises.

5. "Public utility" includes public service corporations, municipally owned systems and districts subject to article XIII, section 7, Constitution of Arizona.

Sec. 17. Section 40-491, Arizona Revised Statutes, is amended to read:

40-491. Definitions

In this article, unless the context otherwise requires:

1. "Customer" means the person in whose name a utility service is provided.

2. "Person" means an individual, partnership, firm, association or corporation.

3. "Reconnection" means the restoration of utility service to a customer or other person after service has been legally disconnected by the utility.

4. "Tamper" or "tampering" means any of the following if committed against property that is owned or operated by the utility for transmission or distribution:

(a) Rearranging, damaging, altering, interfering with or otherwise preventing the performance of a normal or customary function of utility property.

(b) Connecting any wire, conduit or device to any utility property.

(c) Defacing, puncturing, removing, reversing or altering any utility property.

(d) Preventing any meter from properly measuring or registering.

(e) Knowingly taking, receiving, using or converting to personal use or the use of another any utility service that has not been measured or authorized.

(f) Diverting or changing the intended course or path of the utility service without the authorization or consent of the utility.

(g) Causing, procuring, permitting, aiding or abetting any person to do any of the acts listed in this paragraph.

5. "Utility" means any public service corporation, licensed cable television system OR VIDEO SERVICE NETWORK, telephone line or telegraph line corporation or person engaged in the generation, transmission or delivery of electricity, gas, telephone, cable television, telegraph or water service, including this state or any political subdivision or agency of this state.

6. "Utility service" means the provision of services or commodities by the utility for compensation.

Sec. 18. Section 41-1954, Arizona Revised Statutes, is amended to read:

41-1954. Powers and duties

A. In addition to the powers and duties of the agencies listed in section 41-1953, subsection E, the department shall:

1. Administer the following services:

(a) Employment services, including manpower programs and work training, field operations, technical services, unemployment compensation, community work and training and other related functions in furtherance of programs under the social security act, as amended, the Wagner-Peyser act, as amended, the federal unemployment tax act, as amended, 33 United States Code, the family support act of 1988 (P.L. 100-485) and other related federal acts and titles.

(b) Individual and family services, which shall include a section on aging, services to children, youth and adults and other related functions in furtherance of social service programs under the social security act, as amended, title IV, except parts B and E, grants to states for aid and services to needy families with children and for ~~child welfare~~ CHILD WELFARE services, title XX, grants to states for services, the older Americans act, as amended, the family support act of 1988 (P.L. 100-485) and other related federal acts and titles.

(c) Income maintenance services, including categorical assistance programs, special services unit, child support collection services, establishment of paternity services, maintenance and operation of a state case registry of child support orders, a state directory of new hires, a support payment clearinghouse and other related functions in furtherance of programs under the social security act, title IV, grants to states for aid and services to needy families with children and for ~~child welfare~~ CHILD WELFARE services, title XX, grants to states for services, as amended, and other related federal acts and titles.

(d) Rehabilitation services, including vocational rehabilitation services and sections for the blind and visually impaired, communication disorders, correctional rehabilitation and other related functions in furtherance of programs under the vocational rehabilitation act, as amended, the Randolph-Sheppard act, as amended, and other related federal acts and titles.

(e) Administrative services, including the coordination of program evaluation and research, interagency program coordination and in-service training, planning, grants, development and management, information, legislative liaison, budget, licensing and other related functions.

(f) Manpower planning, including a state manpower planning council for the purposes of the federal-state-local cooperative manpower planning system and other related functions in furtherance of programs under the

comprehensive employment and training act of 1973, as amended, and other related federal acts and titles.

(g) Economic opportunity services, including the furtherance of programs prescribed under the economic opportunity act of 1967, as amended, and other related federal acts and titles.

(h) Intellectual disability and other developmental disability programs, with emphasis on referral and purchase of services. The program shall include educational, rehabilitation, treatment and training services and other related functions in furtherance of programs under the developmental disabilities services and facilities construction act~~, Public Law~~ (P.L. 91-517)~~,~~ and other related federal acts and titles.

(i) Nonmedical home and community based services and functions, including ~~department designated~~ DEPARTMENT-DESIGNATED case management, housekeeping services, chore services, home health aid, personal care, visiting nurse services, adult day care or adult day health, respite sitter care, attendant care, home delivered meals and other related services and functions.

2. Provide a coordinated system of initial intake, screening, evaluation and referral of persons served by the department.

3. Adopt rules it deems necessary or desirable to further the objectives and programs of the department.

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

5. Employ and determine the conditions of employment and prescribe the duties and powers of administrative, professional, technical, secretarial, clerical and other persons subject to chapter 4, article 4 and, as applicable, article 5 of this title as may be necessary in the performance of its duties, contract for the services of outside advisors, consultants and aides as may be reasonably necessary and reimburse department volunteers, designated by the director, for expenses in transporting clients of the department on official business.

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

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

8. Be designated as the single state agency for the purposes of administering and in furtherance of each federally supported state plan.

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

10. Provide information and advice on request by local, state and federal agencies and by private citizens, business enterprises and community organizations on matters within the scope of its duties subject to the departmental rules on the confidentiality of information.

11. Establish and maintain separate financial accounts as required by federal law or regulations.

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

13. Have an official seal that ~~shall be~~ IS judicially noticed.

14. Annually estimate the current year's population of each county, city and town in this state, using the periodic census conducted by the United States department of commerce, or its successor agency, as the basis for such estimates and deliver such estimates to the economic estimates commission before December 15.

15. Estimate the population of any newly annexed areas of a political subdivision as of July 1 of the fiscal year in which the annexation occurs and deliver such estimates as promptly as is feasible after the annexation occurs to the economic estimates commission.

16. Establish and maintain a statewide program of services for persons who are both hearing impaired and visually impaired and coordinate appropriate services with other agencies and organizations to avoid duplication of these services and to increase efficiency. The department of economic security shall enter into agreements for the utilization of the personnel and facilities of the department of economic security, the department of health services and other appropriate agencies and organizations in providing these services.

17. Establish and charge fees for deposit in the department of economic security prelayoff assistance services fund to employers who voluntarily participate in the services of the department that provide job service and retraining for persons who have been or are about to be laid off from employment. The department shall charge only those fees necessary to cover the costs of administering the job service and retraining services.

18. Establish a focal point for addressing the issue of hunger in ~~Arizona~~ THIS STATE and provide coordination and assistance to public and private nonprofit organizations that aid hungry persons and families throughout this state. Specifically such activities shall include:

(a) Collecting and disseminating information regarding the location and availability of surplus food for distribution to needy persons, the availability of surplus food for donation to charity food bank organizations, and the needs of charity food bank organizations for surplus food.

(b) Coordinating the activities of federal, state, local and private nonprofit organizations that provide food assistance to the hungry.

(c) Accepting and disbursing federal monies, and any state monies appropriated by the legislature, to private nonprofit organizations in support of the collection, receipt, handling, storage and distribution of donated or surplus food items.

(d) Providing technical assistance to private nonprofit organizations that provide or intend to provide services to the hungry.

(e) Developing a state plan on hunger that, at a minimum, identifies the magnitude of the hunger problem in this state, the characteristics of the population in need, the availability and location of charity food banks and the potential sources of surplus food, assesses the effectiveness of the donated food collection and distribution network and other efforts to alleviate the hunger problem, and recommends goals and strategies to improve the status of the hungry. The state plan on hunger shall be incorporated into the department's state comprehensive plan prepared pursuant to section 41-1956.

(f) Establishing a special purpose advisory council on hunger pursuant to section 41-1981.

19. Establish an office to address the issue of homelessness and to provide coordination and assistance to public and private nonprofit organizations that prevent homelessness or aid homeless individuals and families throughout this state. These activities shall include:

(a) Promoting and participating in planning for the prevention of homelessness and the development of services to homeless persons.

(b) Identifying and developing strategies for resolving barriers in state agency service delivery systems that inhibit the provision and coordination of appropriate services to homeless persons and persons in danger of being homeless.

(c) Assisting in the coordination of the activities of federal, state and local governments and the private sector that prevent homelessness or provide assistance to homeless people.

(d) Assisting in obtaining and increasing funding from all appropriate sources to prevent homelessness or assist in alleviating homelessness.

(e) Serving as a clearinghouse on information regarding funding and services available to assist homeless persons and persons in danger of being homeless.

(f) Developing an annual state comprehensive homeless assistance plan to prevent and alleviate homelessness.

(g) Submitting an annual report to the governor, the president of the senate and the speaker of the house of representatives on the status of homelessness and efforts to prevent and alleviate homelessness. THE DEPARTMENT SHALL PROVIDE A COPY OF THIS REPORT TO THE SECRETARY OF STATE.

20. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.

21. Exchange information, including case specific information, and cooperate with the department of child safety for the administration of the department of child safety's programs.

B. If the department of economic security has responsibility for the care, custody or control of a child or is paying the cost of care for a child, it may serve as representative payee to receive and administer social security and United States department of veterans affairs benefits and other benefits payable to such child. Notwithstanding any law to the contrary, the department of economic security:

1. Shall deposit, pursuant to sections 35-146 and 35-147, such monies as it receives to be retained separate and apart from the state general fund on the books of the department of administration.

2. May use such monies to defray the cost of care and services expended by the department of economic security for the benefit, welfare and best interests of the child and invest any of the monies that the director determines are not necessary for immediate use.

3. Shall maintain separate records to account for the receipt, investment and disposition of funds received for each child.

4. On termination of the department of economic security's responsibility for the child, shall release any funds remaining to the child's credit in accordance with the requirements of the funding source or in the absence of such requirements shall release the remaining funds to:

(a) The child, if the child is at least eighteen years of age or is emancipated.

(b) The person responsible for the child if the child is a minor and not emancipated.

C. Subsection B of this section does not pertain to benefits payable to or for the benefit of a child receiving services under title 36.

D. Volunteers reimbursed for expenses pursuant to subsection A, paragraph 5 of this section are not eligible for workers' compensation under title 23, chapter 6.

E. In implementing the temporary assistance for needy families program pursuant to Public Law 104-193, the department shall provide for cash assistance to ~~two parent~~ TWO-PARENT families if both parents are able to work only on documented participation by both parents in work activities described in title 46, chapter 2, article 5, except that payments may be made to families who do not meet the participation requirements if:

1. It is determined on an individual case basis that they have emergency needs.

2. The family is determined to be eligible for diversion from long-term cash assistance pursuant to title 46, chapter 2, article 5.

F. The department shall provide for cash assistance under temporary assistance for needy families pursuant to Public Law 104-193 to ~~two parent~~ TWO-PARENT families for no longer than six months if both parents are able to work, except that additional assistance may be provided on an individual case basis to families with extraordinary circumstances. The department shall establish by rule the criteria to be used to determine eligibility for additional cash assistance.

G. The department shall adopt the following discount medical payment system for persons who the department determines are eligible and who are receiving rehabilitation services pursuant to subsection A, paragraph 1, subdivision ~~(c)~~ (d) of this section:

1. For inpatient hospital admissions and outpatient hospital services the department shall reimburse a hospital according to the rates established by the Arizona health care cost containment system administration pursuant to section 36-2903.01, subsection G.

2. The department's liability for a hospital claim under this subsection is subject to availability of funds.

3. A hospital bill is considered received for purposes of paragraph 5 of this subsection on initial receipt of the legible, error-free claim form by the department if the claim includes the following error-free documentation in legible form:

(a) An admission face sheet.

(b) An itemized statement.

(c) An admission history and physical.

(d) A discharge summary or an interim summary if the claim is split.

(e) An emergency record, if admission was through the emergency room.

(f) Operative reports, if applicable.

(g) A labor and delivery room report, if applicable.

4. The department shall require that the hospital pursue other third-party payors before submitting a claim to the department. Payment received by a hospital from the department pursuant to this subsection is considered payment by the department of the department's liability for the hospital bill. A hospital may collect any unpaid portion of its bill from other ~~third party~~ THIRD-PARTY payors or in situations covered by title 33, chapter 7, article 3.

5. For inpatient hospital admissions and outpatient hospital services rendered on and after October 1, 1997, if the department receives the claim directly from the hospital, the department shall pay a hospital's rate established according to this section subject to the following:

(a) If the hospital's bill is paid within thirty days of the date the bill was received, the department shall pay ninety-nine ~~per cent~~ PERCENT of the rate.

(b) If the hospital's bill is paid after thirty days but within sixty days of the date the bill was received, the department shall pay one hundred ~~per cent~~ PERCENT of the rate.

(c) If the hospital's bill is paid any time after sixty days of the date the bill was received, the department shall pay one hundred ~~per cent~~ PERCENT of the rate plus a fee of one ~~per cent~~ PERCENT per month for each month or portion of a month following the sixtieth day of receipt of the bill until the date of payment.

6. For medical services other than those for which a rate has been established pursuant to section 36-2903.01, subsection G, the department shall pay according to the Arizona health care cost containment system capped fee-for-service schedule adopted pursuant to section 36-2904, subsection K or any other established fee schedule the department determines reasonable.

H. The department shall not pay claims for services pursuant to this section that are submitted more than nine months after the date of service for which the payment is claimed.

I. To assist in the location of persons or assets for the purpose of establishing paternity, establishing, modifying or enforcing child support obligations and other related functions, the department has access, including automated access if the records are maintained in an automated database, to records of state and local government agencies, including:

1. Vital statistics, including records of marriage, birth and divorce.

2. State and local tax and revenue records, including information on residence address, employer, income and assets.

3. Records concerning real and titled personal property.

4. Records of occupational and professional licenses.

5. Records concerning the ownership and control of corporations, partnerships and other business entities.

6. Employment security records.

7. Records of agencies administering public assistance programs.

8. Records of the motor vehicle division of the department of transportation.

9. Records of the state department of corrections.

10. Any system used by a state agency to locate a person for motor vehicle or law enforcement purposes, including access to information contained in the Arizona criminal justice information system.

J. Notwithstanding subsection I of this section, the department or its agents shall not seek or obtain information on the assets of an individual unless paternity is presumed pursuant to section 25-814 or established.

K. Access to records of the department of revenue pursuant to subsection I of this section shall be provided in accordance with section 42-2003.

L. The department also has access to certain records held by private entities with respect to child support obligors or obligees, or individuals against whom such an obligation is sought. The information shall be obtained as follows:

1. In response to a child support subpoena issued by the department pursuant to section 25-520, the names and addresses of these persons and the names and addresses of the employers of these persons, as appearing in customer records of public utilities, ~~and~~ cable ~~television companies~~ OPERATORS AND VIDEO SERVICE PROVIDERS.

2. Information on these persons held by financial institutions.

M. Pursuant to department rules, the department may compromise or settle any support debt owed to the department if the director or an authorized agent determines that it is in the best interest of ~~the~~ THIS state and after considering each of the following factors:

1. The obligor's financial resources.

2. The cost of further enforcement action.

3. The likelihood of recovering the full amount of the debt.

N. Notwithstanding any law to the contrary, a state or local governmental agency or private entity is not subject to civil liability for the disclosure of information made in good faith to the department pursuant to this section.

Sec. 19. Section 42-5063, Arizona Revised Statutes, is amended to read:

42-5063. <u>Utilities classification; definitions</u>

A. The utilities classification is comprised of the business of:

1. Producing and furnishing or furnishing to consumers natural or artificial gas and water.

2. Providing to retail electric customers ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity.

B. The utilities classification does not include:

1. Sales of ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity, gas or water to a person who resells the services.

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

3. 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.

4. Sales of ancillary services, electric distribution services, electric generation services, electric transmission services and other

1 services that are related to providing electricity to a retail electric
2 customer who is located outside this state for use outside this state if
3 the electricity is delivered to a point of sale outside this state.
4 5. Sales or other transfers of renewable energy credits or any
5 other unit created to track energy derived from renewable energy
6 resources. For the purposes of this paragraph, "renewable energy credit"
7 means a unit created administratively by the corporation commission or
8 governing body of a public power utility to track kilowatt hours of
9 electricity derived from a renewable energy resource or the kilowatt hour
10 equivalent of conventional energy resources displaced by distributed
11 renewable energy resources.
12 6. The leasing or renting of space to make attachments to utility
13 poles as follows:
14 (a) By a person that is engaged in business under this section.
15 (b) To a person that is engaged in business under this section or
16 section 42-5064 or that is a cable operator.
17 C. The tax base for the utilities classification is the gross
18 proceeds of sales or gross income derived from the business, but the
19 following shall be deducted from the tax base:
20 1. Revenues received by a municipally owned utility in the form of
21 fees charged to persons constructing residential, commercial or industrial
22 developments or connecting residential, commercial or industrial
23 developments to a municipal utility system or systems if the fees are
24 segregated and used only for capital expansion, system enlargement or debt
25 service of the utility system or systems.
26 2. Revenues received by any person or persons owning a utility
27 system in the form of reimbursement or contribution compensation for
28 property and equipment installed to provide utility access to, on or
29 across the land of an actual utility consumer if the property and
30 equipment become the property of the utility. This deduction shall not
31 exceed the value of such property and equipment.
32 3. Gross proceeds of sales or gross income derived from sales to:
33 (a) Qualifying hospitals as defined in section 42-5001.
34 (b) A qualifying health care organization as defined in section
35 42-5001 if the tangible personal property is used by the organization
36 solely to provide health and medical related educational and charitable
37 services.
38 4. The portion of gross proceeds of sales or gross income that is
39 derived from sales to a qualified environmental technology manufacturer,
40 producer or processor as defined in section 41-1514.02 of a utility
41 product and that is used directly in environmental technology
42 manufacturing, producing or processing. This paragraph shall apply for
43 twenty full consecutive calendar or fiscal years from the date the first
44 paper manufacturing machine is placed in service. In the case of a
45 qualified 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.

5. The portion of gross proceeds of sales or gross income attributable to transfers of electricity by any retail electric customer owning a solar photovoltaic energy generating system to an electric distribution system, if the electricity transferred is generated by the customer's system.

6. Gross proceeds of sales or gross income derived from sales of electricity, natural gas or liquefied petroleum gas to a qualified manufacturing or smelting business. A utility that claims this deduction shall report each month, on a form prescribed by the department, the name and address of each qualified manufacturing or smelting business for which this deduction is taken. This paragraph applies to gas transportation services. For the purposes of this paragraph:

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

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

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

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

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

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

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

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

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

7. Gross proceeds of sales or gross income derived from sales of electricity or natural gas to a business that operates an international operations center in this state and that is certified by the Arizona commerce authority pursuant to section 41-1520.

D. For the purposes of this section:

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

2. "Cable operator" has the same meaning prescribed in section 9-505 AND INCLUDES A VIDEO SERVICE PROVIDER.

3. "Electric distribution service" means distributing electricity to retail electric customers through the use of electric distribution facilities.

4. "Electric generation service" means providing electricity for sale to retail electric customers but excluding electric distribution or transmission services.

5. "Electric transmission service" means transmitting electricity to retail electric customers or to electric distribution facilities so classified by the federal energy regulatory commission or, to the extent permitted by law, so classified by the Arizona corporation commission.

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

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

8. "Utility pole" means any wooden, metal or other pole used for utility purposes and the pole's appurtenances that are attached or authorized for attachment by the person controlling the pole.

Sec. 20. Section 42-5064, Arizona Revised Statutes, is amended to read:

42-5064. <u>Telecommunications classification; definitions</u>

A. The telecommunications classification is comprised of the business of providing intrastate telecommunications services. The telecommunications classification does not include:

1. Sales of intrastate telecommunications services by a cable operator or by a microwave television transmission system that transmits television programming to multiple subscribers and that is operated pursuant to 47 Code of Federal Regulations parts 21 and 74.

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

(a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol and purchased by or for any school district, charter school, community college or state university to assess or test student learning or to promote curriculum design or enhancement.

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

3. The leasing or renting of space to make attachments to utility poles as follows:

(a) By a person that is engaged in business under this section.

(b) To a person that is engaged in business under section 42-5063 or this section or that is a cable operator.

B. The tax base for the telecommunications classification is the gross proceeds of sales or gross income derived from the business, including the gross income derived from tolls, subscriptions and services on behalf of subscribers or from the publication of a directory of the names of subscribers. However, the gross proceeds of sales or gross income derived from the following shall be deducted from the tax base:

1. Sales of intrastate telecommunications services to:

(a) Other persons engaged in businesses classified under the telecommunications classification for use in such business.

(b) A direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations part 25 for use in its direct broadcast satellite television or data transmission operation by a facility described in section 42-5061, subsection B, paragraph 15, subdivision (b).

2. End user common line charges established by federal communications commission regulations (47 Code of Federal Regulations section 69.104(a)).

3. Carrier access charges established by federal communications commission regulations (47 Code of Federal Regulations sections 69.105(a) through 69.118).

4. Sales of direct broadcast satellite television services pursuant to 47 Code of Federal Regulations part 25 by a direct broadcast satellite television service that operates pursuant to 47 Code of Federal Regulations part 25.

5. Telecommunications services purchased with a prepaid calling card, or a prepaid authorization number for telecommunications services, that is taxable under section 42-5061.

C. A person that is engaged in a transient lodging business subject to taxation under section 42-5070 and that provides telephone, fax or internet access services to its customers at an additional charge, which is separately stated on the customer invoice, is considered to be engaged in business subject to taxation under this section for the purposes of

taxing the gross proceeds of sales or gross income derived from providing those services.

D. The gross proceeds of sales or gross income derived from a bundled transaction of services that are taxable pursuant to section 42-5023 are subject to the following:

1. A telecommunications service provider who can reasonably identify the portion of the sales price of the bundled transaction derived from charges for nontaxable services is subject to tax only on the gross proceeds of sales or gross income derived from the taxable services. For the purposes of this section, the telecommunications service provider may elect to reasonably identify the portion of the sales price of the bundled transaction derived from charges for nontaxable services by using allocation percentages derived from the telecommunications service provider's entire service area, including territories outside of this state. On request, the department may require the telecommunications service provider to provide this allocation information. The reasonableness of the allocation is subject to audit by the department.

2. Notwithstanding sections 42-1118, 42-1120 and 42-1121, the telecommunications service provider shall waive the right to file a claim for a refund of taxes paid on the bundled transaction if the taxes paid are based on the allocation percentage the telecommunications service provider had determined to be reasonable at the beginning of the tax period at issue.

3. The burden of proof is on the telecommunications service provider to establish that the gross proceeds of sales or gross income is derived from charges for nontaxable services.

E. For the purposes of this section:

1. "Bundled transaction" means a sale of multiple services in which both of the following apply:

(a) The sale consists of both taxable and nontaxable services.

(b) The telecommunications service provider charges a customer one sales price for all services that are sold instead of separately charging for each individual service.

2. "Cable operator" has the same meaning prescribed in section 9-505 AND INCLUDES A VIDEO SERVICE PROVIDER.

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

4. "Internet access" means a service that enables users to access content, information, ~~electronic mail~~ E-MAIL or other services over the internet. Internet access does not include telecommunications services provided by a common carrier.

5. "Intrastate telecommunications services" means transmitting signs, signals, writings, images, sounds, messages, data or other information of any nature by wire, radio waves, light waves or other electromagnetic means if the information transmitted originates and terminates in this state.

6. "Utility pole" means any wooden, metal or other pole used for utility purposes and the pole's appurtenances that are attached or authorized for attachment by the person controlling the pole.

Sec. 21. Section 42-5069, Arizona Revised Statutes, is amended to read:

42-5069. Commercial lease classification; definitions

A. The commercial lease classification is comprised of the business of leasing for a consideration the use or occupancy of real property.

B. A person who, as a lessor, leases or rents for a consideration under one or more leases or rental agreements the use or occupancy of real property that is used by the lessee for commercial purposes is deemed to be engaged in business and subject to the tax imposed by article 1 of this chapter, but this subsection does not include leases or rentals of real property used for residential or agricultural purposes.

C. The commercial lease classification does not include:

1. Any business activities that are classified under the transient lodging classification.

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

3. Leasing real property to a lessee who subleases the property if the lessee is engaged in business classified under the commercial lease classification or the transient lodging classification.

4. Leasing real property pursuant to a written lease agreement entered into before December 1, 1967. This exclusion does not apply to the businesses of hotels, guest houses, dude ranches and resorts, rooming houses, apartment houses, office buildings, automobile storage garages, parking lots or tourist camps, or to the extension or renewal of any such written lease agreement.

5. Leasing real property between affiliated companies, businesses, persons or reciprocal insurers. For the purposes of this paragraph:

(a) "Affiliated companies, businesses, persons or reciprocal insurers" means the lessor holds a controlling interest in the lessee, the lessee holds a controlling interest in the lessor, affiliated persons hold a controlling interest in both the lessor and the lessee, or an unrelated person holds a controlling interest in both the lessor and lessee.

(b) "Affiliated persons" means members of an individual's family or persons who have ownership or control of a business entity.

(c) "Controlling interest" means direct or indirect ownership of at least eighty percent of the voting shares of a corporation or of the interests in a company, business or person other than a corporation.

(d) "Members of an individual's family" means the individual's spouse and brothers and sisters, whether by whole or half blood, including adopted persons, ancestors and lineal descendants.

(e) "Reciprocal insurers" has the same meaning prescribed in section 20-762.

6. Leasing real property for boarding horses.

7. Leasing or renting real property or the right to use real property at exhibition events in this state sponsored, operated or conducted 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. This paragraph does not apply to an organization that is owned, managed or controlled, in whole or in part, by a major league baseball team, or its owners, officers, employees or agents, or by a major league baseball association or professional golfing association, or its owners, officers, employees or agents, unless the organization conducted or operated exhibition events in this state before January 1, 2018 that were exempt from taxation under section 42-5073.

8. Leasing or renting real property or the right to use real property for use as a rodeo featuring primarily farm and ranch animals in this state sponsored, operated or conducted 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.

9. Leasing or renting dwelling units, lodging facilities or trailer or mobile home spaces if the units, facilities or spaces are intended to serve as the principal or permanent place of residence for the lessee or renter or if the unit, facility or space is leased or rented to a single tenant thirty or more consecutive days.

10. Leasing or renting real property and improvements for use primarily for religious worship 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.

11. Leasing or renting real property used for agricultural purposes under either of the following circumstances:

(a) The lease or rental is between family members, trusts, estates, corporations, partnerships, joint venturers or similar entities, or any combination thereof, if the individuals or at least eighty percent of the

beneficiaries, shareholders, partners or joint venturers share a family relationship as parents or ancestors of parents, children or descendants of children, siblings, cousins of the first degree, aunts, uncles, nieces or nephews of the first degree, spouses of any of the listed relatives and listed relatives by the half-blood or by adoption.

(b) The lessor leases or rents real property used for agricultural purposes under no more than three leases or rental agreements.

12. Leasing, renting or granting the right to use real property to vendors or exhibitors by a trade or industry association that is a qualifying organization pursuant to section 513(d)(3)(C) of the internal revenue code for a period not to exceed twenty-one days in connection with an event that meets all of the following conditions:

(a) The majority of such vending or exhibition activities relate to the nature of the trade or business sponsoring the event.

(b) The event is held in conjunction with a formal business meeting of the trade or industry association.

(c) The event is organized by the persons engaged in the particular trade or industry.

13. Leasing, renting or granting the right to use real property for a period not to exceed twenty-one days by a coliseum, civic center, civic plaza, convention center, auditorium or arena owned by this state or any of its political subdivisions.

14. Leasing or subleasing real property used by a nursing care institution as defined in section 36-401 that is licensed pursuant to title 36, chapter 4.

15. Leasing or renting an eligible facility as defined in section 28-7701.

16. Granting or providing rights to real property that constitute a profit à prendre for the severance of minerals, including all rights to use the surface or subsurface of the property as is necessary or convenient to the right to sever the minerals. This paragraph does not exclude from the commercial lease classification leasehold rights to the real property that are granted in addition to and not included within the right of profit à prendre, but the tax base for the grant of such a leasehold right, if the gross income derived from the grant is not separately stated from the gross income derived from the grant of the profit à prendre, shall not exceed the fair market value of the leasehold rights computed after excluding the value of all rights under the profit à prendre. For the purposes of this paragraph, "profit à prendre" means a right to use the land of another to mine minerals, and carries with it the right of entry and the right to remove and take the minerals from the land and also includes the right to use the surface of the land as is necessary and convenient for exercise of the profit.

17. The leasing or renting of space to make attachments to utility poles as follows:

(a) By a person that is engaged in business under section 42-5063 or 42-5064 or that is a cable operator.

(b) To a person that is engaged in business under section 42-5063 or 42-5064 or that is a cable operator.

D. The tax base for the commercial lease classification is the gross proceeds of sales or gross income derived from the business, but reimbursements to the lessor for utility service shall be deducted from the tax base.

E. Notwithstanding section 42-1104, subsection B, paragraph 1, subdivision (b) and paragraph 2, the failure to file tax returns for the commercial lease classification that report gross income derived from any agreement that constitutes, in whole or in part, a grant of a right of profit à prendre for the severance of minerals does not constitute an exception to the general rule for the statute of limitations.

F. For the purposes of this section:

1. "Cable operator" has the same meaning prescribed in section 9-505 AND INCLUDES A VIDEO SERVICE PROVIDER.

2. "Leasing" includes renting.

3. "Real property" includes any improvements, rights or interest in such property.

4. "Utility pole" means any wooden, metal or other pole used for utility purposes and the pole's appurtenances that are attached or authorized for attachment by the person controlling the pole.

Sec. 22. Section 42-5071, Arizona Revised Statutes, is amended to read:

42-5071. <u>Personal property rental classification; definitions</u>

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

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

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

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

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

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

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

7. Leasing or renting photographs, transparencies or other creative works used by this state on internet websites, in magazines or in other publications that encourage tourism.

8. Leasing or renting certified ignition interlock devices installed pursuant to the requirements prescribed by section 28-1461. For the purposes of this paragraph, "certified ignition interlock device" has the same meaning prescribed in section 28-1301.

9. The leasing or renting of space to make attachments to utility poles, as follows:

(a) By a person that is engaged in business under section 42-5063 or 42-5064 or that is a cable operator.

(b) To a person that is engaged in business under section 42-5063 or 42-5064 or that is a cable operator.

10. Leasing or renting billboards that are designed, intended or used to advertise or inform and that are visible from any street, road or other highway.

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

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

2. Leases or rentals of tangible personal property that, if it had been purchased instead of leased or rented by the lessee, would have been exempt under:

(a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29, 49 or 53.

(b) Section 42-5061, subsection B, except that a lease or rental of new machinery or equipment is not exempt pursuant to section 42-5061, subsection B, paragraph 13 if the lease is for less than two years.

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

(d) Section 42-5061, subsection M.

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

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

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

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

D. In computing the tax base, the gross proceeds of sales or gross income from the lease or rental of a motor vehicle does not include any amount attributable to the car rental surcharge under section 5-839, 28-5810 or 48-4234.

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

F. For the purposes of this section:

1. "Cable operator" has the same meaning prescribed by section 9-505 AND INCLUDES A VIDEO SERVICE PROVIDER.

2. "Utility pole" means any wooden, metal or other pole used for utility purposes and the pole's appurtenances that are attached or authorized for attachment by the person controlling the pole.

Sec. 23. Section 42-6004, Arizona Revised Statutes, as amended by Laws 2018, chapter 17, section 1, chapter 249, section 6 and chapter 341, section 2, is amended to read:

42-6004. <u>Exemption from municipal tax; definitions</u>

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

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

organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual. This paragraph does not apply to an organization that is owned, managed or controlled, in whole or in part, by a major league baseball team, or its owners, officers, employees or agents, or by a major league baseball association or professional golfing association, or its owners, officers, employees or agents, unless the organization conducted or operated exhibition events in this state before January 1, 2018 that were exempt from state transaction privilege tax under section 42-5073.

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

3. Sales of warranty or service contracts.

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

5. Interest on finance contracts.

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

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

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

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

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

9. The gross proceeds of sales or gross income retained by the Arizona exposition and state fair board from ride ticket sales at the annual Arizona state fair.

10. Leasing real property between affiliated companies, businesses, persons or reciprocal insurers. For the purposes of this paragraph:

(a) "Affiliated companies, businesses, persons or reciprocal insurers" means the lessor holds a controlling interest in the lessee, the lessee holds a controlling interest in the lessor, affiliated persons hold a controlling interest in both the lessor and the lessee, or an unrelated person holds a controlling interest in both the lessor and lessee.

(b) "Affiliated persons" means members of the individual's family or persons who have ownership or control of a business entity.

(c) "Controlling interest" means direct or indirect ownership of at least eighty percent of the voting shares of a corporation or of the interests in a company, business or person other than a corporation.

(d) "Members of the individual's family" means the individual's spouse and brothers and sisters, whether by whole or half blood, including adopted persons, ancestors and lineal descendants.

(e) "Reciprocal insurer" has the same meaning prescribed in section 20-762.

11. The gross proceeds of sales or gross income derived from a contract for the installation, assembly, repair or maintenance of machinery, equipment or other tangible personal property that is described in section 42-5061, subsection B and that has independent functional utility, pursuant to the following provisions:

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

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

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

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

(b) The deduction provided in this paragraph does not include gross proceeds of sales or gross income from the portion of any contracting activity that consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of machinery, equipment or other tangible personal property described in section 42-5061, subsection B.

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

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

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

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

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

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

12. The leasing or renting of certified ignition interlock devices installed pursuant to the requirements prescribed by section 28-1461. For the purposes of this paragraph, "certified ignition interlock device" has the same meaning prescribed in section 28-1301.

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

14. The gross proceeds of sales or gross income derived from a contract with the owner of real property or improvements to real property for the maintenance, repair, replacement or alteration of existing property, except as specified in this paragraph. The gross proceeds of sales or gross income derived from a de minimis amount of modification activity does not subject the contract or any part of the contract to tax. For the purposes of this paragraph:

(a) Each contract is independent of another contract, except that any change order that directly relates to the scope of work of the original contract shall be treated the same as the original contract under this paragraph, regardless of the amount of modification activities included in the change order. If a change order does not directly relate to the scope of work of the original contract, the change order shall be treated as a new contract, with the tax treatment of any subsequent change order to follow the tax treatment of the contract to which the scope of work of the subsequent change order directly relates.

(b) Any term not defined in this paragraph that is defined in section 42-5075 has the same meaning prescribed in section 42-5075.

(c) This paragraph does not apply to a contract that primarily involves surface or subsurface improvements to land and that is subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the contract also includes vertical improvements. If a city or town imposes a tax on contracts that are subject to procurement processes under those provisions, the city or town shall include in the request for proposals a notice to bidders when those projects are subject to the tax. This subdivision does not apply to contracts with:

(i) Community facilities districts, fire districts, county television improvement districts, community park maintenance districts, cotton pest control districts, hospital districts, pest abatement

1 districts, health service districts, agricultural improvement districts,
2 county free library districts, county jail districts, county stadium
3 districts, special health care districts, public health services
4 districts, theme park districts or revitalization districts.
5 (ii) Any special taxing district not specified in item (i) of this
6 subdivision if the district does not substantially engage in the
7 modification, maintenance, repair, replacement or alteration of surface or
8 subsurface improvements to land.
9 15. Monitoring services relating to an alarm system as defined in
10 section 32-101.
11 16. Tangible personal property, job printing or publications sold
12 to or purchased by, or tangible personal property leased, rented or
13 licensed for use to or by, a qualifying health sciences educational
14 institution as defined in section 42-5001.
15 17. The transfer of title or possession of coal back and forth
16 between an owner or operator of a power plant and a person who is
17 responsible for refining coal if both of the following apply:
18 (a) The transfer of title or possession of the coal is for the
19 purpose of refining the coal.
20 (b) The title or possession of the coal is transferred back to the
21 owner or operator of the power plant after completion of the coal refining
22 process. For the purposes of this subdivision, "coal refining process"
23 means the application of a coal additive system that aids the reduction of
24 power plant emissions during the combustion of coal and the treatment of
25 flue gas.
26 18. Tangible personal property incorporated or fabricated into a
27 project described in paragraph 14 of this subsection, that is located
28 within the exterior boundaries of an Indian reservation for which the
29 owner, as defined in section 42-5075, of the project is an Indian tribe or
30 an affiliated Indian. For the purposes of this paragraph:
31 (a) "Affiliated Indian" means an individual native American Indian
32 who is duly registered on the tribal rolls of the Indian tribe for whose
33 benefit the Indian reservation was established.
34 (b) "Indian reservation" means all lands that are within the limits
35 of areas set aside by the United States for the exclusive use and
36 occupancy of an Indian tribe by treaty, law or executive order and that
37 are recognized as Indian reservations by the United States department of
38 the interior.
39 (c) "Indian tribe" means any organized nation, tribe, band or
40 community that is recognized as an Indian tribe by the United States
41 department of the interior and includes any entity formed under the laws
42 of that Indian tribe.
43 19. The charges for the leasing or renting of space to make
44 attachments to utility poles as follows:

(a) By a person that is engaged in the business of providing or furnishing electrical services or telecommunication services or that is a cable operator.

(b) To a person that is engaged in the business of providing or furnishing electrical services or telecommunication services or that is a cable operator.

20. Until March 1, 2017, the gross proceeds of sales or gross income derived from entry fees paid by participants for events that consist of a run, walk, swim or bicycle ride or a similar event, or any combination of these events.

21. The gross proceeds of sales or gross income derived from entry fees paid by participants for events that are operated or conducted by nonprofit organizations that are exempt from taxation under section 501(c)(3) of the internal revenue code and of which no part of the organization's net earnings inures to the benefit of any private shareholder or individual, if the event consists of a run, walk, swim or bicycle ride or a similar event, or any combination of these events.

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

C. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, gross receipts, use, franchise or other similar tax or fee, however denominated, on gross proceeds of sales or gross income derived from any of the following:

1. A motor carrier's use on the public highways in this state if the motor carrier is subject to a fee prescribed in title 28, chapter 16, article 4.

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

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

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

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

6. Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a

contractor providing services to the taxpayer. For the purposes of this paragraph:

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

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

(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.

7. Any amount attributable to fees collected by transportation network companies issued a permit pursuant to section 28-9552.

8. Transporting for hire persons by transportation network company drivers on transactions involving transportation network services as defined in section 28-9551.

9. Transporting for hire persons by vehicle for hire companies that are issued permits pursuant to section 28-9503.

10. Transporting for hire persons by vehicle for hire drivers on transactions involving vehicle for hire services as defined in section 28-9501.

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

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

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

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

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

G. For the purposes of this section:

1. "Cable operator" has the same meaning prescribed in section 9-505 AND INCLUDES A VIDEO SERVICE PROVIDER.

2. "Electrical services" means transmitting or distributing electricity, electric lights, current or power over lines, wires or cables.

3. "Telecommunication services" means transmitting or relaying sound, visual image, data, information, images or material over lines, wires or cables by radio signal, light beam, telephone, telegraph or other electromagnetic means.

4. "Utility pole" means any wooden, metal or other pole used for utility purposes and the pole's appurtenances that are attached or authorized for attachment by the person controlling the pole.

Sec. 24. Section 42-6004, Arizona Revised Statutes, as amended by Laws 2018, chapter 17, section 1, chapter 249, section 6, chapter 263, section 3 and chapter 341, section 2, is amended to read:

42-6004. Exemption from municipal tax; definitions

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

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

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

3. Sales of warranty or service contracts.

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

5. Interest on finance contracts.

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

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

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

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

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

9. The gross proceeds of sales or gross income retained by the Arizona exposition and state fair board from ride ticket sales at the annual Arizona state fair.

10. Leasing real property between affiliated companies, businesses, persons or reciprocal insurers. For the purposes of this paragraph:

(a) "Affiliated companies, businesses, persons or reciprocal insurers" means the lessor holds a controlling interest in the lessee, the lessee holds a controlling interest in the lessor, affiliated persons hold a controlling interest in both the lessor and the lessee, or an unrelated person holds a controlling interest in both the lessor and lessee.

(b) "Affiliated persons" means members of the individual's family or persons who have ownership or control of a business entity.

(c) "Controlling interest" means direct or indirect ownership of at least eighty percent of the voting shares of a corporation or of the interests in a company, business or person other than a corporation.

(d) "Members of the individual's family" means the individual's spouse and brothers and sisters, whether by whole or half blood, including adopted persons, ancestors and lineal descendants.

(e) "Reciprocal insurer" has the same meaning prescribed in section 20-762.

11. The gross proceeds of sales or gross income derived from a contract for the installation, assembly, repair or maintenance of machinery, equipment or other tangible personal property that is described in section 42-5061, subsection B and that has independent functional utility, pursuant to the following provisions:

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

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

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

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

(b) The deduction provided in this paragraph does not include gross proceeds of sales or gross income from the portion of any contracting activity that consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of machinery, equipment or other tangible personal property described in section 42-5061, subsection B.

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

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

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

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

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

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

12. The leasing or renting of certified ignition interlock devices installed pursuant to the requirements prescribed by section 28-1461. For the purposes of this paragraph, "certified ignition interlock device" has the same meaning prescribed in section 28-1301.

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

14. The gross proceeds of sales or gross income derived from a contract with the owner of real property or improvements to real property for the maintenance, repair, replacement or alteration of existing property, except as specified in this paragraph. The gross proceeds of sales or gross income derived from a de minimis amount of modification

activity does not subject the contract or any part of the contract to tax. For the purposes of this paragraph:

(a) Each contract is independent of another contract, except that any change order that directly relates to the scope of work of the original contract shall be treated the same as the original contract under this paragraph, regardless of the amount of modification activities included in the change order. If a change order does not directly relate to the scope of work of the original contract, the change order shall be treated as a new contract, with the tax treatment of any subsequent change order to follow the tax treatment of the contract to which the scope of work of the subsequent change order directly relates.

(b) Any term not defined in this paragraph that is defined in section 42-5075 has the same meaning prescribed in section 42-5075.

(c) This paragraph does not apply to a contract that primarily involves surface or subsurface improvements to land and that is subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the contract also includes vertical improvements. If a city or town imposes a tax on contracts that are subject to procurement processes under those provisions, the city or town shall include in the request for proposals a notice to bidders when those projects are subject to the tax. This subdivision does not apply to contracts with:

(i) Community facilities districts, fire districts, county television improvement districts, community park maintenance districts, cotton pest control districts, hospital districts, pest abatement districts, health service districts, agricultural improvement districts, county free library districts, county jail districts, county stadium districts, special health care districts, public health services districts, theme park districts or revitalization districts.

(ii) Any special taxing district not specified in item (i) of this subdivision if the district does not substantially engage in the modification, maintenance, repair, replacement or alteration of surface or subsurface improvements to land.

15. Monitoring services relating to an alarm system as defined in section 32-101.

16. Tangible personal property, job printing or publications sold to or purchased by, or tangible personal property leased, rented or licensed for use to or by, a qualifying health sciences educational institution as defined in section 42-5001.

17. The sale of coal.

18. Tangible personal property incorporated or fabricated into a project described in paragraph 14 of this subsection, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

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

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

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

19. The charges for the leasing or renting of space to make attachments to utility poles as follows:

(a) By a person that is engaged in the business of providing or furnishing electrical services or telecommunication services or that is a cable operator.

(b) To a person that is engaged in the business of providing or furnishing electrical services or telecommunication services or that is a cable operator.

20. Until March 1, 2017, the gross proceeds of sales or gross income derived from entry fees paid by participants for events that consist of a run, walk, swim or bicycle ride or a similar event, or any combination of these events.

21. The gross proceeds of sales or gross income derived from entry fees paid by participants for events that are operated or conducted by nonprofit organizations that are exempt from taxation under section 501(c)(3) of the internal revenue code and of which no part of the organization's net earnings inures to the benefit of any private shareholder or individual, if the event consists of a run, walk, swim or bicycle ride or a similar event, or any combination of these events.

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

C. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, gross receipts, use, franchise or other similar tax or fee, however denominated, on gross proceeds of sales or gross income derived from any of the following:

1. A motor carrier's use on the public highways in this state if the motor carrier is subject to a fee prescribed in title 28, chapter 16, article 4.

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

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

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

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

6. Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer. For the purposes of this paragraph:

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

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

(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.

7. Any amount attributable to fees collected by transportation network companies issued a permit pursuant to section 28-9552.

8. Transporting for hire persons by transportation network company drivers on transactions involving transportation network services as defined in section 28-9551.

9. Transporting for hire persons by vehicle for hire companies that are issued permits pursuant to section 28-9503.

10. Transporting for hire persons by vehicle for hire drivers on transactions involving vehicle for hire services as defined in section 28-9501.

D. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, use, franchise or other similar tax or fee, however denominated, in excess of one-tenth of one percent of the value of the entire product mined, smelted, extracted, refined, produced or prepared for sale, profit or commercial use, on persons engaged in the

business of mineral processing, except to the extent that the tax is computed on the gross proceeds or gross income from sales at retail.

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

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

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

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

G. For the purposes of this section:

1. "Cable operator" has the same meaning prescribed in section 9-505 AND INCLUDES A VIDEO SERVICE PROVIDER.

2. "Electrical services" means transmitting or distributing electricity, electric lights, current or power over lines, wires or cables.

3. "Telecommunication services" means transmitting or relaying sound, visual image, data, information, images or material over lines, wires or cables by radio signal, light beam, telephone, telegraph or other electromagnetic means.

4. "Utility pole" means any wooden, metal or other pole used for utility purposes and the pole's appurtenances that are attached or authorized for attachment by the person controlling the pole.

Sec. 25. Section 44-1273, Arizona Revised Statutes, is amended to read:

44-1273. <u>Limited exemptions</u>

A. The following sellers are not required to register and, except for section 44-1278, subsection B and section 44-1282, are exempt from this article:

1. A person acting within the scope of a license issued under title 20.

2. A person who is either a:

(a) Charitable organization as defined in section 44-6551, this state or any county or municipality of this state or its agencies.

(b) Political party, candidate for federal, state or local office or campaign committee required to file financial information with federal, state or local election agencies.

3. A person making telephone solicitations without the intent to complete and who does not complete the sales presentation during the telephone solicitation but completes the sales presentation at a later face-to-face meeting between the solicitor and the consumer provided that the later face-to-face meeting is not for the purpose of collecting the payment or delivering any item purchased.

4. A person who after making a telephone contact with a consumer sends the consumer descriptive literature and does not require payment before the consumer's review of the descriptive literature and the person is not conducting a solicitation involving any of the following:

(a) The sale of an investment or an opportunity for an investment that is not registered with any state or federal authority.

(b) A prize promotion or premium.

(c) A recovery service.

(d) A business opportunity or merchandise related to a business opportunity.

5. A person or solicitor for a person who operates a retail business establishment under the same name as the name used in the solicitation of sales by telephone, if on a continuing basis all of the following apply:

(a) Merchandise is displayed and offered for sale or services are offered for sale and provided at the person's business establishment.

(b) At least fifty ~~per cent~~ PERCENT of the person's business involves the buyer obtaining the merchandise at the person's business establishment.

(c) The person holds a transaction privilege tax license pursuant to title 42, chapter 5.

6. A person or solicitor for a person soliciting another business if all of the following apply:

(a) At least fifty ~~per cent~~ PERCENT of the person's dollar volume consists of repeat sales to existing businesses.

(b) The person does not conduct a prize promotion that requires or implies that to win a consumer must pay money or purchase merchandise.

(c) Neither the person nor any of the person's principals has within twenty years been convicted in any state of a felony or crime of moral turpitude, breach of trust, fraud, theft, dishonesty or violation of telephone solicitation laws, been subject to a final judgment in a civil action involving fraud, deceit or misrepresentation or been subject to an administrative order involving fraud, deceit, misrepresentation or any violation of telephone solicitations laws of any agency of this state, another state, the federal government, a territory of the United States or another country.

(d) The person is not selling a business opportunity or merchandise related to a business opportunity.

7. A person or solicitor on behalf of a person who solicits sales by periodically publishing and delivering a catalog to consumers if all of the following apply:

(a) The catalog contains a written description or illustration of each item offered for sale and the price of each item offered for sale.

(b) The catalog includes the business address or home office address of the person.

(c) The catalog includes at least twenty-four pages of written material and illustrations.

(d) The catalog is distributed in more than one state and has an annual circulation by mail of at least two hundred fifty thousand.

B. The following sellers shall file a limited registration statement pursuant to section 44-1272.01 and, except for sections 44-1278 and 44-1282, are exempt from this article:

1. A person acting within the scope of a license issued under title 6 or 32 or by the corporation commission pursuant to this title, except persons licensed under title 6, chapter 13.

2. If soliciting within the scope of the license, any licensed securities, commodities or investments broker or dealer or investment advisor or any licensed associated person of a securities, commodities or investments broker or dealer or investment advisor.

3. An issuer or a subsidiary of an issuer that has a class of securities that is subject to section 12 of the securities exchange act of 1934 (15 United States Code sections 78a through 78mm) and that is either registered or exempt from registration under paragraph (A), (B), (C), (E), (F), (G) or (H) or subsection (g)(2) of section 12 of the act. A subsidiary of an issuer that qualifies for exemption under this paragraph is not exempt unless at least sixty ~~per cent~~ PERCENT of the voting power of the subsidiary's shares is owned by the qualifying issuer or issuers.

4. A person certificated or regulated by the corporation commission pursuant to title 40, chapter 2 or a subsidiary of that person or a federal communications commission licensed cellular telephone company or radio telecommunication services provider.

5. A person making telephone solicitations for a newspaper of general circulation, a magazine or a licensed ~~or franchised~~ cable television system OR VIDEO SERVICE PROVIDER.

6. An issuer or subsidiary of an issuer that is subject to registration under chapter 12, article 6 or 7 of this title or that is exempt from registration under section 44-1843, subsection A, paragraph 1, 2, 3, 4, 5, 7 or 9.

7. A person making telephone solicitations for the sale or purchase of books, recordings, videocassettes and similar goods through a membership group or club regulated by the federal trade commission or through a contractual plan or arrangement such as a continuity plan, subscription arrangement, series arrangement or single purchase under which the seller ships goods to a consumer who has consented in advance to receive those goods and the recipient is given the opportunity to review goods for at least seven days and to receive a full refund for return of undamaged goods.

8. A person or solicitor for a person when soliciting previous customers, if all of the following apply:

(a) The person is not offering to sell or selling a security that is not registered with any state or federal authority.

(b) The person makes the solicitation under the same name as the name used to sell merchandise to the customer previously.

(c) The person does not operate a recovery service.

(d) The person does not conduct a prize promotion that requires a consumer to, or implies that to win a consumer must, pay money or purchase merchandise.

(e) The person has not, or any of its principals have not, within twenty years been convicted in any state of a felony or a crime of moral turpitude, breach of trust, fraud, theft, dishonesty or a violation of telephone solicitation laws, been subject to a final judgment in a civil action involving fraud, deceit or misrepresentation or been subject to an administrative order involving fraud, deceit, misrepresentation or any violation of telephone solicitation laws of any agency of this state, another state, the federal government, a territory of the United States or another country.

9. A person making telephone solicitations exclusively for the purpose of the sale of telephone answering services to be provided by that person or that person's employer.

10. Any bank holding company, bank, financial institution, trust company, savings and loan association, credit union, mortgage banker or broker, consumer lender or insurer that is licensed or supervised by an official or agency of this state, any other state or the United States, including any parent, subsidiary or affiliate of these institutions.

11. A person providing telemarketing sales service continuously for at least five years under the same ownership and control that derives seventy-five ~~per cent~~ PERCENT of its gross telemarketing sales revenues from contracts with persons exempted by this section. A seller using an exempt telemarketing sales service is not exempt unless otherwise qualifying for an exemption under this section.

C. On request by the secretary of state, the director of the department of insurance shall provide a current list in a mutually acceptable electronic format to the secretary of state of the requested licensees described in subsection A, paragraph 1 of this section that includes all of the following information:

1. The true legal name of the seller.

2. All of the names under which the seller is doing business or intends to do business.

3. The complete street address of the physical location of the principal place of business of the seller and the telephone number for the location.

4. The name and address of the seller's agent who is authorized to receive service of process in this state.

D. In any civil proceeding alleging a violation of this article, the burden of proving an exemption or an exception from a definition is on the person claiming the exemption or exception. In any criminal proceeding in which a violation of this article is alleged, the burden of producing evidence to support a defense based on an exemption or an exception from a definition is on the person claiming the exemption or exception.

E. Any person or solicitor exempted in part from this article by this section shall not make or submit a charge to a consumer's credit card account or a consumer's checking, savings, share or similar account unless any of the following applies:

1. The person provides that the consumer may receive a full refund for the return of undamaged and unused goods or a cancellation of services by providing notice to the person within seven days after the date that the consumer receives the merchandise and the person processes:

(a) A full refund within thirty days after the date that the person receives the returned merchandise from the consumer.

(b) A full refund within thirty days after the purchaser of services cancels an order for the services or a pro rata refund for any services not yet performed for the consumer.

2. The person provides the consumer with a signed copy of a written contract that includes the person's name, address and business telephone number and that fully describes the merchandise offered by the person, the total price to be charged by the person and any terms or conditions affecting the sale.

3. The person is either a:

(a) Charitable organization as defined in section 44-6551, this state or any county or municipality of this state or its agencies.

(b) Political party, candidate for federal, state or local office or campaign committee required to file financial information with federal, state or local election agencies.

Sec. 26. Section 48-620, Arizona Revised Statutes, is amended to read:

48-620. <u>Improvement districts for underground utility and cable television facilities in public rights-of-way and easements; procedures; costs; definitions</u>

A. Subject to the limitations contained in this section, the powers and duties of the governing body of a municipality for establishing underground utility facilities are as provided in this article for other types of improvement districts.

B. Notwithstanding section 48-507, after the governing body passes a resolution or notice declaring its intention to order an improvement district for underground utility facilities, the governing body shall hold a hearing at least thirty days after the completion of the posting and publication of the notice of intention pursuant to section 48-506. At the

hearing, the governing body shall consider the issue of ordering an election on the formation of the improvement district and shall receive public comment on the proposed district. Section 48-507, regarding written protests of the proposed improvement, does not apply to a district formed pursuant to this section. The governing body may only order the election on the issue of formation of the district if the owners of real property in the district have signed and submitted petitions to the clerk of the governing body in support of the formation of the district. The petitions shall comply with the following:

1. Clearly state that they are petitions in support of the formation of an underground utility improvement district and shall specifically describe in words or by use of a map the location of the proposed district's boundaries. The petitions shall require the signer's signature, name and address or description of the property that is owned in the district in a manner sufficient to determine ownership through the use of public records.

2. Be signed by owners of a majority of the real property within the boundaries of the proposed district as measured by square footage or acreage owned. Signatures ~~shall~~ ARE not ~~be~~ required to be notarized and for property with more than one owner, the signature of one owner is binding on the remaining owners of the property. On submittal to the clerk of the governing body, the petitions are a public record. Ownership of property ~~shall be~~ IS as of the date of the hearing and ~~shall be~~ IS determined by records of the county assessor or other public records regarding property ownership. For purposes of this paragraph, "owner" means a person, association, corporation or other entity without regard to residency.

C. If the governing body finds that sufficient signatures are submitted pursuant to subsection B of this section, the governing body may proceed with a simplified ballot card election pursuant to subsection G of this section. If there are not sufficient signatures, the governing body shall not proceed with the formation of the district. If no registered voters reside within the area of the proposed district, an election is not required and the governing body may declare the formation of the district.

D. The requirement pursuant to section 48-577 that plans and specifications be filed prior to adoption of the resolution of intention may be satisfied by a general plan showing at least the general location and type of facilities to be constructed. Actual plans and specifications shall be filed following the adoption of the resolution ordering the election regarding the improvement but ~~prior to~~ BEFORE the election and the recording of the assessment and warrant. A person interested and objecting to an improvement or to the extent of the assessment district for a district established pursuant to this section may file a written protest with the city or town clerk within thirty days after completion or posting of the notice, or within thirty days after the date of the last

publication of the notice if that date is after the completion of the posting.

E. The requirement pursuant to section 48-584 for notice of the award of contract may be satisfied by the inclusion in the resolution of intention of the name of the coordinating utility. The ~~fifteen day~~ FIFTEEN-DAY period for filing notice of objections under section 48-584, subsection E shall begin ~~upon~~ ON completion of publication and posting of the notice of proposed improvement stating the name of the coordinating utility.

F. The governing body shall determine the boundaries of the district and designate the transmission facilities and, if applicable, any independent parallel facilities, to be placed underground and shall obtain from the coordinating utility an accurate statement of the costs of the project, including an estimate of the average cost in assessments on an average single family residence in the district. The amount shall be included in the engineer's estimate required by section 48-577. The costs shall include:

1. The amount by which the cost of placing facilities underground would exceed the cost of placing comparable facilities overhead.

2. The reconstruction cost and net depreciation costs of any existing facilities to be removed.

3. The actual costs of removing such existing facilities, less the salvage value of the facilities removed.

4. The charge to finance the costs prescribed in this subsection over a stated period of not to exceed fifteen years.

5. The tax reimbursement amount.

G. On receipt of an accurate estimate of the costs of the project, the governing body shall call a simplified ballot card election in the area affected by the proposed district. The simplified ballot card shall contain the words for a district formation election "district, yes" and "district, no" and for an assessment election "assessment, yes" and "assessment, no". A single simplified ballot card may be used for both the question of the formation of the district and the question of the assessment. The election may be conducted in a simplified format and administered by the governing body. The governing body shall mail to all registered voters and property owners within the proposed district simplified ballot cards with return postage prepaid. The simplified ballot card shall clearly state that to be valid a voted ballot card shall be returned to the governing body within thirty days after the governing body mails the ballot card and a ballot card that is not timely returned shall not be counted. A person who is qualified to vote in a municipal election for that municipality or a property owner who owns land within the proposed improvement district ~~are~~ IS qualified to vote in an election for a municipal improvement district formed pursuant to this section, except that only residents of or property owners in the area that is

within the proposed district may vote. If a majority of the persons voting with the simplified ballot card approves the formation of the district and if a majority of the persons voting with the simplified ballot card approves the assessment, the governing body may form the district and make the assessment. If more than one governing body is affected by a proposed district, each governing body may form its own district for the portion of the work within its jurisdiction. Assessments for districts that are formed for a portion of the same project shall be distributed between districts in proportion to the benefits to be received. When the governing body acquires jurisdiction to order the work, it shall not call for construction bids but may enter into a contract or contracts with the utility, utilities or licensed cable television system whose facilities are to be placed underground. Prior to entering into a contract or contracts the coordinating utility shall submit a final report to the municipality. The amount stated in the final report may be based on detailed engineering studies. If the amount stated in the final report exceeds the amount stated in the preliminary report the governing body may either:

1. Terminate the project.
2. Call a new election on the improvement.

H. The contract shall provide for payment to the utility or licensed cable television system over a term of not to exceed fifteen years of the amount set forth in the final report, shall specify those facilities to be owned by the municipality and those to be owned by the utility, utilities or licensed cable television system and shall contain such provisions for the prepayment of any assessment at the option of any property owner, and such other terms, covenants and conditions as the governing body and the utility, utilities or licensed cable television system determine. The licensed cable television system shall not be entitled to reimbursement except where the cable television system's parallel facilities are installed to replace existing cable television facilities other than independent parallel facilities not included by the governing body in the work. The amount payable on the contract or contracts ~~shall be~~ IS payable solely from amounts collected on the assessment levied in the district. ~~No~~ A payment or performance bond ~~shall be~~ IS NOT required of a utility or licensed cable television system entering into a contract with the governing body.

I. The municipality may retain an independent engineering consultant to review all reports, estimates and costs provided by the coordinating utility.

J. The coordinating utility shall advance or reimburse a governing body for the costs of forming the district and the cost of printing, advertising and posting incurred or to be incurred by a governing body and shall bear its own expenses for engineering and design, and preparing the reports, plans and specifications. ~~Upon~~ ON completion of the work, the

coordinating utility shall reimburse a governing body for its reasonable expenses incurred with respect to the district. Unless otherwise provided for in a manner acceptable to the coordinating utility, the amounts advanced or reimbursed shall be included in the contract and in the amount assessed.

K. This section does not amend or modify any existing line extension policies of any utility involved. The costs to be reimbursed under the contract shall be reduced to the extent of amounts paid or to be paid by landowners or from other sources directly to the utility or cable television system for the installation of the facilities.

L. The assessment and warrant may be recorded at any time following approval of the project at an election. The hearing on the assessment may be held at any time not less than twenty days from the date of recording of the assessment and warrant. An additional hearing following notice from the superintendent of streets to the governing body of completion of the work shall be requested only if any member of the governing body or any owner of or any person claiming an interest in any lot ~~which~~ THAT received an assessment, within one year of the date of the notice of completion, files a written notice with the clerk stating that the work has not been performed substantially in accordance with the resolution of intention, the plans and specifications and estimate. The notice shall state in particular the failure to perform and may also state, if applicable, any requested reduction in the assessment of any one or more parcels due solely to the failure of such performance. The notice shall state the name and address of the person filing the notice and shall describe such person's interest in land subject to assessment. The governing body may enforce the contract and may recess the hearing to permit the utility or licensed cable television system to complete the work. If the work cannot be completed, the assessment may be adjusted to take the failure to complete into consideration. The amount due under the agreement with the utility or licensed cable television system shall be adjusted accordingly. Repayment under the contract shall be conditioned on completion of the work and approval of the assessment as provided by law. Unless an objection has been filed, repayment shall begin within nine months of the notice of completion.

M. An improvement district formed pursuant to this section shall not issue bonds, and the assessment for district purposes against the property within the district shall not exceed the amount specified in the engineer's estimate. Notwithstanding any other statute, the assessment for an underground electrical power line shall not be assessed against the owners of the frontage of the right-of-way of the underground power line but shall be assessed against all property owners benefiting from the burial of the power line.

N. The governing body shall provide for the levy and collection of assessments on the real property in the district in the manner provided for in this article. However, the assessment may be paid in installments necessary to pay amounts due under the contract and to reimburse the municipality for expenses incurred as provided in the assessment.

O. A district formed under this section shall not engage in any activity other than contracting for or establishing underground transmission facilities together, where applicable, with parallel facilities.

P. The governing body by resolution may summarily determine that it will participate in the costs of the improvement. If the municipality is willing to assume the total outstanding assessment for the underground utility facilities, the governing body may summarily dissolve the district by resolution after payment of all liabilities including all amounts due under the contract.

Q. The formation of an improvement district for underground utility facilities under this section does not prevent the establishment of other improvement districts which may include all or part of the same property for any purposes authorized by law.

R. If a petition for the formation of an improvement district for underground utilities is presented to the governing body, and the petition purports to be signed by all of the real property owners in the proposed district exclusive of mortgagees and other lienholders, the governing body, after verifying such ownership and making a finding of such fact, may adopt a resolution of intention to order the proposed improvement pursuant to section 48-576 and has immediate jurisdiction to adopt the resolution ordering the improvement pursuant to section 48-581, without the necessity of publication and posting of the resolution of intention provided for in section 48-578.

S. If the governing body determines that a parcel of property is a single family residence and that payment of the assessment would cause a financial hardship on the owners which would be likely to cause a delinquency in payment of the assessment, the assessment for an improvement made under this section shall provide for an extension in the time to pay principal and interest on the assessment against that parcel for a period of time not to exceed ten years. If the governing body determines that the grounds for extension no longer exist, then the extension will be terminated and all payments ~~which~~ THAT would have been due but for the extension shall become due. The assessment shall provide for adjustments in the assessments against the remaining parcels to provide for timely payment under the agreement.

T. Notice of the passage of a resolution of intention for an improvement under this section shall be given to the corporation commission and, where the improvement involves a utility regulated thereby, the rural electrification administration.

U. In this section, unless the context otherwise requires:

1. "Coordinating utility" means the utility whose proposed or existing transmission facilities are to be placed underground. The coordinating utility is responsible for assembling into one report cost estimates and other data provided by each utility or licensed cable television system whose facilities are to be placed underground.

2. "Cost" means all costs of design and construction of facilities.

3. "Facilities" means any works or improvements used or useful in providing electric, communications, ~~or~~ licensed cable television service OR VIDEO SERVICE, including ~~but not limited to~~ poles, supports, tunnels, manholes, vaults, conduits, pipes, wires, conductors, guys, studs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, capacitors, meters, communication circuits, appliances, attachments and appurtenances but excluding any works for transmission by microwave or radio. Facilities shall include only transmission facilities and parallel facilities.

4. "Governing body" means the council of a city or town or the board of supervisors of a county.

5. "Independent parallel facilities" means existing parallel facilities ~~which~~ THAT do not rely for their support on poles or other structures to be removed as part of the work. If the utility or licensed cable television system elects to remove the independent parallel facilities but the removal and underground replacement thereof was not included by the governing body in the work, the reconstruction and removal costs of such independent parallel facilities shall not be included in a contract or be assessed.

6. "Parallel facilities" means facilities that run or are permitted to run in the easement in which the transmission facilities are to be placed underground and that may be included underground with the transmission facilities, and facilities appurtenant thereto. Any parallel facilities shall have a right to be included underground and have access to a trench on such reasonable terms and conditions as the coordinating utility and the owners of the parallel facility may determine provided they do not interfere with the installation or operation of the transmission facilities.

7. "Private parallel facilities" means parallel facilities other than those owned or operated by a public utility or licensed cable television system. Private parallel facilities have the rights of parallel facilities except that the costs thereof shall not be included in a contract or be assessed.

8. "Tax reimbursement" means an annual charge for reimbursement for property taxes, or voluntary contributions in lieu of property taxes as provided in chapter 1, article 8 of this title, by applying the tax rates in effect on the date of adoption of the resolution of intention to the amount by which the estimated average taxable value of underground

1 facilities, excluding the value of trenches, backfill and compaction, on
2 completion exceeds the estimated average taxable value of comparable
3 overhead facilities. In this paragraph, "estimated average taxable value"
4 means the average of the estimated taxable value for each year of
5 reimbursement. The value of the trenches, backfill and compaction of the
6 underground facilities shall be attributed to and shall inure to the
7 benefit of the owners of property within the district and shall be owned
8 by the city. Reimbursement shall not be for a period longer than fifteen
9 years.
10 9. "Transmission facilities" means facilities ~~which~~ THAT are, or
11 are appurtenant to, electric transmission lines of more than twenty-five
12 kilovolts but not more than two hundred thirty kilovolts in size.
13 Sec. 27. Section 48-5107, Arizona Revised Statutes, is amended to
14 read:
15 48-5107. Utility relocation reimbursement; definition
16 A. All costs for the relocation, and reasonable ongoing costs
17 related to the relocation, of utility facilities incurred after July 1,
18 2003 as a direct result of the construction and operation of a light rail
19 project shall be reimbursed by the light rail project to the utility. The
20 board shall make the payments from transportation excise tax revenues
21 allocated pursuant to section 48-5103, subsection A, paragraph 3,
22 subdivision (a) within ninety days after presentation of a statement of
23 verified expenses. The statement of verified expenses shall not include
24 profit but may include a reasonable allocation of general overhead. The
25 verified expenses may be reviewed and audited by the light rail operator,
26 but the audit must be concluded within ninety days and shall be conducted
27 pursuant to standard industry accounting principles.
28 B. If the relocated utility has existing land rights, the light
29 rail operator shall relocate the utility with equal land rights. If the
30 relocated utility is operating in the right-of-way under a permit, the
31 light rail operator shall relocate the utility according to the utility's
32 existing rights under the permit within the right-of-way.
33 C. The light rail operator shall be fully responsible for acts,
34 negligence or omissions of all of its employees on the project that result
35 in damage to utility facilities.
36 D. For the purposes of this section, "utility" means any public
37 service corporation, agricultural improvement district, licensed cable
38 television system, LICENSED VIDEO SERVICE NETWORK, telephone line or
39 telegraph line corporation or person engaged in the generation,
40 transmission or delivery of electricity, natural gas, telephone, cable
41 television, VIDEO, telegraph or water service, including this state or any
42 political subdivision or agency of this state.

Sec. 28. Section 48-5315, Arizona Revised Statutes, is amended to read:

48-5315. Utility relocation reimbursement; definition

A. If county transportation excise tax monies collected pursuant to section 42-6106 are used to construct a light rail system under the regional transportation plan, all costs for the relocation, and reasonable ongoing costs related to the relocation, of utility facilities incurred as a direct result of the construction and operation of the light rail system shall be reimbursed by the light rail project to the utility. The board shall make the payments from transportation excise tax revenues within ninety days after presentation of a statement of verified expenses. The statement of verified expenses shall not include profit but may include a reasonable allocation of general overhead. The verified expenses may be reviewed and audited by the light rail operator. The audit must be concluded within ninety days and shall be conducted pursuant to standard industry accounting principles.

B. If the relocated utility has existing land rights, the light rail operator shall relocate the utility with equal land rights. If the relocated utility is operating in the right-of-way under a permit, the light rail operator shall relocate the utility according to the utility's existing rights under the permit within the right-of-way.

C. The light rail operator shall be fully responsible for acts, negligence or omissions of all of its employees on the project that result in damage to utility facilities.

D. For the purposes of this section, "utility" means any public service corporation, licensed cable television system, LICENSED VIDEO SERVICE NETWORK, telephone line or telegraph line corporation or person engaged in the generation, transmission or delivery of electricity, natural gas, telephone, cable television, VIDEO, telegraph or water service, including this state or any political subdivision or agency of this state.

Sec. 29. Conditional enactment

Section 42-6004, Arizona Revised Statutes, as amended by Laws 2018, chapter 17, section 1, chapter 249, section 6, chapter 263, section 3, chapter 341, section 2 and this act, becomes effective on the date prescribed by Laws 2018, chapter 263, section 5 but only on the occurrence of the condition prescribed by Laws 2018, chapter 263, section 5.

APPROVED BY THE GOVERNOR MAY 1, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 2019.

Passed the House February 11, 2019

by the following vote: 60 Ayes,

0 Nays, 0 Not Voting

Speaker of the House

☐ Pro Tempore

Chief Clerk of the House

Passed the Senate April 25, 2019

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

25th day of April, 2019

at 2:04 o'clock P M.

Secretary to the Governor

Approved this 1st day of

May 2019

at 2:27 o'clock P M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 1 day of May, 2019

at 3:59 o'clock P. M.

Secretary of State

H.B. 2179