

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2285

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

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.

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

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

6           7. The sale of stocks and bonds.

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

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

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

14          11. Prescription eyeglasses or contact lenses.

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

16          13. Durable medical equipment ~~which~~ **THAT** has a centers for medicare and  
17 medicaid services common procedure code, is designated reimbursable by  
18 medicare, is prescribed by a person who is licensed under title 32, chapter  
19 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and  
20 customarily used to serve a medical purpose, is generally not useful to a  
21 person in the absence of illness or injury and is appropriate for use in the  
22 home.

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

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

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

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

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

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

12           20. Lottery tickets or shares pursuant to title 5, chapter 5.1,  
13 article 1.

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

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

32           (i) Items or intangibles that are sold to one or more persons, through  
33 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.

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

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

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

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

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

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

24          28. The sale of a motor vehicle to:

25               (a) A nonresident of this state if the purchaser's state of residence  
26               does not allow a corresponding use tax exemption to the tax imposed by  
27               article 1 of this chapter and if the nonresident has secured a special ninety  
28               day nonresident registration permit for the vehicle as prescribed by sections  
29               28-2154 and 28-2154.01.

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

32          29. Tangible personal property purchased in this state by a nonprofit  
33          charitable organization that has qualified under section 501(c)(3) of the

1 United States internal revenue code and that engages in and uses such  
2 property exclusively in programs for mentally or physically handicapped  
3 persons if the programs are exclusively for training, job placement,  
4 rehabilitation or testing.

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

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

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

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

26 34. Machinery, equipment, technology or related supplies that are only  
27 useful to assist a person who is physically disabled as defined in section  
28 46-191, has a developmental disability as defined in section 36-551 or has a  
29 head injury as defined in section 41-3201 to be more independent and  
30 functional.

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

1           ~~36.~~ 35. Sales of natural gas or liquefied petroleum gas used to propel  
2 a motor vehicle.

3           ~~37.~~ 36. Paper machine clothing, such as forming fabrics and dryer  
4 felts, sold to a paper manufacturer and directly used or consumed in paper  
5 manufacturing.

6           ~~38.~~ 37. Coal, petroleum, coke, natural gas, virgin fuel oil and  
7 electricity sold to a qualified environmental technology manufacturer,  
8 producer or processor as defined in section 41-1514.02 and directly used or  
9 consumed in the generation or provision of on-site power or energy solely for  
10 environmental technology manufacturing, producing or processing or  
11 environmental protection. This paragraph shall apply for twenty full  
12 consecutive calendar or fiscal years from the date the first paper  
13 manufacturing machine is placed in service. In the case of an environmental  
14 technology manufacturer, producer or processor who does not manufacture  
15 paper, the time period shall begin with the date the first manufacturing,  
16 processing or production equipment is placed in service.

17           ~~39.~~ 38. Sales of liquid, solid or gaseous chemicals used in  
18 manufacturing, processing, fabricating, mining, refining, metallurgical  
19 operations, research and development and, beginning on January 1, 1999,  
20 printing, if using or consuming the chemicals, alone or as part of an  
21 integrated system of chemicals, involves direct contact with the materials  
22 from which the product is produced for the purpose of causing or permitting a  
23 chemical or physical change to occur in the materials as part of the  
24 production process. This paragraph does not include chemicals that are used  
25 or consumed in activities such as packaging, storage or transportation but  
26 does not affect any deduction for such chemicals that is otherwise provided  
27 by this section. For the purposes of this paragraph, "printing" means a  
28 commercial printing operation and includes job printing, engraving,  
29 embossing, copying and bookbinding.

30           ~~40.~~ 39. Through December 31, 1994, personal property liquidation  
31 transactions, conducted by a personal property liquidator. From and after  
32 December 31, 1994, personal property liquidation transactions shall be  
33 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



1 of this state, regardless of where title to the motor vehicles passes or its  
2 free on board point.

3 ~~46.~~ 45. Tangible personal property sold to a person engaged in  
4 business and subject to tax under the transient lodging classification if the  
5 tangible personal property is a personal hygiene item or articles used by  
6 human beings for food, drink or condiment, except alcoholic beverages, that  
7 are furnished without additional charge to and intended to be consumed by the  
8 transient during the transient's occupancy.

9 ~~47.~~ 46. Sales of alternative fuel, as defined in section 1-215, to a  
10 used oil fuel burner who has received a permit to burn used oil or used oil  
11 fuel under section 49-426 or 49-480.

12 ~~48.~~ 47. Sales of materials that are purchased by or for publicly  
13 funded libraries including school district libraries, charter school  
14 libraries, community college libraries, state university libraries or  
15 federal, state, county or municipal libraries for use by the public as  
16 follows:

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

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

19 ~~49.~~ 48. Tangible personal property sold to a commercial airline and  
20 consisting of food, beverages and condiments and accessories used for serving  
21 the food and beverages, if those items are to be provided without additional  
22 charge to passengers for consumption in flight. For the purposes of this  
23 paragraph, "commercial airline" means a person holding a federal certificate  
24 of public convenience and necessity or foreign air carrier permit for air  
25 transportation to transport persons, property or United States mail in  
26 intrastate, interstate or foreign commerce.

27 ~~50.~~ 49. Sales of alternative fuel vehicles if the vehicle was  
28 manufactured as a diesel fuel vehicle and converted to operate on alternative  
29 fuel and equipment that is installed in a conventional diesel fuel motor  
30 vehicle to convert the vehicle to operate on an alternative fuel, as defined  
31 in section 1-215.

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

4           ~~52.~~ 51. Sales of tangible personal property to be incorporated or  
5           installed as part of environmental response or remediation activities under  
6           section 42-5075, subsection B, paragraph 6.

7           ~~53.~~ 52. Sales of tangible personal property by a nonprofit  
8           organization that is exempt from taxation under section 501(c)(6) of the  
9           internal revenue code if the organization produces, organizes or promotes  
10          cultural or civic related festivals or events and no part of the  
11          organization's net earnings inures to the benefit of any private shareholder  
12          or individual.

13          ~~54.~~ 53. Through August 31, 2014, sales of Arizona centennial  
14          medallions by the historical advisory commission.

15          ~~55.~~ 54. Application services that are designed to assess or test  
16          student learning or to promote curriculum design or enhancement purchased by  
17          or for any school district, charter school, community college or state  
18          university. For the purposes of this paragraph:

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

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

24          ~~56.~~ 55. Sales of motor vehicle fuel and use fuel to a qualified  
25          business under section 41-1516 for off-road use in harvesting, processing or  
26          transporting qualifying forest products removed from qualifying projects as  
27          defined in section 41-1516.

28          ~~57.~~ 56. Sales of repair parts installed in equipment used directly by  
29          a qualified business under section 41-1516 in harvesting, processing or  
30          transporting qualifying forest products removed from qualifying projects as  
31          defined in section 41-1516.

32          ~~58.~~ 57. Sales or other transfers of renewable energy credits or any  
33          other unit created to track energy derived from renewable energy resources.

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

6 ~~59.~~ 58. Computer data center equipment purchased by the owner,  
7 operator or qualified colocation tenant of the computer data center or an  
8 authorized agent of the owner, operator or qualified colocation tenant during  
9 the qualification period for use in a computer data center that is certified  
10 by the Arizona commerce authority under section 41-1519. To qualify for this  
11 deduction, at the time of purchase, the owner, operator or qualified  
12 colocation tenant must present to the retailer its certificate that is issued  
13 pursuant to section 41-1519 and that establishes its qualification for the  
14 deduction. For the purposes of this paragraph, "computer data center",  
15 "computer data center equipment", "qualification period" and "qualified  
16 colocation tenant" have the same meanings prescribed in section 41-1519.

17 ~~60.~~ 59. Orthodontic devices dispensed by a dental professional who is  
18 licensed under title 32, chapter 11 to a patient as part of the practice of  
19 dentistry.

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

23 (a) THE TRANSFER OF TITLE OR POSSESSION OF THE COAL IS FOR THE PURPOSE  
24 OF REFINING THE COAL.

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

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

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

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

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

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

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

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

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

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

7           (b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

32                  (i) Over two-thirds of the transmissions, measured in megabytes,  
33          transmitted by the facility during the test period were transmitted to or on

1       behalf of one or more direct broadcast satellite television or data  
2       transmission services that operate pursuant to 47 Code of Federal Regulations  
3       part 25.

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

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

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

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

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

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

1           18. Machinery or equipment, including related structural components,  
2           that is employed in connection with manufacturing, processing, fabricating,  
3           job printing, refining, mining, natural gas pipelines, metallurgical  
4           operations, telecommunications, producing or transmitting electricity or  
5           research and development and that is used directly to meet or exceed rules or  
6           regulations adopted by the federal energy regulatory commission, the United  
7           States environmental protection agency, the United States nuclear regulatory  
8           commission, the Arizona department of environmental quality or a political  
9           subdivision of this state to prevent, monitor, control or reduce land, water  
10          or air pollution.

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

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

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

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

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

30          21. Qualifying equipment that is purchased from and after June 30, 2004  
31          through June 30, 2024 by a qualified business under section 41-1516 for  
32          harvesting or processing qualifying forest products removed from qualifying  
33          projects as defined in section 41-1516. To qualify for this deduction, the



1 qualified business at the time of purchase must present its certification  
2 approved by the department.

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

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

9 2. Janitorial equipment and hand tools.

10 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

31 E. In computing the tax base, gross proceeds of sales or gross income  
32 from retail sales of heavy trucks and trailers does not include any amount

1       attributable to federal excise taxes imposed by 26 United States Code section  
2       4051.

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

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

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

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

- 27            1. Transporting classification.
- 28            2. Utilities classification.
- 29            3. Telecommunications classification.
- 30            4. Pipeline classification.
- 31            5. Private car line classification.
- 32            6. Publication classification.
- 33            7. Job printing classification.

1           8. Prime contracting classification.

2           ~~9. Owner builder sales classification.~~

3           ~~10.~~ 9. Restaurant classification.

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

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

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

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

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

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

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

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

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

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

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

9           O. In computing the tax base in the case of the sale or transfer of  
10 wireless telecommunications equipment as an inducement to a customer to enter  
11 into or continue a contract for telecommunications services that are taxable  
12 under section 42-5064, gross proceeds of sales or gross income does not  
13 include any sales commissions or other compensation received by the retailer  
14 as a result of the customer entering into or continuing a contract for the  
15 telecommunications services.

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

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

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

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

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

1           S. If a seller is entitled to a deduction pursuant to subsection B,  
2 paragraph 15, subdivision (b) of this section, the department may require the  
3 purchaser to establish that the requirements of subsection B, paragraph 15,  
4 subdivision (b) of this section have been satisfied. If the purchaser cannot  
5 establish that the requirements of subsection B, paragraph 15, subdivision  
6 (b) of this section have been satisfied, the purchaser is liable in an amount  
7 equal to any tax, penalty and interest which the seller would have been  
8 required to pay under article 1 of this chapter if the seller had not made a  
9 deduction pursuant to subsection B, paragraph 15, subdivision (b) of this  
10 section. Payment of the amount under this subsection exempts the purchaser  
11 from liability for any tax imposed under article 4 of this chapter and  
12 related to the tangible personal property purchased. The amount shall be  
13 treated as transaction privilege tax to the purchaser and as tax revenues  
14 collected from the seller to designate the distribution base pursuant to  
15 section 42-5029.

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

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

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

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

1       this state is equal to the excise tax that is imposed by the purchaser's  
2       state of residence on the nonexempt sale or use of the motor vehicle.

3             V. For the purposes of this section:

4                 1. "Aircraft" includes:

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

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

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

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

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

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

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

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

29                 4. "Overhead materials" means tangible personal property, the gross  
30                 proceeds of sales or gross income derived from that would otherwise be  
31                 included in the retail classification, and that are used or consumed in the  
32                 performance of a contract, the cost of which is charged to an overhead  
33                 expense account and allocated to various contracts based on generally

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

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

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

16 Sec. 2. Repeal

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

19 Sec. 3. Section 42-5072, Arizona Revised Statutes, is amended to read:

20 42-5072. Mining classification; definition

21 A. The mining classification is comprised of the business of mining,  
22 quarrying or producing for sale, profit or commercial use any  
23 nonmetalliferous mineral product that has been mined, quarried or otherwise  
24 extracted within the boundaries of this state described in article I, section  
25 1, Constitution of Arizona.

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

31 C. The tax base includes the value of the entire product mined,  
32 quarried or produced for sale, profit or commercial use in this state,  
33 regardless of the place of sale of the product or of the fact that deliveries

1 may be made to points without this state. If, however, the sale price of the  
2 product includes freight, the sale price shall be reduced by the actual  
3 freight paid by any person from the place of production to the place of  
4 delivery.

5 D. In the case of a person engaged in business classified under the  
6 mining classification all or part of whose income is derived from service or  
7 manufacturing charges instead of from sales of the products manufactured or  
8 handled, the tax base includes the gross income of the person derived from  
9 the service or manufacturing charge.

10 E. If a person engaging in business classified under the mining  
11 classification ships or transports all or part of a product out of this state  
12 without making sale of the product or ships his product outside of this state  
13 in an unfinished condition, the value of the product or article in the  
14 condition or form in which it existed when transported out of this state and  
15 before it enters interstate commerce is included in the tax base, and the  
16 department shall prescribe equitable and uniform rules for ascertaining that  
17 value. In determining the tax base, if the product or any part of the  
18 product has been processed in this state and the proceeds of such processing  
19 have been included in the tax base of the processor under this chapter, the  
20 person may deduct from the value of the product when transported out of this  
21 state the cost of such processing.

22 F. A person who conducts a business classified under the mining  
23 classification may be deemed also to be engaged in business classified under  
24 the retail classification to the extent the person's activities comprise  
25 business under the retail classification if the tax is paid at the rate  
26 imposed on the retail classification by section 42-5010. If the transaction  
27 is not subject to taxation under the retail classification, the transaction  
28 shall be included in the tax base under this section, EXCEPT FOR THE TRANSFER  
29 OF TITLE OR POSSESSION OF COAL BACK AND FORTH BETWEEN AN OWNER OR OPERATOR OF  
30 A POWER PLANT AND A PERSON WHO IS RESPONSIBLE FOR REFINING COAL IF BOTH OF  
31 THE FOLLOWING APPLY:

32 1. THE TRANSFER OF TITLE OR POSSESSION OF THE COAL IS FOR THE PURPOSE  
33 OF REFINING THE COAL.



2. THE TITLE OR POSSESSION OF THE COAL IS TRANSFERRED BACK TO THE OWNER OR OPERATOR OF THE POWER PLANT AFTER COMPLETION OF THE COAL REFINING PROCESS. FOR THE PURPOSES OF THIS PARAGRAPH, "COAL REFINING PROCESS" MEANS THE APPLICATION OF A COAL ADDITIVE SYSTEM THAT AIDS THE REDUCTION OF POWER PLANT EMISSIONS DURING THE COMBUSTION OF COAL AND THE TREATMENT OF FLUE GAS.

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

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

42-5151. Definitions

In this article, unless the context otherwise requires:

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

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

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

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

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

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

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

4           8. "Natural gas" means natural or artificial gas, and includes methane  
5           and propane gas, the natural gas commodity, natural gas pipeline capacity or  
6           natural gas commodity and pipeline capacity.

7           9. "Natural gas utility services" means the business of selling  
8           natural gas or providing natural gas transportation services or other  
9           services related to providing natural gas.

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

13          11. "Other services" includes metering, meter reading services, billing  
14          and collecting services.

15          12. "Person" means an individual, firm, partnership, joint venture,  
16          association, corporation, estate, trust, receiver or syndicate, this state or  
17          a county, city, municipality, district or other political subdivision or  
18          agency thereof.

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

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

30               (a) Discounts allowed and taken.

31               (b) Charges for labor or services in installing, remodeling or  
32          repairing.

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

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

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

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

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

17 17. "Retailer" includes:

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

30 (b) A person who solicits orders for tangible personal property by  
31 mail if the solicitations are substantial and recurring or if the retailer  
32 benefits from any banking, financing, debt collection, telecommunication,  
33 television shopping system, cable, optic, microwave or other communication

1 system or marketing activities occurring in this state or benefits from the  
2 location in this state of authorized installation, servicing or repair  
3 facilities.

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

8 19. "Solar energy device" means a system or series of mechanisms  
9 designed primarily to provide heating, to provide cooling, to produce  
10 electrical power, to produce mechanical power, to provide solar daylighting  
11 or to provide any combination of the foregoing by means of collecting and  
12 transferring solar generated energy into such uses by either active or  
13 passive means, including wind generator systems that produce electricity.  
14 Solar energy systems may also have the capability of storing solar energy for  
15 future use. Passive systems shall clearly be designed as a solar energy  
16 device, such as a trombe wall, and not merely as a part of a normal  
17 structure, such as a window.

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

25 (a) THE TRANSFER OF TITLE OR POSSESSION OF THE COAL IS FOR THE PURPOSE  
26 OF REFINING THE COAL.

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

32 21. "Taxpayer" means any retailer or person storing, using or consuming  
33 tangible personal property the storage, use or consumption of which is

1 subject to the tax imposed by this article when such tax was not paid to a  
2 retailer.

3 22. "Use or consumption" means the exercise of any right or power over  
4 tangible personal property incidental to owning the property except holding  
5 for sale or selling the property in the regular course of business. FOR THE  
6 PURPOSES OF THIS PARAGRAPH, SELLING THE PROPERTY IN THE REGULAR COURSE OF  
7 BUSINESS DOES NOT INCLUDE THE TRANSFER OF TITLE OR POSSESSION OF COAL BACK  
8 AND FORTH BETWEEN AN OWNER OR OPERATOR OF A POWER PLANT AND A PERSON WHO IS  
9 RESPONSIBLE FOR REFINING COAL 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 23. "Utility business" means a person that is engaged in the business  
18 of providing electric utility services to retail electric customers or  
19 natural gas utility services to retail natural gas customers.

20 Sec. 5. Section 42-5159, Arizona Revised Statutes, as amended by Laws  
21 2013, first special session, chapter 9, section 7, is amended to read:

22 42-5159. Exemptions

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

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

29 2. Tangible personal property the sale or use of which has already  
30 been subjected to an excise tax at a rate equal to or exceeding the tax  
31 imposed by this article under the laws of another state of the United States.  
32 If the excise tax imposed by the other state is at a rate less than the tax

1 imposed by this article, the tax imposed by this article is reduced by the  
2 amount of the tax already imposed by the other state.

3 3. Tangible personal property, the storage, use or consumption of  
4 which the constitution or laws of the United States prohibit this state from  
5 taxing or to the extent that the rate or imposition of tax is  
6 unconstitutional under the laws of the United States.

7 4. Tangible personal property ~~which~~ THAT directly enters into and  
8 becomes an ingredient or component part of any manufactured, fabricated or  
9 processed article, substance or commodity for sale in the regular course of  
10 business.

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

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

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

30 8. Livestock, poultry, supplies, feed, salts, vitamins and other  
31 additives for use or consumption in the businesses of farming, ranching and  
32 feeding livestock or poultry, not including fertilizers, herbicides and

1 insecticides. For the purposes of this paragraph, "poultry" includes  
2 ratites.

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

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

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

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

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

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

19 13. Tangible personal property purchased by:

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

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

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

30 (d) A qualifying health care organization, as defined in section  
31 42-5001, if the tangible personal property is used by the organization solely  
32 to provide health and medical related educational and charitable services.

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

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

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

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

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

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

24 (i) A qualifying community health center as defined in section  
25 42-5001.

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

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



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

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

14           15. Tangible personal property sold by:

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

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

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

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

31           17. Prosthetic appliances, as defined in section 23-501, prescribed or  
32 recommended by a person who is licensed, registered or otherwise

1 professionally credentialed as a physician, dentist, podiatrist,  
2 chiropractor, naturopath, homeopath, nurse or optometrist.

3 18. Prescription eyeglasses and contact lenses.

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

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

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

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

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

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

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

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

30 27. Lottery tickets or shares purchased pursuant to title 5, chapter  
31 5.1, article 1.

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

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

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

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

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

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

21           (b) Public educational institutions.

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

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

27           34. Machinery, equipment, technology or related supplies that are only  
28 useful to assist a person who is physically disabled as defined in section  
29 46-191, has a developmental disability as defined in section 36-551 or has a  
30 head injury as defined in section 41-3201 to be more independent and  
31 functional.

32           35. Liquid, solid or gaseous chemicals used in manufacturing,  
33 processing, fabricating, mining, refining, metallurgical operations, research

1 and development and, beginning on January 1, 1999, printing, if using or  
2 consuming the chemicals, alone or as part of an integrated system of  
3 chemicals, involves direct contact with the materials from which the product  
4 is produced for the purpose of causing or permitting a chemical or physical  
5 change to occur in the materials as part of the production process. This  
6 paragraph does not include chemicals that are used or consumed in activities  
7 such as packaging, storage or transportation but does not affect any  
8 exemption for such chemicals that is otherwise provided by this section. For  
9 the purposes of this paragraph, "printing" means a commercial printing  
10 operation and includes job printing, engraving, embossing, copying and  
11 bookbinding.

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

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

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

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

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

1 expense account and allocated to various contracts based ~~upon~~ ON generally  
2 accepted accounting principles and consistent with government contract  
3 accounting standards.

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

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

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

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

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

1           44. Alternative fuel vehicles if the vehicle was manufactured as a  
2 diesel fuel vehicle and converted to operate on alternative fuel and  
3 equipment that is installed in a conventional diesel fuel motor vehicle to  
4 convert the vehicle to operate on an alternative fuel, as defined in section  
5 1-215.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1           (a) THE TRANSFER OF TITLE OR POSSESSION OF THE COAL IS FOR THE PURPOSE  
2 OF REFINING THE COAL.

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

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

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

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

24           3. Tangible personal property sold to persons engaged in business  
25 classified under the telecommunications classification under section 42-5064  
26 and consisting of central office switching equipment, switchboards, private  
27 branch exchange equipment, microwave radio equipment and carrier equipment  
28 including optical fiber, coaxial cable and other transmission media ~~which~~  
29 ~~THAT~~ are components of carrier systems.

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



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

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

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

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

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

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

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

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

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

1 a governmentally adopted and controlled program to provide urban mass  
2 transportation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5           18. Machinery or equipment, including related structural components,  
6 that is employed in connection with manufacturing, processing, fabricating,  
7 job printing, refining, mining, natural gas pipelines, metallurgical  
8 operations, telecommunications, producing or transmitting electricity or  
9 research and development and that is used directly to meet or exceed rules or  
10 regulations adopted by the federal energy regulatory commission, the United  
11 States environmental protection agency, the United States nuclear regulatory  
12 commission, the Arizona department of environmental quality or a political  
13 subdivision of this state to prevent, monitor, control or reduce land, water  
14 or air pollution.

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

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

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

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

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

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

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

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

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

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

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

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

7. Motors and pumps used in drip irrigation systems.

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

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

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

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

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

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

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

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

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

22           1. "Aircraft" includes:

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

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

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

32           H. For the purposes of subsection D of this section, "ancillary  
33 services", "electric distribution service", "electric generation service",

1 "electric transmission service" and "other services" have the same meanings  
2 prescribed in section 42-5063.

3 Sec. 6. Repeal

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

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

10 42-6004. Exemption from municipal tax

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

13 1. Exhibition events in this state sponsored, conducted or operated by  
14 a nonprofit organization that is exempt from taxation under section  
15 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the  
16 organization is associated with a major league baseball team or a national  
17 touring professional golfing association and no part of the organization's  
18 net earnings inures to the benefit of any private shareholder or individual.

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

22 3. Sales of warranty or service contracts.

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

26 5. Interest on finance contracts.

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

28 7. Sales of food or other items purchased with United States  
29 department of agriculture food stamp coupons issued under the food stamp act  
30 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section  
31 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,  
32 section 4302; 42 United States Code section 1786) but may impose such a tax  
33 on other sales of food. If a city, town or special taxing district exempts

1 sales of food from its tax or imposes a different transaction privilege rate  
2 on the gross proceeds of sales or gross income from sales of food and nonfood  
3 items, it shall use the definition of food prescribed by rule adopted by the  
4 department pursuant to section 42-5106.

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

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

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

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

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

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

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

25 (a) "Affiliated companies, businesses, persons or reciprocal insurers"  
26 means the lessor holds a controlling interest in the lessee, the lessee holds  
27 a controlling interest in the lessor, an affiliated entity holds a  
28 controlling interest in both the lessor and the lessee or an unrelated person  
29 holds a controlling interest in both the lessor and lessee.

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



1           (c) "Reciprocal insurer" has the same meaning prescribed in section  
2 20-762.

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

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

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

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

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

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

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

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

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

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

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

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

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

16           15. Computer data center equipment purchased by the owner, operator or  
17 qualified colocation tenant of the computer data center or an authorized  
18 agent of the owner, operator or qualified colocation tenant during the  
19 qualification period for use in a computer data center that is certified by  
20 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           16. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT  
28 WITH THE OWNER OF REAL PROPERTY FOR THE MAINTENANCE, REPAIR OR REPLACEMENT OF  
29 EXISTING PROPERTY IS NOT SUBJECT TO TAX IF THE CONTRACT DOES NOT INCLUDE  
30 MODIFICATION ACTIVITIES. FOR THE PURPOSES OF THIS PARAGRAPH:

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

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

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

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

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

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

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

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

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

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

4. Incarcerating or detaining in a privately operated prison, jail or detention facility prisoners who are under the jurisdiction of the United

1 States, this state or any other state or a political subdivision of this  
2 state or of any other state.

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

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

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

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

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

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

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

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

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

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

5           Sec. 8. Repeal

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

8           Sec. 9. Retroactivity

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

11          Sec. 10. Effective date

12          Sections 1, 5 and 7 of this act are effective from and after December  
13 31, 2014."

14 Amend title to conform

DEBBIE LESKO

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