

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2026

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 42-6004, Arizona Revised Statutes, is amended to
3 read:

4 42-6004. Exemption from municipal tax; definitions

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

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

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

16 3. Sales of warranty or service contracts.

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

20 5. Interest on finance contracts.

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

22 7. Sales of food or other items purchased with United States
23 department of agriculture food stamp coupons issued under the food stamp act
24 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section

1 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,
2 section 4302; 42 United States Code section 1786) but may impose such a tax
3 on other sales of food. If a city, town or special taxing district exempts
4 sales of food from its tax or imposes a different transaction privilege rate
5 on the gross proceeds of sales or gross income from sales of food and nonfood
6 items, it shall use the definition of food prescribed by rule adopted by the
7 department pursuant to section 42-5106.

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

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

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

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

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

24 ~~11. Through August 31, 2014, sales of Arizona centennial medallions by~~
25 ~~the historical advisory commission.~~

26 ~~12.~~ 11. Leasing real property between affiliated companies,
27 businesses, persons or reciprocal insurers. For the purposes of this
28 paragraph:

29 (a) "Affiliated companies, businesses, persons or reciprocal insurers"
30 means the lessor holds a controlling interest in the lessee, the lessee holds
31 a controlling interest in the lessor, affiliated persons hold a controlling

1 interest in both the lessor and the lessee, or an unrelated person holds a
2 controlling interest in both the lessor and lessee.

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

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

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

11 (e) "Reciprocal insurer" has the same meaning prescribed in section
12 20-762.

13 ~~13-~~ 12. The gross proceeds of sales or gross income derived from a
14 contract for the installation, assembly, repair or maintenance of machinery,
15 equipment or other tangible personal property that is described in section
16 42-5061, subsection B and that has independent functional utility, pursuant
17 to the following provisions:

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

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

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

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

29 (b) The deduction provided in this paragraph does not include gross
30 proceeds of sales or gross income from the portion of any contracting
31 activity that consists of the development of, or modification to, real
32 property in order to facilitate the installation, assembly, repair,

1 maintenance or removal of machinery, equipment or other tangible personal
2 property described in section 42-5061, subsection B.

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

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

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

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

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

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

21 ~~14.~~ 13. The leasing or renting of certified ignition interlock devices
22 installed pursuant to the requirements prescribed by section 28-1461. For
23 the purposes of this paragraph, "certified ignition interlock device" has the
24 same meaning prescribed in section 28-1301.

25 ~~15.~~ 14. Computer data center equipment purchased by the owner,
26 operator or qualified colocation tenant of the computer data center or an
27 authorized agent of the owner, operator or qualified colocation tenant during
28 the qualification period for use in a computer data center that is certified
29 by the Arizona commerce authority under section 41-1519. To qualify for this
30 deduction, at the time of purchase, the owner, operator or qualified
31 colocation tenant must present to the retailer its certificate that is issued
32 pursuant to section 41-1519 and that establishes its qualification for the

1 deduction. For the purposes of this paragraph, "computer data center",
2 "computer data center equipment", "qualification period" and "qualified
3 colocation tenant" have the same meanings prescribed in section 41-1519.

4 ~~16.~~ 15. The gross proceeds of sales or gross income derived from a
5 contract with the owner of real property or improvements to real property for
6 the maintenance, repair, replacement or alteration of existing property,
7 except as specified in this paragraph. The gross proceeds of sales or gross
8 income derived from a de minimis amount of modification activity does not
9 subject the contract or any part of the contract to tax. For the purposes of
10 this paragraph:

11 (a) Each contract is independent of another contract, except that any
12 change order that directly relates to the scope of work of the original
13 contract shall be treated the same as the original contract under this
14 ~~chapter~~ PARAGRAPH, regardless of the amount of modification activities
15 included in the change order. If a change order does not directly relate to
16 the scope of work of the original contract, the change order shall be treated
17 as a new contract, with the tax treatment of any subsequent change order to
18 follow the tax treatment of the contract to which the scope of work of the
19 subsequent change order directly relates.

20 (b) Any term not defined in this paragraph that is defined in section
21 42-5075 has the same meaning prescribed in section 42-5075.

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

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

1 service districts, agricultural improvement districts, county free library
2 districts, county jail districts, county stadium districts, special health
3 care districts, public health services districts, theme park districts,
4 regional attraction districts or revitalization districts.

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

9 ~~17.~~ 16. Monitoring services relating to an alarm system as defined in
10 section 32-101.

11 ~~18.~~ 17. Tangible personal property, job printing or publications sold
12 to or purchased by, or tangible personal property leased, rented or licensed
13 for use to or by, a qualifying health sciences educational institution as
14 defined in section 42-5001.

15 ~~19.~~ 18. The transfer of title or possession of coal back and forth
16 between an owner or operator of a power plant and a person who is responsible
17 for refining coal if both of the following apply:

18 (a) The transfer of title or possession of the coal is for the purpose
19 of refining the coal.

20 (b) The title or possession of the coal is transferred back to the
21 owner or operator of the power plant after completion of the coal refining
22 process. For the purposes of this subdivision, "coal refining process" means
23 the application of a coal additive system that aids the reduction of power
24 plant emissions during the combustion of coal and the treatment of flue gas.

25 ~~20.~~ 19. The gross proceeds of sales or gross income from sales of low
26 or reduced cost articles of food or drink to eligible elderly or homeless
27 persons or persons with a disability by a business subject to tax under
28 section 42-5074 that contracts with the department of economic security and
29 that is approved by the food and nutrition service of the United States
30 department of agriculture pursuant to the supplemental nutrition assistance
31 program established by the food and nutrition act of 2008 (P.L. 110-246; 122
32 Stat. 1651; 7 United States Code sections 2011 through 2036a), if the

1 purchases are made with the benefits issued pursuant to the supplemental
2 nutrition assistance program.

3 ~~21.~~ 20. Tangible personal property incorporated or fabricated into a
4 project described in paragraph ~~16~~ 15 of this subsection, that is located
5 within the exterior boundaries of an Indian reservation for which the owner,
6 as defined in section 42-5075, of the project is an Indian tribe or an
7 affiliated Indian. For the purposes of this paragraph:

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

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

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

19 ~~22.~~ 21. The charges for the leasing or renting of space to make
20 attachments to utility poles as follows:

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

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

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

31 C. A city, town or other taxing jurisdiction shall not levy a
32 transaction privilege, sales, gross receipts, use, franchise or other similar

1 tax or fee, however denominated, on gross proceeds of sales or gross income
2 derived from any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 G. AN INDIVIDUAL WHO OWNS THREE OR FEWER SINGLE FAMILY DWELLINGS THAT
22 ARE TITLED AND ASSESSED IN THE NAME OF THE INDIVIDUAL, AND THAT ARE ALL
23 LOCATED WITHIN THE EXTERIOR BOUNDARIES OF THE SAME CITY, TOWN OR SPECIAL
24 TAXING DISTRICT, AND WHO RENTS THEM FOR RESIDENTIAL USE, IS NOT CONSIDERED TO
25 BE IN THE RENTAL BUSINESS WITH RESPECT TO THOSE DWELLINGS, AND THE CITY, TOWN
26 OR DISTRICT SHALL NOT LEVY A TRANSACTION PRIVILEGE, SALES, USE, FRANCHISE,
27 LICENSE OR OTHER SIMILAR TAX OR FEE, HOWEVER DENOMINATED, ON THE GROSS
28 PROCEEDS OR GROSS INCOME FROM THE RENTAL ACTIVITY. FOR THE PURPOSES OF THIS
29 SUBSECTION, "SINGLE FAMILY DWELLING" MEANS A RESIDENTIAL STRUCTURE, INCLUDING
30 A MOBILE OR MANUFACTURED HOME, REGARDLESS OF SIZE, THAT IS MAINTAINED AND
31 USED AS A SINGLE DWELLING UNIT, THAT HAS DIRECT ACCESS TO A STREET OR
32 THOROUGHFARE AND THAT DOES NOT SHARE COMMON WALLS, HEATING, AIR CONDITIONING,

1 HOT WATER EQUIPMENT OR ANY OTHER ESSENTIAL FACILITY OR SERVICE WITH ANY OTHER
2 DWELLING UNIT.

3 ~~G.~~ H. For the purposes of this section:

4 1. "Cable operator" has the same meaning prescribed ~~by~~ IN section
5 9-505.

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

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

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

15 Amend title to conform

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