

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 169
SENATE BILL 1433

AN ACT

AMENDING SECTIONS 41-1352, 42-5061 AND 42-6004, ARIZONA REVISED STATUTES;
AMENDING LAWS 2005, CHAPTER 1, SECTION 3, AS AMENDED BY LAWS 2006, CHAPTER
350, SECTION 4; RELATING TO THE HISTORICAL ADVISORY COMMISSION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-1352, Arizona Revised Statutes, is amended to
3 read:

4 41-1352. Historical advisory commission; membership; terms;
5 expenses; duties; historic sites review committee

6 A. A historical advisory commission is established consisting of
7 members appointed by the director for staggered terms of three years ending
8 on July 1. The commission membership of not less than ten nor more than
9 ~~twenty~~ TWENTY-FIVE members shall consist of experts in the disciplines of
10 history, arts and culture, architecture and archaeology, professional
11 librarians and archivists or persons otherwise associated with the
12 interpretation, research, writing, preservation or teaching of this state's
13 heritage, including the Indian nations' history and heritage, and the
14 director of the Arizona historical society, the director of the state museum,
15 the director of the Arizona state parks board, THE DIRECTOR OF THE OFFICE OF
16 TOURISM OR THE DIRECTOR'S DESIGNEE, THE SUPERINTENDENT OF PUBLIC INSTRUCTION
17 OR THE SUPERINTENDENT'S DESIGNEE and the state historic preservation officer.

18 B. Members shall serve without compensation but those employed by the
19 state shall be reimbursed for travel and subsistence by the department or
20 agency they represent and those who are not employed by the state are
21 eligible for reimbursement of expenses by the commission pursuant to title
22 38, chapter 4, article 2.

23 C. The commission shall:

24 1. Advise the legislature and state agencies on matters relating to
25 this state's history and historic preservation.

26 2. Recommend measures to the legislature and state agencies to
27 coordinate or improve the effectiveness of activities of state agencies and
28 agencies of the political subdivisions of this state and other persons
29 relating to the interpretation, research, writing and teaching of this
30 state's history, heritage and historic preservation, including the Indian
31 nations' history, heritage and preservation.

32 3. Advise the legislature and state agencies on the dissemination of
33 information pertaining to activities relating to historic preservation as
34 provided in paragraph 2.

35 4. Encourage, in cooperation with appropriate public and private
36 agencies, the Indian nations and other persons, training and education in the
37 field of the interpretation, research, writing and teaching of this state's
38 history, heritage and historic preservation.

39 5. Submit annually on September 30 a report of the commission's
40 activities to the director for inclusion in the annual report of the state
41 library.

42 D. A historic sites review committee consisting of nine members is
43 established to serve as a standing committee of the historical advisory
44 commission. The state historic preservation officer shall appoint committee
45 members for staggered terms of three years ending on July 1. The state
46 historic preservation officer may appoint persons other than commission

1 members to serve on the committee and shall appoint at least five persons who
2 are professionals qualified in the disciplines of history, prehistoric and
3 historic archaeology, architectural history or architecture. The committee
4 shall select annually at the first meeting a chairman who is a commission
5 member. The chairman shall report on committee activities at commission
6 meetings. The committee shall assist in the duties prescribed in this
7 section and by federal law, review nominations to the national and state
8 historic registers, provide general advice and guidance to the state historic
9 preservation officer and perform other duties as are necessary. On or before
10 September 1 of each year, the state historic preservation officer shall
11 submit a report of the committee's activities to the governor, the president
12 of the senate, the speaker of the house of representatives and the director,
13 including information prescribed in sections 41-862 and 41-881.

14 Sec. 2. Section 42-5061, Arizona Revised Statutes, is amended to read:
15 42-5061. Retail classification; definitions

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

21 1. Professional or personal service occupations or businesses which
22 involve sales or transfers of tangible personal property only as
23 inconsequential elements.

24 2. Services rendered in addition to selling tangible personal property
25 at retail.

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

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

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

36 6. Business activity which is properly included in any other business
37 classification which is taxable under article 1 of this chapter.

38 7. The sale of stocks and bonds.

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

42 9. Prosthetic appliances as defined in section 23-501 prescribed or
43 recommended by a health professional licensed pursuant to title 32, chapter
44 7, 8, 11, 13, 14, 15, 16, 17 or 29.

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

46 11. Prescription eyeglasses or contact lenses.

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

2 13. Durable medical equipment which has a centers for medicare and
3 medicaid services common procedure code, is designated reimbursable by
4 medicare, is prescribed by a person who is licensed under title 32, chapter
5 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
6 customarily used to serve a medical purpose, is generally not useful to a
7 person in the absence of illness or injury and is appropriate for use in the
8 home.

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

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

14 16. 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 17. Textbooks by any bookstore that are required by any state
20 university or community college.

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

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

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

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

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

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

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

1 sales of jet fuel which are subject to the tax imposed under article 8 of
2 this chapter.

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

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

9 25. Tangible personal property sold to:

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

11 (b) A qualifying health care organization as defined in section
12 42-5001 if the tangible personal property is used by the organization solely
13 to provide health and medical related educational and charitable services.

14 (c) A qualifying health care organization as defined in section
15 42-5001 if the organization is dedicated to providing educational,
16 therapeutic, rehabilitative and family medical education training for blind,
17 visually impaired and multihandicapped children from the time of birth to age
18 twenty-one.

19 (d) A qualifying community health center as defined in section
20 42-5001.

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

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

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

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

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

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

44 (c) Incorporated or fabricated by the person into any lake facility
45 development in a commercial enhancement reuse district under conditions

1 prescribed for the deduction allowed by section 42-5075, subsection B,
2 paragraph 8.

3 28. The sale of a motor vehicle to:

4 (a) A nonresident of this state if the purchaser's state of residence
5 does not allow a corresponding use tax exemption to the tax imposed by
6 article 1 of this chapter and if the nonresident has secured a special ninety
7 day nonresident registration permit for the vehicle as prescribed by sections
8 28-2154 and 28-2154.01.

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

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

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

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

28 32. Sales of tangible personal property by a nonprofit organization
29 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
30 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
31 sponsors or operates a rodeo featuring primarily farm and ranch animals and
32 no part of the organization's net earnings inures to the benefit of any
33 private shareholder or individual.

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

38 34. Machinery, equipment, technology or related supplies that are only
39 useful to assist a person who is physically disabled as defined in section
40 46-191, has a developmental disability as defined in section 36-551 or has a
41 head injury as defined in section 41-3201 to be more independent and
42 functional.

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

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

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

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

30 40. 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
34 construed to authorize the taxation of casual activities or transactions
35 under this chapter. For the purposes of this paragraph:

36 (a) "Personal property liquidation transaction" means a sale of
37 personal property made by a personal property liquidator acting solely on
38 behalf of the owner of the personal property sold at the dwelling of the
39 owner or upon the death of any owner, on behalf of the surviving spouse, if
40 any, any devisee or heir or the personal representative of the estate of the
41 deceased, if one has been appointed.

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

44 41. Sales of food, drink and condiment for consumption within the
45 premises of any prison, jail or other institution under the jurisdiction of

1 the state department of corrections, the department of public safety, the
2 department of juvenile corrections or a county sheriff.

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

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

12 44. Sales of implants used as growth promotants and injectable
13 medicines, not already exempt under paragraph 8 of this subsection, for
14 livestock or poultry owned by or in possession of persons who are engaged in
15 producing livestock, poultry, or livestock or poultry products or who are
16 engaged in feeding livestock or poultry commercially. For the purposes of
17 this paragraph, "poultry" includes ratites.

18 45. Sales of motor vehicles at auction to nonresidents of this state
19 for use outside this state if the vehicles are shipped or delivered out of
20 this state, regardless of where title to the motor vehicles passes or its
21 free on board point.

22 46. Tangible personal property sold to a person engaged in business and
23 subject to tax under the transient lodging classification if the tangible
24 personal property is a personal hygiene item or articles used by human beings
25 for food, drink or condiment, except alcoholic beverages, which are furnished
26 without additional charge to and intended to be consumed by the transient
27 during the transient's occupancy.

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

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

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

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

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

45 50. Sales of alternative fuel vehicles if the vehicle was manufactured
46 as a diesel fuel vehicle and converted to operate on alternative fuel and

1 equipment that is installed in a conventional diesel fuel motor vehicle to
2 convert the vehicle to operate on an alternative fuel, as defined in section
3 1-215.

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

7 52. Sales of tangible personal property to be incorporated or installed
8 as part of environmental response or remediation activities under section
9 42-5075, subsection B, paragraph 6.

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

15 54. THROUGH AUGUST 31, 2014, SALES OF ARIZONA CENTENNIAL MEDALLIONS BY
16 THE HISTORICAL ADVISORY COMMISSION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (a) Any direct broadcast satellite television or data transmission
40 service that operates pursuant to 47 Code of Federal Regulations parts 25 and
41 100.

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

44 (i) Over two-thirds of the transmissions, measured in megabytes,
45 transmitted by the facility during the test period were transmitted to or on
46 behalf of one or more direct broadcast satellite television or data

1 transmission services that operate pursuant to 47 Code of Federal Regulations
2 parts 25 and 100.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 2. Janitorial equipment and hand tools.

34 3. Office equipment, furniture and supplies.

35 4. Tangible personal property used in selling or distributing
36 activities, other than the telecommunications transmissions described in
37 subsection B, paragraph 16 of this section.

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

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

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

45 D. In addition to the deductions from the tax base prescribed by
46 subsection A of this section, there shall be deducted from the tax base the

1 gross proceeds of sales or gross income derived from sales of machinery,
2 equipment, materials and other tangible personal property used directly and
3 predominantly to construct a qualified environmental technology
4 manufacturing, producing or processing facility as described in section
5 41-1514.02. This subsection applies for ten full consecutive calendar or
6 fiscal years after the start of initial construction.

7 E. In computing the tax base, gross proceeds of sales or gross income
8 from retail sales of heavy trucks and trailers does not include any amount
9 attributable to federal excise taxes imposed by 26 United States Code section
10 4051.

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

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

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

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

- 35 1. Transporting classification.
- 36 2. Utilities classification.
- 37 3. Telecommunications classification.
- 38 4. Pipeline classification.
- 39 5. Private car line classification.
- 40 6. Publication classification.
- 41 7. Job printing classification.
- 42 8. Prime contracting classification.
- 43 9. Owner builder sales classification.
- 44 10. Restaurant classification.

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

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

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

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

13 4. Sales of overhead materials or other tangible personal property to
14 a manufacturer, modifier, assembler or repairer if the gross proceeds of
15 sales or gross income derived from the property by the manufacturer,
16 modifier, assembler or repairer will be exempt under paragraph 3 of this
17 subsection.

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

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

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

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

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

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

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

44 P. For the purposes of this section, a sale of wireless
45 telecommunications equipment to a person who holds the equipment for sale or
46 transfer to a customer as an inducement to enter into or continue a contract

1 for telecommunications services that are taxable under section 42-5064 is
2 considered to be a sale for resale in the regular course of business.

3 Q. Retail sales of prepaid calling cards or prepaid authorization
4 numbers for telecommunications services, including sales of reauthorization
5 of a prepaid card or authorization number, are subject to tax under this
6 section.

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

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

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

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

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

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

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

38 U. In computing the tax base for the sale of a motor vehicle to a
39 nonresident of this state, if the purchaser's state of residence allows a
40 corresponding use tax exemption to the tax imposed by article 1 of this
41 chapter and the rate of the tax in the purchaser's state of residence is
42 lower than the rate prescribed in article 1 of this chapter or if the
43 purchaser's state of residence does not impose an excise tax, and the
44 nonresident has secured a special ninety day nonresident registration permit
45 for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall
46 be deducted from the tax base a portion of the gross proceeds or gross income

1 from the sale so that the amount of transaction privilege tax that is paid in
2 this state is equal to the excise tax that is imposed by the purchaser's
3 state of residence on the nonexempt sale or use of the motor vehicle.

4 V. For the purposes of this section:

5 1. "Aircraft" includes:

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

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

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

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

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

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

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

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

30 4. "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 used or consumed in the
33 performance of a contract, the cost of which is charged to an overhead
34 expense account and allocated to various contracts based upon generally
35 accepted accounting principles and consistent with government contract
36 accounting standards.

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

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

1 to pass to the government or that includes provisions incorporating such
2 title passing clauses in a government contract into the subcontract.

3 Sec. 3. Section 42-6004, Arizona Revised Statutes, is amended to read:
4 42-6004. Exemption from municipal tax

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 vendor ships or delivers the motor vehicle to a
19 destination outside this state.

20 5. Interest on finance contracts.

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

22 7. Through December 31, 2009, the gross proceeds of sales or gross
23 income received from a contract from constructing any lake facility
24 development in a commercial enhancement reuse district established pursuant
25 to section 9-499.08.

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

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

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

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

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

4 11. THROUGH AUGUST 31, 2014, SALES OF ARIZONA CENTENNIAL MEDALLIONS BY
5 THE HISTORICAL ADVISORY COMMISSION.

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

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

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

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

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

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

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

30 6. Through December 31, 2009, and except as provided in section
31 42-6104, a contract from constructing any lake facility development in a
32 commercial enhancement reuse district established pursuant to section
33 9-499.08.

34 7. Development or impact fees included in a construction or
35 development contract for payment to the state or a local government to offset
36 governmental costs of providing public infrastructure, public safety and
37 other public services to a development.

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

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

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

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

7 Sec. 4. Laws 2005, chapter 1, section 3, as amended by Laws 2006,
8 chapter 350, section 4, is amended to read:

9 Sec. 3. Arizona centennial 2012; centennial medallion

10 A. The historical advisory commission shall develop and coordinate a
11 statewide plan regarding this state's centennial in 2012. The plan shall
12 include the following:

13 1. Advising the legislature and state agencies on centennial history
14 and heritage, arts and culture and related activities.

15 2. Assisting the governor's countdown to the centennial to support
16 school children learning about this state's history.

17 3. Recommending and funding activities and projects that will ensure
18 lasting legacy accomplishments to commemorate the centennial.

19 4. ISSUING COMMEMORATIVE MEDALS, SEALS, LICENSE PLATES AND
20 CERTIFICATES OF RECOGNITION.

21 5. RECOMMENDING PROPOSALS FOR LEGISLATION AND PERFORMING
22 ADMINISTRATIVE ACTION THAT THE COMMISSION CONSIDERS NECESSARY TO CARRY OUT
23 THE COMMISSION'S RECOMMENDATIONS.

24 B. The historical advisory commission may accept and spend
25 appropriations, grants, gifts, contributions and devises to assist in
26 carrying out this section, INCLUDING THE MANUFACTURING OF THE CENTENNIAL
27 MEDALLIONS. The historical advisory commission may accept and spend grants,
28 gifts, contributions and devises to contract for administrative and clerical
29 staff, professional and administrative experts and other staff as necessary
30 to enable the commission to carry out this section.

31 C. THE HISTORICAL ADVISORY COMMISSION SHALL DESIGN, PRODUCE AND SELL
32 COMMEMORATIVE 99.9 PER CENT PURE GOLD, SILVER AND COPPER MEDALLIONS, WITH
33 WEIGHTS THAT DO NOT EXCEED ONE TROY OUNCE. THE MEDALLIONS SHALL BE TWO-SIDED
34 DISKS OF NOT MORE THAN FIVE MILLIMETERS IN THICKNESS, SHALL HAVE THE SEAL OF
35 THE STATE OF ARIZONA STRUCK ON ONE SIDE AND SHALL HAVE A REPRESENTATION OF
36 THE ARIZONA STATE FLAG STRUCK ON THE OTHER SIDE ALONG WITH THE TEXT "ARIZONA
37 CENTENNIAL MEDALLION - FEBRUARY 14, 1912 - 2012" AND THE WEIGHT OF THE DISK
38 IN FRACTIONS OF TROY OUNCES OR GRAMS. THE DEPARTMENT OF WEIGHTS AND MEASURES
39 SHALL CERTIFY THE WEIGHT AND PURITY OF THE CENTENNIAL MEDALLIONS. THE
40 HISTORICAL ADVISORY COMMISSION SHALL NEGOTIATE THE MANUFACTURE AND SALE OF
41 THE CENTENNIAL MEDALLIONS. THE SALE PRICE OF THE MEDALLIONS SHALL NOT BE
42 MORE THAN TEN PER CENT HIGHER THAN THE MANUFACTURING COST OF THE MEDALLIONS.
43 MANUFACTURING QUANTITY SHALL BE PRODUCED TO MEET ON GOING PUBLIC DEMAND.

44 D. IN FULFILLING ITS RESPONSIBILITIES, THE HISTORICAL ADVISORY
45 COMMISSION SHALL CONSULT AND COOPERATE WITH AND SEEK ADVICE FROM APPROPRIATE
46 STATE AGENCIES, LOCAL AND PUBLIC BODIES, LEARNED SOCIETIES AND HISTORICAL,

1 PATRIOTIC, PHILANTHROPIC, CIVIC, PROFESSIONAL AND RELATED ORGANIZATIONS.
2 STATE AGENCIES SHALL COOPERATE WITH THE COMMISSION IN PLANNING, ENCOURAGING,
3 DEVELOPING AND COORDINATING APPROPRIATE COMMEMORATIVE ACTIVITIES. THE
4 PRESIDENT OF EACH STATE UNIVERSITY SHALL COOPERATE WITH THE COMMISSION,
5 ESPECIALLY IN THE ENCOURAGEMENT AND COORDINATION OF SCHOLARLY WORKS AND
6 PRESENTATIONS ON THE HISTORY, CULTURE AND POLITICAL ACTIVITIES RELATED TO THE
7 ARIZONA STATEHOOD ERA. THE OFFICE OF TOURISM SHALL COOPERATE WITH THE
8 COMMISSION IN MARKETING TO POTENTIAL VISITORS TO THIS STATE COMMEMORATIVE
9 ACTIVITIES ENABLING VISITORS TO EXPERIENCE THE CULTURAL HERITAGE OF THIS
10 STATE.

APPROVED BY THE GOVERNOR MAY 1, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 2007.