

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

HOUSE BILL 2285

AN ACT

AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, FIRST REGULAR SESSION, CHAPTER 120, SECTION 1 AND CHAPTER 233, SECTION 1 AND LAWS 2013, FIRST SPECIAL SESSION, CHAPTER 9, SECTION 5; REPEALING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 255, SECTION 13; AMENDING SECTIONS 42-5072 AND 42-5151, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5159, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, FIRST SPECIAL SESSION, CHAPTER 9, SECTION 7; REPEALING SECTION 42-5159, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 255, SECTION 17; AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, FIRST REGULAR SESSION, CHAPTER 27, SECTION 2, CHAPTER 120, SECTION 2, CHAPTER 153, SECTION 2 AND CHAPTER 236, SECTION 6 AND LAWS 2013, FIRST SPECIAL SESSION, CHAPTER 9, SECTION 8; REPEALING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 255, SECTION 20; RELATING TO TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5061, Arizona Revised Statutes, as amended by
3 Laws 2013, first regular session, chapter 120, section 1 and chapter 233,
4 section 1 and Laws 2013, first special session, chapter 9, section 5, is
5 amended to read:

6 42-5061. Retail classification; definitions

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

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

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

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

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

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

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

29 7. The sale of stocks and bonds.

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

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

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

37 11. Prescription eyeglasses or contact lenses.

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

39 13. Durable medical equipment ~~which~~ THAT has a centers for medicare and
40 medicaid services common procedure code, is designated reimbursable by
41 medicare, is prescribed by a person who is licensed under title 32, chapter
42 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
43 customarily used to serve a medical purpose, is generally not useful to a
44 person in the absence of illness or injury and is appropriate for use in the
45 home.

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

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

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

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

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

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

22 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
23 article 1.

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

31 (a) "Cash equivalents" means items or intangibles, whether or not
32 negotiable, that are sold to one or more persons, through which a value
33 denominated in money is purchased in advance and may be redeemed in full or
34 in part for tangible personal property, intangibles or services. Cash
35 equivalents include gift cards, stored value cards, gift certificates,
36 vouchers, traveler's checks, money orders or other instruments, orders or
37 electronic mechanisms, such as an electronic code, personal identification
38 number or digital payment mechanism, or any other prepaid intangible right to
39 acquire tangible personal property, intangibles or services in the future,
40 whether from the seller of the cash equivalent or from another person. Cash
41 equivalents do not include either of the following:

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

1 (ii) Prepaid calling cards or prepaid authorization numbers for
2 telecommunications services made taxable by subsection Q of this section.

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

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

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

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

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

22 25. Tangible personal property sold to:

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

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

27 (c) A qualifying health care organization as defined in section
28 42-5001 if the organization is dedicated to providing educational,
29 therapeutic, rehabilitative and family medical education training for blind,
30 visually impaired and multihandicapped children from the time of birth to age
31 twenty-one.

32 (d) A qualifying community health center as defined in section
33 42-5001.

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

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

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

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

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

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

13 28. The sale of a motor vehicle to:

14 (a) A nonresident of this state if the purchaser's state of residence
15 does not allow a corresponding use tax exemption to the tax imposed by
16 article 1 of this chapter and if the nonresident has secured a special ninety
17 day nonresident registration permit for the vehicle as prescribed by sections
18 28-2154 and 28-2154.01.

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

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

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

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

38 32. Sales of tangible personal property by a nonprofit organization
39 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
40 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
41 sponsors or operates a rodeo featuring primarily farm and ranch animals and
42 no part of the organization's net earnings inures to the benefit of any
43 private shareholder or individual.

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

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

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

13 ~~36.~~ 35. Sales of natural gas or liquefied petroleum gas used to propel
14 a motor vehicle.

15 ~~37.~~ 36. Paper machine clothing, such as forming fabrics and dryer
16 felts, sold to a paper manufacturer and directly used or consumed in paper
17 manufacturing.

18 ~~38.~~ 37. Coal, petroleum, coke, natural gas, virgin fuel oil and
19 electricity sold to a qualified environmental technology manufacturer,
20 producer or processor as defined in section 41-1514.02 and directly used or
21 consumed in the generation or provision of on-site power or energy solely for
22 environmental technology manufacturing, producing or processing or
23 environmental protection. This paragraph shall apply for twenty full
24 consecutive calendar or fiscal years from the date the first paper
25 manufacturing machine is placed in service. In the case of an environmental
26 technology manufacturer, producer or processor who does not manufacture
27 paper, the time period shall begin with the date the first manufacturing,
28 processing or production equipment is placed in service.

29 ~~39.~~ 38. Sales of liquid, solid or gaseous chemicals used in
30 manufacturing, processing, fabricating, mining, refining, metallurgical
31 operations, research and development and, beginning on January 1, 1999,
32 printing, if using or consuming the chemicals, alone or as part of an
33 integrated system of chemicals, involves direct contact with the materials
34 from which the product is produced for the purpose of causing or permitting a
35 chemical or physical change to occur in the materials as part of the
36 production process. This paragraph does not include chemicals that are used
37 or consumed in activities such as packaging, storage or transportation but
38 does not affect any deduction for such chemicals that is otherwise provided
39 by this section. For the purposes of this paragraph, "printing" means a
40 commercial printing operation and includes job printing, engraving,
41 embossing, copying and bookbinding.

42 ~~40.~~ 39. Through December 31, 1994, personal property liquidation
43 transactions, conducted by a personal property liquidator. From and after
44 December 31, 1994, personal property liquidation transactions shall be
45 taxable under this section provided that nothing in this subsection shall be

1 construed to authorize the taxation of casual activities or transactions
2 under this chapter. For the purposes of this paragraph:

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

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

11 ~~41-~~ 40. Sales of food, drink and condiment for consumption within the
12 premises of any prison, jail or other institution under the jurisdiction of
13 the state department of corrections, the department of public safety, the
14 department of juvenile corrections or a county sheriff.

15 ~~42-~~ 41. A motor vehicle and any repair and replacement parts and
16 tangible personal property becoming a part of such motor vehicle sold to a
17 motor carrier who is subject to a fee prescribed in title 28, chapter 16,
18 article 4 and who is engaged in the business of leasing or renting such
19 property.

20 ~~43-~~ 42. Livestock and poultry feed, salts, vitamins and other
21 additives for livestock or poultry consumption that are sold to persons who
22 are engaged in producing livestock, poultry, or livestock or poultry products
23 or who are engaged in feeding livestock or poultry commercially. For the
24 purposes of this paragraph, "poultry" includes ratites.

25 ~~44-~~ 43. Sales of implants used as growth promotants and injectable
26 medicines, not already exempt under paragraph 8 of this subsection, for
27 livestock or poultry owned by or in possession of persons who are engaged in
28 producing livestock, poultry, or livestock or poultry products or who are
29 engaged in feeding livestock or poultry commercially. For the purposes of
30 this paragraph, "poultry" includes ratites.

31 ~~45-~~ 44. Sales of motor vehicles at auction to nonresidents of this
32 state for use outside this state if the vehicles are shipped or delivered out
33 of this state, regardless of where title to the motor vehicles passes or its
34 free on board point.

35 ~~46-~~ 45. Tangible personal property sold to a person engaged in
36 business and subject to tax under the transient lodging classification if the
37 tangible personal property is a personal hygiene item or articles used by
38 human beings for food, drink or condiment, except alcoholic beverages, that
39 are furnished without additional charge to and intended to be consumed by the
40 transient during the transient's occupancy.

41 ~~47-~~ 46. Sales of alternative fuel, as defined in section 1-215, to a
42 used oil fuel burner who has received a permit to burn used oil or used oil
43 fuel under section 49-426 or 49-480.

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

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

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

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

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

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

24 ~~52.~~ 51. Sales of tangible personal property to be incorporated or
25 installed as part of environmental response or remediation activities under
26 section 42-5075, subsection B, paragraph 6.

27 ~~53.~~ 52. Sales of tangible personal property by a nonprofit
28 organization that is exempt from taxation under section 501(c)(6) of the
29 internal revenue code if the organization produces, organizes or promotes
30 cultural or civic related festivals or events and no part of the
31 organization's net earnings inures to the benefit of any private shareholder
32 or individual.

33 ~~54.~~ 53. Through August 31, 2014, sales of Arizona centennial
34 medallions by the historical advisory commission.

35 ~~55.~~ 54. Application services that are designed to assess or test
36 student learning or to promote curriculum design or enhancement purchased by
37 or for any school district, charter school, community college or state
38 university. For the purposes of this paragraph:

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

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

1 ~~56.~~ 55. Sales of motor vehicle fuel and use fuel to a qualified
2 business under section 41-1516 for off-road use in harvesting, processing or
3 transporting qualifying forest products removed from qualifying projects as
4 defined in section 41-1516.

5 ~~57.~~ 56. Sales of repair parts installed in equipment used directly by
6 a qualified business under section 41-1516 in harvesting, processing or
7 transporting qualifying forest products removed from qualifying projects as
8 defined in section 41-1516.

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

16 ~~59.~~ 58. Computer data center equipment purchased by the owner,
17 operator or qualified colocation tenant of the computer data center or an
18 authorized agent of the owner, operator or qualified colocation tenant during
19 the qualification period for use in a computer data center that is certified
20 by the Arizona commerce authority under section 41-1519. To qualify for this
21 deduction, at the time of purchase, the owner, operator or qualified
22 colocation tenant must present to the retailer its certificate that is issued
23 pursuant to section 41-1519 and that establishes its qualification for the
24 deduction. For the purposes of this paragraph, "computer data center",
25 "computer data center equipment", "qualification period" and "qualified
26 colocation tenant" have the same meanings prescribed in section 41-1519.

27 ~~60.~~ 59. Orthodontic devices dispensed by a dental professional who is
28 licensed under title 32, chapter 11 to a patient as part of the practice of
29 dentistry.

30 60. THE TRANSFER OF TITLE OR POSSESSION OF COAL BACK AND FORTH BETWEEN
31 AN OWNER OR OPERATOR OF A POWER PLANT AND A PERSON WHO IS RESPONSIBLE FOR
32 REFINING COAL IF BOTH OF THE FOLLOWING APPLY:

33 (a) THE TRANSFER OF TITLE OR POSSESSION OF THE COAL IS FOR THE PURPOSE
34 OF REFINING THE COAL.

35 (b) THE TITLE OR POSSESSION OF THE COAL IS TRANSFERRED BACK TO THE
36 OWNER OR OPERATOR OF THE POWER PLANT AFTER COMPLETION OF THE COAL REFINING
37 PROCESS. FOR THE PURPOSES OF THIS SUBDIVISION, "COAL REFINING PROCESS" MEANS
38 THE APPLICATION OF A COAL ADDITIVE SYSTEM THAT AIDS THE REDUCTION OF POWER
39 PLANT EMISSIONS DURING THE COMBUSTION OF COAL AND THE TREATMENT OF FLUE GAS.

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

44 1. Machinery, or equipment, used directly in manufacturing,
45 processing, fabricating, job printing, refining or metallurgical operations.

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

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

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

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

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

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

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

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

37 (b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 18. Machinery or equipment, including related structural components,
40 that is employed in connection with manufacturing, processing, fabricating,
41 job printing, refining, mining, natural gas pipelines, metallurgical
42 operations, telecommunications, producing or transmitting electricity or
43 research and development and that is used directly to meet or exceed rules or
44 regulations adopted by the federal energy regulatory commission, the United
45 States environmental protection agency, the United States nuclear regulatory

1 commission, the Arizona department of environmental quality or a political
2 subdivision of this state to prevent, monitor, control or reduce land, water
3 or air pollution.

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

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

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

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

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

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

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

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

35 2. Janitorial equipment and hand tools.

36 3. Office equipment, furniture and supplies.

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

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

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

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

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

4 D. In addition to the deductions from the tax base prescribed by
5 subsection A of this section, there shall be deducted from the tax base the
6 gross proceeds of sales or gross income derived from sales of machinery,
7 equipment, materials and other tangible personal property used directly and
8 predominantly to construct a qualified environmental technology
9 manufacturing, producing or processing facility as described in section
10 41-1514.02. This subsection applies for ten full consecutive calendar or
11 fiscal years after the start of initial construction.

12 E. In computing the tax base, gross proceeds of sales or gross income
13 from retail sales of heavy trucks and trailers does not include any amount
14 attributable to federal excise taxes imposed by 26 United States Code section
15 4051.

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

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

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

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

- 40 1. Transporting classification.
- 41 2. Utilities classification.
- 42 3. Telecommunications classification.
- 43 4. Pipeline classification.
- 44 5. Private car line classification.
- 45 6. Publication classification.

1 7. Job printing classification.

2 8. Prime contracting classification.

3 ~~9. Owner builder sales classification.~~

4 ~~10.~~ 9. Restaurant classification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 V. For the purposes of this section:

14 1. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

3 6. "Subcontract" means an agreement between a contractor and any
4 person who is not an employee of the contractor for furnishing of supplies or
5 services that, in whole or in part, are necessary to the performance of one
6 or more government contracts, or under which any portion of the contractor's
7 obligation under one or more government contracts is performed, undertaken or
8 assumed and that includes provisions causing title to overhead materials or
9 other tangible personal property used in the performance of the subcontract
10 to pass to the government or that includes provisions incorporating such
11 title passing clauses in a government contract into the subcontract. **FOR THE
12 PURPOSES OF THIS PARAGRAPH, "CONTRACTOR" HAS ITS ORDINARY AND COMMON MEANING
13 AND DOES NOT HAVE THE MEANING PRESCRIBED BY SECTION 42-5001.**

14 Sec. 2. Repeal

15 Section **42-5061**, Arizona Revised Statutes, as amended by Laws 2013,
16 chapter 255, section 13, is repealed.

17 Sec. 3. Section 42-5072, Arizona Revised Statutes, is amended to read:
18 **42-5072. Mining classification; definition**

19 A. The mining classification is comprised of the business of mining,
20 quarrying or producing for sale, profit or commercial use any
21 nonmetalliferous mineral product that has been mined, quarried or otherwise
22 extracted within the boundaries of this state described in article I, section
23 1, Constitution of Arizona.

24 B. The tax base for the mining classification is the gross proceeds of
25 sales or gross income derived from the business. The gross proceeds of sales
26 or gross income derived from sales described under section 42-5061,
27 subsection A, paragraph 27 and subsection J, paragraph 2 shall be deducted
28 from the tax base.

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

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

41 E. If a person engaging in business classified under the mining
42 classification ships or transports all or part of a product out of this state
43 without making sale of the product or ships his product outside of this state
44 in an unfinished condition, the value of the product or article in the
45 condition or form in which it existed when transported out of this state and

1 before it enters interstate commerce is included in the tax base, and the
2 department shall prescribe equitable and uniform rules for ascertaining that
3 value. In determining the tax base, if the product or any part of the
4 product has been processed in this state and the proceeds of such processing
5 have been included in the tax base of the processor under this chapter, the
6 person may deduct from the value of the product when transported out of this
7 state the cost of such processing.

8 F. A person who conducts a business classified under the mining
9 classification may be deemed also to be engaged in business classified under
10 the retail classification to the extent the person's activities comprise
11 business under the retail classification if the tax is paid at the rate
12 imposed on the retail classification by section 42-5010. If the transaction
13 is not subject to taxation under the retail classification, the transaction
14 shall be included in the tax base under this section, **EXCEPT FOR THE TRANSFER**
15 **OF TITLE OR POSSESSION OF COAL BACK AND FORTH BETWEEN AN OWNER OR OPERATOR OF**
16 **A POWER PLANT AND A PERSON WHO IS RESPONSIBLE FOR REFINING COAL IF BOTH OF**
17 **THE FOLLOWING APPLY:**

18 1. THE TRANSFER OF TITLE OR POSSESSION OF THE COAL IS FOR THE PURPOSE
19 OF REFINING THE COAL.

20 2. 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 PARAGRAPH, "COAL REFINING PROCESS" MEANS
23 THE APPLICATION OF A COAL ADDITIVE SYSTEM THAT AIDS THE REDUCTION OF POWER
24 PLANT EMISSIONS DURING THE COMBUSTION OF COAL AND THE TREATMENT OF FLUE GAS.

25 G. For the purposes of this section, "nonmetalliferous mineral
26 product" means oil, natural gas, limestone, sand, gravel or any other
27 nonmetalliferous mineral product, compound or combination of nonmetalliferous
28 mineral products.

29 Sec. 4. Section 42-5151, Arizona Revised Statutes, is amended to read:
30 42-5151. Definitions

31 In this article, unless the context otherwise requires:

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

37 2. "Electric distribution service" means distributing electricity to
38 retail electric customers through the use of electric distribution
39 facilities.

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

43 4. "Electric transmission service" means transmitting electricity to
44 retail electric customers or to electric distribution facilities so

1 classified by the federal energy regulatory commission or, to the extent
2 permitted by law, so classified by the Arizona corporation commission.

3 5. "Electric utility services" means the business of providing
4 electric ancillary services, electric distribution services, electric
5 generation services, electric transmission services and other services
6 related to providing electricity.

7 6. "Electricity" means electric energy, electric capacity or electric
8 capacity and energy.

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

12 8. "Natural gas" means natural or artificial gas, and includes methane
13 and propane gas, the natural gas commodity, natural gas pipeline capacity or
14 natural gas commodity and pipeline capacity.

15 9. "Natural gas utility services" means the business of selling
16 natural gas or providing natural gas transportation services or other
17 services related to providing natural gas.

18 10. "Notice" means written notice served personally or by certified
19 mail and addressed to the last known address of the person to whom such
20 notice is given.

21 11. "Other services" includes metering, meter reading services, billing
22 and collecting services.

23 12. "Person" means an individual, firm, partnership, joint venture,
24 association, corporation, estate, trust, receiver or syndicate, this state or
25 a county, city, municipality, district or other political subdivision or
26 agency thereof.

27 13. "Purchase" means any transfer, exchange or barter, conditional or
28 otherwise, in any manner or by any means, of tangible personal property for a
29 consideration, including transactions by which the possession of property is
30 transferred but the seller retains the title as security for payment.

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

38 (a) Discounts allowed and taken.

39 (b) Charges for labor or services in installing, remodeling or
40 repairing.

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

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

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

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

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

14 17. "Retailer" includes:

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

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

34 18. "Solar daylighting" means a device that is specifically designed to
35 capture and redirect the visible portion of the solar beam, while controlling
36 the infrared portion, for use in illuminating interior building spaces in
37 lieu of artificial lighting.

38 19. "Solar energy device" means a system or series of mechanisms
39 designed primarily to provide heating, to provide cooling, to produce
40 electrical power, to produce mechanical power, to provide solar daylighting
41 or to provide any combination of the foregoing by means of collecting and
42 transferring solar generated energy into such uses by either active or
43 passive means, including wind generator systems that produce electricity.
44 Solar energy systems may also have the capability of storing solar energy for
45 future use. Passive systems shall clearly be designed as a solar energy

1 device, such as a trombe wall, and not merely as a part of a normal
2 structure, such as a window.

3 20. "Storage" means keeping or retaining tangible personal property
4 purchased from a retailer for any purpose except sale in the regular course
5 of business or subsequent use solely outside this state. FOR THE PURPOSES OF
6 THIS PARAGRAPH, SALE IN THE REGULAR COURSE OF BUSINESS DOES NOT INCLUDE THE
7 TRANSFER OF TITLE OR POSSESSION OF COAL BACK AND FORTH BETWEEN AN OWNER OR
8 OPERATOR OF A POWER PLANT AND A PERSON WHO IS RESPONSIBLE FOR REFINING COAL
9 IF BOTH OF THE FOLLOWING APPLY:

10 (a) THE TRANSFER OF TITLE OR POSSESSION OF THE COAL IS FOR THE PURPOSE
11 OF REFINING THE COAL.

12 (b) THE TITLE OR POSSESSION OF THE COAL IS TRANSFERRED BACK TO THE
13 OWNER OR OPERATOR OF THE POWER PLANT AFTER COMPLETION OF THE COAL REFINING
14 PROCESS. FOR THE PURPOSES OF THIS SUBDIVISION, "COAL REFINING PROCESS" MEANS
15 THE APPLICATION OF A COAL ADDITIVE SYSTEM THAT AIDS THE REDUCTION OF POWER
16 PLANT EMISSIONS DURING THE COMBUSTION OF COAL AND THE TREATMENT OF FLUE GAS.

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

21 22. "Use or consumption" means the exercise of any right or power over
22 tangible personal property incidental to owning the property except holding
23 for sale or selling the property in the regular course of business. FOR THE
24 PURPOSES OF THIS PARAGRAPH, SELLING THE PROPERTY IN THE REGULAR COURSE OF
25 BUSINESS DOES NOT INCLUDE THE TRANSFER OF TITLE OR POSSESSION OF COAL BACK
26 AND FORTH BETWEEN AN OWNER OR OPERATOR OF A POWER PLANT AND A PERSON WHO IS
27 RESPONSIBLE FOR REFINING COAL IF BOTH OF THE FOLLOWING APPLY:

28 (a) THE TRANSFER OF TITLE OR POSSESSION OF THE COAL IS FOR THE PURPOSE
29 OF REFINING THE COAL.

30 (b) THE TITLE OR POSSESSION OF THE COAL IS TRANSFERRED BACK TO THE
31 OWNER OR OPERATOR OF THE POWER PLANT AFTER COMPLETION OF THE COAL REFINING
32 PROCESS. FOR THE PURPOSES OF THIS SUBDIVISION, "COAL REFINING PROCESS" MEANS
33 THE APPLICATION OF A COAL ADDITIVE SYSTEM THAT AIDS THE REDUCTION OF POWER
34 PLANT EMISSIONS DURING THE COMBUSTION OF COAL AND THE TREATMENT OF FLUE GAS.

35 23. "Utility business" means a person that is engaged in the business
36 of providing electric utility services to retail electric customers or
37 natural gas utility services to retail natural gas customers.

38 Sec. 5. Section 42-5159, Arizona Revised Statutes, as amended by Laws
39 2013, first special session, chapter 9, section 7, is amended to read:

40 42-5159. Exemptions

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

- 1 1. Tangible personal property sold in this state, the gross receipts
2 from the sale of which are included in the measure of the tax imposed by
3 articles 1 and 2 of this chapter.
- 4 2. Tangible personal property the sale or use of which has already
5 been subjected to an excise tax at a rate equal to or exceeding the tax
6 imposed by this article under the laws of another state of the United States.
7 If the excise tax imposed by the other state is at a rate less than the tax
8 imposed by this article, the tax imposed by this article is reduced by the
9 amount of the tax already imposed by the other state.
- 10 3. Tangible personal property, the storage, use or consumption of
11 which the constitution or laws of the United States prohibit this state from
12 taxing or to the extent that the rate or imposition of tax is
13 unconstitutional under the laws of the United States.
- 14 4. Tangible personal property ~~which~~ THAT directly enters into and
15 becomes an ingredient or component part of any manufactured, fabricated or
16 processed article, substance or commodity for sale in the regular course of
17 business.
- 18 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
19 which in this state is subject to the tax imposed under title 28, chapter 16,
20 article 1, use fuel ~~which~~ THAT is sold to or used by a person holding a valid
21 single trip use fuel tax permit issued under section 28-5739, aviation fuel,
22 the sales, distribution or use of which in this state is subject to the tax
23 imposed under section 28-8344, and jet fuel, the sales, distribution or use
24 of which in this state is subject to the tax imposed under article 8 of this
25 chapter.
- 26 6. Tangible personal property brought into this state by an individual
27 who was a nonresident at the time the property was purchased for storage, use
28 or consumption by the individual if the first actual use or consumption of
29 the property was outside this state, unless the property is used in
30 conducting a business in this state.
- 31 7. Purchases of implants used as growth promotants and injectable
32 medicines, not already exempt under paragraph 16 of this subsection, for
33 livestock and poultry owned by, or in possession of, persons who are engaged
34 in producing livestock, poultry, or livestock or poultry products, or who are
35 engaged in feeding livestock or poultry commercially. For the purposes of
36 this paragraph, "poultry" includes ratites.
- 37 8. Livestock, poultry, supplies, feed, salts, vitamins and other
38 additives for use or consumption in the businesses of farming, ranching and
39 feeding livestock or poultry, not including fertilizers, herbicides and
40 insecticides. For the purposes of this paragraph, "poultry" includes
41 ratites.
- 42 9. Seeds, seedlings, roots, bulbs, cuttings and other propagative
43 material for use in commercially producing agricultural, horticultural,
44 viticultural or floricultural crops in this state.

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

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

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

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

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

14 13. Tangible personal property purchased by:

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

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

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

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

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

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

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

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

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

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

7 (i) A qualifying community health center as defined in section
8 42-5001.

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

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

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

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

30 15. Tangible personal property sold by:

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

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

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

- 1 16. Drugs and medical oxygen, including delivery hose, mask or tent,
2 regulator and tank, on the prescription of a member of the medical, dental or
3 veterinarian profession who is licensed by law to administer such substances.
- 4 17. Prosthetic appliances, as defined in section 23-501, prescribed or
5 recommended by a person who is licensed, registered or otherwise
6 professionally credentialed as a physician, dentist, podiatrist,
7 chiropractor, naturopath, homeopath, nurse or optometrist.
- 8 18. Prescription eyeglasses and contact lenses.
- 9 19. Insulin, insulin syringes and glucose test strips.
- 10 20. Hearing aids as defined in section 36-1901.
- 11 21. Durable medical equipment ~~which~~ THAT has a centers for medicare and
12 medicaid services common procedure code, is designated reimbursable by
13 medicare, is prescribed by a person who is licensed under title 32, chapter
14 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
15 used to serve a medical purpose, is generally not useful to a person in the
16 absence of illness or injury and is appropriate for use in the home.
- 17 22. Food, as provided in and subject to the conditions of article 3 of
18 this chapter and section 42-5074.
- 19 23. Items purchased with United States department of agriculture food
20 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
21 958) or food instruments issued under section 17 of the child nutrition act
22 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
23 section 1786).
- 24 24. Food and drink provided without monetary charge by a taxpayer ~~which~~
25 THAT is subject to section 42-5074 to its employees for their own consumption
26 on the premises during the employees' hours of employment.
- 27 25. Tangible personal property that is used or consumed in a business
28 subject to section 42-5074 for human food, drink or condiment, whether
29 simple, mixed or compounded.
- 30 26. Food, drink or condiment and accessory tangible personal property
31 that are acquired for use by or provided to a school district or charter
32 school if they are to be either served or prepared and served to persons for
33 consumption on the premises of a public school in the school district or on
34 the premises of the charter school during school hours.
- 35 27. Lottery tickets or shares purchased pursuant to title 5, chapter
36 5.1, article 1.
- 37 28. Textbooks, sold by a bookstore, that are required by any state
38 university or community college.
- 39 29. Magazines, other periodicals or other publications produced by this
40 state to encourage tourist travel.
- 41 30. Paper machine clothing, such as forming fabrics and dryer felts,
42 purchased by a paper manufacturer and directly used or consumed in paper
43 manufacturing.

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

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

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

16 (b) Public educational institutions.

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

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

22 34. Machinery, equipment, technology or related supplies that are only
23 useful to assist a person who is physically disabled as defined in section
24 46-191, has a developmental disability as defined in section 36-551 or has a
25 head injury as defined in section 41-3201 to be more independent and
26 functional.

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

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

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

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

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

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

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

31 40. Through December 31, 1994, tangible personal property sold pursuant
32 to a personal property liquidation transaction, as defined in section
33 42-5061. From and after December 31, 1994, tangible personal property sold
34 pursuant to a personal property liquidation transaction, as defined in
35 section 42-5061, if the gross proceeds of the sales were included in the
36 measure of the tax imposed by article 1 of this chapter or if the personal
37 property liquidation was a casual activity or transaction.

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

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

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

9 44. Alternative fuel vehicles if the vehicle was manufactured as a
10 diesel fuel vehicle and converted to operate on alternative fuel and
11 equipment that is installed in a conventional diesel fuel motor vehicle to
12 convert the vehicle to operate on an alternative fuel, as defined in section
13 1-215.

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

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

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

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

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

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

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

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

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

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

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

8 52. Repair parts installed in equipment used directly by a qualified
9 business under section 41-1516 in harvesting, processing or transporting
10 qualifying forest products removed from qualifying projects as defined in
11 section 41-1516.

12 53. Renewable energy credits or any other unit created to track energy
13 derived from renewable energy resources. For the purposes of this paragraph,
14 "renewable energy credit" means a unit created administratively by the
15 corporation commission or governing body of a public power entity to track
16 kilowatt hours of electricity derived from a renewable energy resource or the
17 kilowatt hour equivalent of conventional energy resources displaced by
18 distributed renewable energy resources.

19 54. Computer data center equipment purchased by the owner, operator or
20 qualified colocation tenant of the computer data center or an authorized
21 agent of the owner, operator or qualified colocation tenant during the
22 qualification period for use in a computer data center that is certified by
23 the Arizona commerce authority under section 41-1519. To qualify for this
24 deduction, at the time of purchase, the owner, operator or qualified
25 colocation tenant must present to the retailer its certificate that is issued
26 pursuant to section 41-1519 and that establishes its qualification for the
27 deduction. For the purposes of this paragraph, "computer data center",
28 "computer data center equipment", "qualification period" and "qualified
29 colocation tenant" have the same meanings prescribed in section 41-1519.

30 55. COAL ACQUIRED FROM AN OWNER OR OPERATOR OF A POWER PLANT BY A
31 PERSON WHO IS RESPONSIBLE FOR REFINING COAL IF BOTH OF THE FOLLOWING APPLY:

32 (a) THE TRANSFER OF TITLE OR POSSESSION OF THE COAL IS FOR THE PURPOSE
33 OF REFINING THE COAL.

34 (b) THE TITLE OR POSSESSION OF THE COAL IS TRANSFERRED BACK TO THE
35 OWNER OR OPERATOR OF THE POWER PLANT AFTER COMPLETION OF THE COAL REFINING
36 PROCESS. FOR THE PURPOSES OF THIS SUBDIVISION, "COAL REFINING PROCESS" MEANS
37 THE APPLICATION OF A COAL ADDITIVE SYSTEM THAT AIDS THE REDUCTION OF POWER
38 PLANT EMISSIONS DURING THE COMBUSTION OF COAL AND THE TREATMENT OF FLUE GAS.

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

42 1. Machinery, or equipment, used directly in manufacturing,
43 processing, fabricating, job printing, refining or metallurgical operations.
44 The terms "manufacturing", "processing", "fabricating", "job printing",
45 "refining" and "metallurgical" as used in this paragraph refer to and include

1 those operations commonly understood within their ordinary meaning.
2 "Metallurgical operations" includes leaching, milling, precipitating,
3 smelting and refining.

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

10 3. Tangible personal property sold to persons engaged in business
11 classified under the telecommunications classification under section 42-5064
12 and consisting of central office switching equipment, switchboards, private
13 branch exchange equipment, microwave radio equipment and carrier equipment
14 including optical fiber, coaxial cable and other transmission media **which**
15 **THAT** are components of carrier systems.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 21. Qualifying equipment that is purchased from and after June 30, 2004
21 through June 30, 2024 by a qualified business under section 41-1516 for
22 harvesting or processing qualifying forest products removed from qualifying
23 projects as defined in section 41-1516. To qualify for this exemption, the
24 qualified business must obtain and present its certification from the Arizona
25 commerce authority at the time of purchase.

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

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

32 2. Janitorial equipment and hand tools.

33 3. Office equipment, furniture and supplies.

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

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

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

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

44 8. MACHINERY AND EQUIPMENT OR TANGIBLE PERSONAL PROPERTY USED BY A
45 CONTRACTOR IN THE PERFORMANCE OF A CONTRACT.

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

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

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

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

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

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

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

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

29 1. "Aircraft" includes:

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

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

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

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

43 Sec. 6. Repeal

44 Section 42-5159, Arizona Revised Statutes, as amended by Laws 2013,
45 chapter 255, section 17, is repealed.

1 Sec. 7. Section 42-6004, Arizona Revised Statutes, as amended by Laws
2 2013, first regular session, chapter 27, section 2, chapter 120, section 2,
3 chapter 153, section 2 and chapter 236, section 6 and Laws 2013, first
4 special session, chapter 9, section 8, is amended to read:

5 42-6004. Exemption from municipal tax

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

8 1. Exhibition events in this state sponsored, conducted or operated by
9 a nonprofit organization that is exempt from taxation under section
10 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
11 organization is associated with a major league baseball team or a national
12 touring professional golfing association and no part of the organization's
13 net earnings inures to the benefit of any private shareholder or individual.

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

17 3. Sales of warranty or service contracts.

18 4. Sales of motor vehicles to nonresidents of this state for use
19 outside this state if the ~~vendor~~ MOTOR VEHICLE DEALER ships or delivers the
20 motor vehicle to a destination outside this state.

21 5. Interest on finance contracts.

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

23 7. Sales of food or other items purchased with United States
24 department of agriculture food stamp coupons issued under the food stamp act
25 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section
26 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,
27 section 4302; 42 United States Code section 1786) but may impose such a tax
28 on other sales of food. If a city, town or special taxing district exempts
29 sales of food from its tax or imposes a different transaction privilege rate
30 on the gross proceeds of sales or gross income from sales of food and nonfood
31 items, it shall use the definition of food prescribed by rule adopted by the
32 department pursuant to section 42-5106.

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

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

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

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

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

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

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

8 (a) "Affiliated companies, businesses, persons or reciprocal insurers"
9 means the lessor holds a controlling interest in the lessee, the lessee holds
10 a controlling interest in the lessor, an affiliated entity holds a
11 controlling interest in both the lessor and the lessee or an unrelated person
12 holds a controlling interest in both the lessor and lessee.

13 (b) "Controlling interest" means direct or indirect ownership of at
14 least eighty per cent of the voting shares of a corporation or of the
15 interests in a company, business or person other than a corporation.

16 (c) "Reciprocal insurer" has the same meaning prescribed in section
17 20-762.

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

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

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

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

31 (iii) Any activity that is related to the activities described in
32 subdivision (a), items (i) and (ii) of this paragraph, including, but not
33 limited to, inspecting the installation of, or testing, the machinery,
34 equipment or other tangible personal property.

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

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

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

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

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

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

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

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

20 15. Computer data center equipment purchased by the owner, operator or
21 qualified colocation tenant of the computer data center or an authorized
22 agent of the owner, operator or qualified colocation tenant during the
23 qualification period for use in a computer data center that is certified by
24 the Arizona commerce authority under section 41-1519. To qualify for this
25 deduction, at the time of purchase, the owner, operator or qualified
26 colocation tenant must present to the retailer its certificate that is issued
27 pursuant to section 41-1519 and that establishes its qualification for the
28 deduction. For the purposes of this paragraph, "computer data center",
29 "computer data center equipment", "qualification period" and "qualified
30 colocation tenant" have the same meanings prescribed in section 41-1519.

31 16. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT
32 WITH THE OWNER OF REAL PROPERTY FOR THE MAINTENANCE, REPAIR OR REPLACEMENT OF
33 EXISTING PROPERTY IS NOT SUBJECT TO TAX IF THE CONTRACT DOES NOT INCLUDE
34 MODIFICATION ACTIVITIES. FOR THE PURPOSES OF THIS PARAGRAPH:

35 (a) EACH CONTRACT OR PROJECT IS INDEPENDENT OF ANOTHER CONTRACT.

36 (b) "MODIFICATION" MEANS CONSTRUCTION, ALTERATION, ADDITION,
37 SUBTRACTION, IMPROVEMENT, MOVEMENT, WRECKAGE OR DEMOLITION.

38 17. THE TRANSFER OF TITLE OR POSSESSION OF COAL BACK AND FORTH BETWEEN
39 AN OWNER OR OPERATOR OF A POWER PLANT AND A PERSON WHO IS RESPONSIBLE FOR
40 REFINING COAL IF BOTH OF THE FOLLOWING APPLY:

41 (a) THE TRANSFER OF TITLE OR POSSESSION OF THE COAL IS FOR THE PURPOSE
42 OF REFINING THE COAL.

43 (b) THE TITLE OR POSSESSION OF THE COAL IS TRANSFERRED BACK TO THE
44 OWNER OR OPERATOR OF THE POWER PLANT AFTER COMPLETION OF THE COAL REFINING
45 PROCESS. FOR THE PURPOSES OF THIS SUBDIVISION, "COAL REFINING PROCESS" MEANS

1 THE APPLICATION OF A COAL ADDITIVE SYSTEM THAT AIDS THE REDUCTION OF POWER
2 PLANT EMISSIONS DURING THE COMBUSTION OF COAL AND THE TREATMENT OF FLUE GAS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 Sec. 8. Repeal

18 Section 42-6004, Arizona Revised Statutes, as amended by Laws 2013,
19 chapter 255, section 20, is repealed.

20 Sec. 9. Retroactivity

21 This act applies retroactively to refining facilities constructed in
22 this state from and after December 31, 2013.

23 Sec. 10. Effective date

24 Sections 1, 5 and 7 of this act are effective from and after December 31,
25 2014.