

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HOUSE BILL 2495

AN ACT

AMENDING SECTIONS 28-6501, 41-2306 AND 42-5029, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5032.03; AMENDING SECTIONS 42-5061, 42-5073 AND 42-5074, ARIZONA REVISED STATUTES; RELATING TO TRANSACTION PRIVILEGE TAX REVENUE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 28-6501, Arizona Revised Statutes, is amended to
3 read:

4 **28-6501. Definition of highway user revenues**

5 In this article, unless the context otherwise requires or except as
6 otherwise provided by statute, "highway user revenues" means all monies
7 received in this state from licenses, taxes, penalties, interest and fees
8 authorized by the following:

9 1. Chapters 2, 7, 8 and 15 of this title, except for:

10 (a) The special plate administration fees prescribed in sections
11 28-2404, 28-2412 through 28-2455 and 28-2514.

12 (b) The donations prescribed in sections 28-2404, 28-2412 through
13 28-2415, 28-2417 through 28-2455, 28-2473, 28-2474 and 28-2475.

14 2. Section 28-1177.

15 3. Chapters 10 and 11 of this title.

16 4. Chapter 16, articles 1, 2 and 4 of this title, except as provided
17 in sections 28-5926 and 28-5927.

18 **5. SECTION 42-5032.03, SUBSECTION A, PARAGRAPH 2.**

19 Sec. 2. Section 41-2306, Arizona Revised Statutes, is amended to read:

20 **41-2306. Tourism fund**

21 A. The tourism fund is established consisting of separate accounts
22 derived from:

23 1. State general fund monies appropriated to the fund by the
24 legislature. All monies in this account are continuously appropriated to the
25 office of tourism for the purposes of operations and statewide tourism
26 promotion.

27 2. Revenues deposited pursuant to section 5-835, subsection B or C.
28 All monies in this account are continuously appropriated to the office of
29 tourism, which, in consultation with a consortium of destination marketing
30 organizations in the county in which the tourism and sports authority is
31 established, shall **be ENSURE THAT THE MONIES ARE** spent to promote tourism
32 within that county. ~~For fiscal years 2010 2011 and 2011 2012, fifty percent~~
~~of the revenues deposited in the tourism fund pursuant to this paragraph may~~
~~be expended by the office of tourism for operational and administrative~~
~~purposes.~~

33 3. Revenues deposited pursuant to section 42-6108.01. The legislature
34 shall appropriate all monies in this account to the office of tourism, which,
35 in conjunction with the destination marketing organization in the county in
36 which the tax revenues are collected, shall **be ENSURE THAT THE MONIES ARE**
37 spent only to promote tourism within that county and **shall** not **be** spent for
38 administrative or overhead expenses.

1 4. Revenues deposited pursuant to section 5-601.02(H)(3)(b)(iv). The
2 office of tourism shall administer the account. The account is not subject
3 to appropriation, and expenditures from the fund are not subject to outside
4 approval notwithstanding any statutory provision to the contrary. Monies
5 received pursuant to section 5-601.02 shall be deposited directly with this
6 account. On notice from the office of tourism, the state treasurer may
7 invest and divest monies in the account as provided by section 35-313, and
8 monies earned from investment shall be credited to the account. No monies in
9 the account shall revert to or be deposited in any other fund, including the
10 state general fund. Monies in this account shall supplement, not supplant,
11 current funds in other accounts of the tourism fund. Monies in this account
12 shall be spent only to promote tourism within the state and shall not be used
13 for administrative or overhead expenses.

14 5. REVENUES DEPOSITED PURSUANT TO SECTION 42-5032.03, SUBSECTION A,
15 PARAGRAPH 1. THE OFFICE OF TOURISM SHALL ADMINISTER THIS ACCOUNT. MONIES IN
16 THE ACCOUNT ARE CONTINUOUSLY APPROPRIATED. ON NOTICE FROM THE OFFICE OF
17 TOURISM, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE ACCOUNT AS
18 PROVIDED BY SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE
19 CREDITED TO THE ACCOUNT. MONIES IN THE ACCOUNT MAY NOT REVERT TO OR BE
20 DEPOSITED IN ANY OTHER FUND, INCLUDING THE STATE GENERAL FUND. MONIES IN
21 THIS ACCOUNT SHALL SUPPLEMENT, NOT SUPPLANT, CURRENT MONIES IN OTHER ACCOUNTS
22 OF THE TOURISM FUND. MONIES IN THIS ACCOUNT SHALL BE SPENT ONLY FOR THE
23 PURPOSES PRESCRIBED BY SECTION 42-5032.03, SUBSECTION A, PARAGRAPH 1 AND MAY
24 NOT BE USED FOR ADMINISTRATIVE OR OVERHEAD EXPENSES.

25 B. Monies in the fund are exempt from the provisions of section 35-190
26 relating to lapsing of appropriations.

27 Sec. 3. Section 42-5029, Arizona Revised Statutes, is amended to read:
28 42-5029. Remission and distribution of monies: definition

29 A. The department shall deposit, pursuant to sections 35-146 and
30 35-147, all revenues collected under this article and articles 4, 5 and 8 of
31 this chapter pursuant to section 42-1116, separately accounting for:

32 1. Payments of estimated tax under section 42-5014, subsection D.
33 2. Revenues collected pursuant to section 42-5070.
34 3. Revenues collected under this article and article 5 of this chapter
35 from and after June 30, 2000 from sources located on Indian reservations in
36 this state.

37 4. Revenues collected pursuant to section 42-5010, subsection G and
38 section 42-5155, subsection D.

39 B. The department shall credit payments of estimated tax to an
40 estimated tax clearing account and each month shall transfer all monies in
41 the estimated tax clearing account to a fund designated as the transaction
42 privilege and severance tax clearing account. The department shall credit
43 all other payments to the transaction privilege and severance tax clearing
44 account, separately accounting for the monies designated as distribution base
45 under sections 42-5010, 42-5164, 42-5205 and 42-5353. Each month the

1 department shall report to the state treasurer the amount of monies collected
2 pursuant to this article and articles 4, 5 and 8 of this chapter.

3 C. On notification by the department, the state treasurer shall
4 distribute the monies deposited in the transaction privilege and severance
5 tax clearing account in the manner prescribed by this section and by sections
6 42-5164, 42-5205 and 42-5353, after deducting warrants drawn against the
7 account pursuant to sections 42-1118 and 42-1254.

8 D. Of the monies designated as distribution base, and subject to the
9 requirements of section 42-5041, the department shall:

10 1. Pay twenty-five percent to the various incorporated municipalities
11 in this state in proportion to their population to be used by the
12 municipalities for any municipal purpose.

13 2. Pay 38.08 percent to the counties in this state by averaging the
14 following proportions:

15 (a) The proportion that the population of each county bears to the
16 total state population.

17 (b) The proportion that the distribution base monies collected during
18 the calendar month in each county under this article, section 42-5164,
19 subsection B, section 42-5205, subsection B and section 42-5353 bear to the
20 total distribution base monies collected under this article, section 42-5164,
21 subsection B, section 42-5205, subsection B and section 42-5353 throughout
22 the state for the calendar month.

23 3. Pay an additional 2.43 percent to the counties in this state as
24 follows:

25 (a) Average the following proportions:

26 (i) The proportion that the assessed valuation used to determine
27 secondary property taxes of each county, after deducting that part of the
28 assessed valuation that is exempt from taxation at the beginning of the month
29 for which the amount is to be paid, bears to the total assessed valuations
30 used to determine secondary property taxes of all the counties after
31 deducting that portion of the assessed valuations that is exempt from
32 taxation at the beginning of the month for which the amount is to be paid.
33 Property of a city or town that is not within or contiguous to the municipal
34 corporate boundaries and from which water is or may be withdrawn or diverted
35 and transported for use on other property is considered to be taxable
36 property in the county for purposes of determining assessed valuation in the
37 county under this item.

38 (ii) The proportion that the distribution base monies collected during
39 the calendar month in each county under this article, section 42-5164,
40 subsection B, section 42-5205, subsection B and section 42-5353 bear to the
41 total distribution base monies collected under this article, section 42-5164,
42 subsection B, section 42-5205, subsection B and section 42-5353 throughout
43 the state for the calendar month.

44 (b) If the proportion computed under subdivision (a) of this paragraph
45 for any county is greater than the proportion computed under paragraph 2 of

1 this subsection, the department shall compute the difference between the
2 amount distributed to that county under paragraph 2 of this subsection and
3 the amount that would have been distributed under paragraph 2 of this
4 subsection using the proportion computed under subdivision (a) of this
5 paragraph and shall pay that difference to the county from the amount
6 available for distribution under this paragraph. Any monies remaining after
7 all payments under this subdivision shall be distributed among the counties
8 according to the proportions computed under paragraph 2 of this subsection.

9 4. After any distributions required by sections 42-5030, 42-5030.01,
10 42-5031, 42-5032, 42-5032.01, ~~and~~ 42-5032.02 **AND 42-5032.03**, and after making
11 any transfer to the water quality assurance revolving fund as required by
12 section 49-282, subsection B, credit the remainder of the monies designated
13 as distribution base to the state general fund. From this amount the
14 legislature shall annually appropriate to:

15 (a) The department of revenue sufficient monies to administer and
16 enforce this article and articles 5 and 8 of this chapter.

17 (b) The department of economic security monies to be used for the
18 purposes stated in title 46, chapter 1.

19 (c) The firearms safety and ranges fund established by section 17-273,
20 fifty thousand dollars derived from the taxes collected from the retail
21 classification pursuant to section 42-5061 for the current fiscal year.

22 E. If approved by the qualified electors voting at a statewide general
23 election, all monies collected pursuant to section 42-5010, subsection G and
24 section 42-5155, subsection D shall be distributed each fiscal year pursuant
25 to this subsection. The monies distributed pursuant to this subsection are
26 in addition to any other appropriation, transfer or other allocation of
27 public or private monies from any other source and shall not supplant,
28 replace or cause a reduction in other school district, charter school,
29 university or community college funding sources. The monies shall be
30 distributed as follows:

31 1. If there are outstanding state school facilities revenue bonds
32 pursuant to title 15, chapter 16, article 7, each month one-twelfth of the
33 amount that is necessary to pay the fiscal year's debt service on outstanding
34 state school improvement revenue bonds for the current fiscal year shall be
35 transferred each month to the school improvement revenue bond debt service
36 fund established by section 15-2084. The total amount of bonds for which
37 these monies may be allocated for the payment of debt service shall not
38 exceed a principal amount of eight hundred million dollars exclusive of
39 refunding bonds and other refinancing obligations.

40 2. After any transfer of monies pursuant to paragraph 1 of this
41 subsection, twelve per cent of the remaining monies collected during the
42 preceding month shall be transferred to the technology and research
43 initiative fund established by section 15-1648 to be distributed among the
44 universities for the purpose of investment in technology and research-based
45 initiatives.

1 3. After the transfer of monies pursuant to paragraph 1 of this
2 subsection, three per cent of the remaining monies collected during the
3 preceding month shall be transferred to the workforce development account
4 established in each community college district pursuant to section 15-1472
5 for the purpose of investment in workforce development programs.

6 4. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
7 subsection, one-twelfth of the amount a community college that is owned,
8 operated or chartered by a qualifying Indian tribe on its own Indian
9 reservation would receive pursuant to section 15-1472, subsection D,
10 paragraph 2 if it were a community college district shall be distributed each
11 month to the treasurer or other designated depository of a qualifying Indian
12 tribe. Monies distributed pursuant to this paragraph are for the exclusive
13 purpose of providing support to one or more community colleges owned,
14 operated or chartered by a qualifying Indian tribe and shall be used in a
15 manner consistent with section 15-1472, subsection B. For the purposes of
16 this paragraph, "qualifying Indian tribe" has the same meaning as defined in
17 section 42-5031.01, subsection D.

18 5. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
19 subsection, one-twelfth of the following amounts shall be transferred each
20 month to the department of education for the increased cost of basic state
21 aid under section 15-971 due to added school days and associated teacher
22 salary increases enacted in 2000:

- 23 (a) In fiscal year 2001-2002, \$15,305,900.
- 24 (b) In fiscal year 2002-2003, \$31,530,100.
- 25 (c) In fiscal year 2003-2004, \$48,727,700.
- 26 (d) In fiscal year 2004-2005, \$66,957,200.

27 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
28 \$86,280,500.

29 6. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
30 subsection, seven million eight hundred thousand dollars is appropriated each
31 fiscal year, to be paid in monthly installments, to the department of
32 education to be used for school safety as provided in section 15-154 and two
33 hundred thousand dollars is appropriated each fiscal year, to be paid in
34 monthly installments to the department of education to be used for the
35 character education matching grant program as provided in section 15-154.01.

36 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
37 subsection, no more than seven million dollars may be appropriated by the
38 legislature each fiscal year to the department of education to be used for
39 accountability purposes as described in section 15-241 and title 15, chapter
40 9, article 8.

41 8. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
42 subsection, one million five hundred thousand dollars is appropriated each
43 fiscal year, to be paid in monthly installments, to the failing schools
44 tutoring fund established by section 15-241.

1 9. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
2 subsection, twenty-five million dollars shall be transferred each fiscal year
3 to the state general fund to reimburse the general fund for the cost of the
4 income tax credit allowed by section 43-1072.01.

5 10. After the payment of monies pursuant to paragraphs 1 through 9 of
6 this subsection, the remaining monies collected during the preceding month
7 shall be transferred to the classroom site fund established by section
8 15-977. The monies shall be allocated as follows in the manner prescribed by
9 section 15-977:

10 (a) Forty per cent shall be allocated for teacher compensation based
11 on performance.

12 (b) Twenty per cent shall be allocated for increases in teacher base
13 compensation and employee related expenses.

14 (c) Forty per cent shall be allocated for maintenance and operation
15 purposes.

16 F. The department shall credit the remainder of the monies in the
17 transaction privilege and severance tax clearing account to the state general
18 fund, subject to any distribution required by section 42-5030.01.

19 G. Notwithstanding subsection D of this section, if a court of
20 competent jurisdiction finally determines that tax monies distributed under
21 this section were illegally collected under this article or articles 5 and 8
22 of this chapter and orders the monies to be refunded to the taxpayer, the
23 department shall compute the amount of such monies that was distributed to
24 each city, town and county under this section. Each city's, town's and
25 county's proportionate share of the costs shall be based on the amount of the
26 original tax payment each municipality and county received. Each month the
27 state treasurer shall reduce the amount otherwise distributable to the city,
28 town and county under this section by one thirty-sixth of the total amount to
29 be recovered from the city, town or county until the total amount has been
30 recovered, but the monthly reduction for any city, town or county shall not
31 exceed ten per cent of the full monthly distribution to that entity. The
32 reduction shall begin for the first calendar month after the final
33 disposition of the case and shall continue until the total amount, including
34 interest and costs, has been recovered.

35 H. On receiving a certificate of default from the greater Arizona
36 development authority pursuant to section 41-2257 or 41-2258 and to the
37 extent not otherwise expressly prohibited by law, the state treasurer shall
38 withhold from the next succeeding distribution of monies pursuant to this
39 section due to the defaulting political subdivision the amount specified in
40 the certificate of default and immediately deposit the amount withheld in the
41 greater Arizona development authority revolving fund. The state treasurer
42 shall continue to withhold and deposit the monies until the greater Arizona
43 development authority certifies to the state treasurer that the default has
44 been cured. In no event may the state treasurer withhold any amount that the
45 defaulting political subdivision certifies to the state treasurer and the

1 authority as being necessary to make any required deposits then due for the
2 payment of principal and interest on bonds of the political subdivision that
3 were issued before the date of the loan repayment agreement or bonds and that
4 have been secured by a pledge of distributions made pursuant to this section.

5 I. Except as provided by sections 42-5033 and 42-5033.01, the
6 population of a county, city or town as determined by the most recent United
7 States decennial census plus any revisions to the decennial census certified
8 by the United States bureau of the census shall be used as the basis for
9 apportioning monies pursuant to subsection D of this section.

10 J. Except as otherwise provided by this subsection, on notice from the
11 department of revenue pursuant to section 42-6010, subsection B, the state
12 treasurer shall withhold from the distribution of monies pursuant to this
13 section to the affected city or town the amount of the penalty for business
14 location municipal tax incentives provided by the city or town to a business
15 entity that locates a retail business facility in the city or town. The
16 state treasurer shall continue to withhold monies pursuant to this subsection
17 until the entire amount of the penalty has been withheld. The state
18 treasurer shall credit any monies withheld pursuant to this subsection to the
19 state general fund as provided by subsection D, paragraph 4 of this section.
20 The state treasurer shall not withhold any amount that the city or town
21 certifies to the department of revenue and the state treasurer as being
22 necessary to make any required deposits or payments for debt service on bonds
23 or other long-term obligations of the city or town that were issued or
24 incurred before the location incentives provided by the city or town.

25 K. On notice from the auditor general pursuant to section 9-626,
26 subsection D, the state treasurer shall withhold from the distribution of
27 monies pursuant to this section to the affected city the amount computed
28 pursuant to section 9-626, subsection D. The state treasurer shall continue
29 to withhold monies pursuant to this subsection until the entire amount
30 specified in the notice has been withheld. The state treasurer shall credit
31 any monies withheld pursuant to this subsection to the state general fund as
32 provided by subsection D, paragraph 4 of this section.

33 L. For the purposes of this section, "community college district"
34 means a community college district that is established pursuant to sections
35 15-1402 and 15-1403 and that is a political subdivision of this state and,
36 unless otherwise specified, includes a community college tuition financing
37 district established pursuant to section 15-1409.

38 Sec. 4. Title 42, chapter 5, article 1, Arizona Revised Statutes, is
39 amended by adding section 42-5032.03, to read:

40 42-5032.03. Distribution of tax revenues from special sporting
41 events; reports; definitions

42 A. BEGINNING FROM AND AFTER DECEMBER 31, 2020, THE STATE TREASURER
43 SHALL PAY, FROM DISTRIBUTION BASE MONIES PURSUANT TO SECTION 42-5029,
44 SUBSECTION D, PARAGRAPH 4, AN ANNUAL AMOUNT DETERMINED UNDER SUBSECTION B OF
45 THIS SECTION, IN TWELVE EQUAL MONTHLY INSTALLMENTS, AS FOLLOWS:

1 1. NINETY PERCENT TO THE OFFICE OF TOURISM FOR THE PURPOSES DESCRIBED
2 IN THIS SECTION. THE OFFICE OF TOURISM SHALL DEPOSIT THE MONIES IN THE
3 TOURISM FUND AS PROVIDED BY SECTION 41-2306 AND SHALL USE THE MONIES TO
4 PROMOTE AND MARKET A SPECIAL SPORTING EVENT AT A HOST FACILITY.

5 2. TEN PERCENT TO THE DEPARTMENT OF TRANSPORTATION FOR DEPOSIT IN, AND
6 FOR THE PURPOSES OF, THE ARIZONA HIGHWAY USER REVENUE FUND AS PROVIDED BY
7 TITLE 28, CHAPTER 18.

8 B. THE AMOUNT TO BE PAID UNDER SUBSECTION A OF THIS SECTION IS AS
9 FOLLOWS:

10 1. IF THE SPECIAL SPORTING EVENT PROJECT COST INCURRED FROM AND AFTER
11 DECEMBER 31, 2016 IS AT LEAST FIFTY MILLION DOLLARS BUT LESS THAN
12 SEVENTY-FIVE MILLION DOLLARS, THE ENTIRE AMOUNT OF THE SPECIAL SPORTING EVENT
13 TAX REVENUE COLLECTED EACH FISCAL YEAR, BUT NOT MORE THAN ONE MILLION DOLLARS
14 IN ANY FISCAL YEAR.

15 2. IF THE SPECIAL SPORTING EVENT PROJECT COST INCURRED FROM AND AFTER
16 DECEMBER 31, 2016 IS AT LEAST SEVENTY-FIVE MILLION DOLLARS BUT LESS THAN ONE
17 HUNDRED MILLION DOLLARS, THE ENTIRE AMOUNT OF THE SPECIAL SPORTING EVENT TAX
18 REVENUE COLLECTED EACH FISCAL YEAR, BUT NOT MORE THAN ONE MILLION FIVE
19 HUNDRED THOUSAND DOLLARS IN ANY FISCAL YEAR.

20 3. IF THE SPECIAL SPORTING EVENT PROJECT COST INCURRED FROM AND AFTER
21 DECEMBER 31, 2016 IS AT LEAST ONE HUNDRED MILLION DOLLARS, THE ENTIRE AMOUNT
22 OF THE SPECIAL SPORTING EVENT TAX REVENUE COLLECTED EACH FISCAL YEAR, BUT NOT
23 MORE THAN TWO MILLION DOLLARS IN ANY FISCAL YEAR.

24 C. PAYMENTS UNDER THIS SECTION ARE PAYABLE FOR THIRTY YEARS BEGINNING
25 FROM AND AFTER DECEMBER 31, 2020.

26 D. THE DEPARTMENT SHALL REPORT THE AMOUNT UNDER SUBSECTION B OF THIS
27 SECTION TO THE STATE TREASURER ON OR BEFORE THE FIFTEENTH DAY OF THE MONTH
28 FOR PAYMENT THE FOLLOWING MONTH.

29 E. FOR THE PURPOSES OF THIS SECTION:

30 1. "HOST FACILITY" MEANS A COMPLEX FACILITY IN THIS STATE THAT HAS
31 FIXED SEATING, THAT REQUIRES A TICKET FOR ADMISSION FOR VIEWING A SPORTING
32 EVENT AND THAT WAS CHOSEN TO HOST A SPECIAL SPORTING EVENT BY A SITE
33 SELECTION ORGANIZATION THROUGH A COMPETITIVE SELECTION PROCESS THAT INCLUDED
34 CONSIDERATION OF AT LEAST ONE FACILITY THAT IS NOT LOCATED IN THIS STATE.

35 2. "SPECIAL SPORTING EVENT" MEANS A SPORTING EVENT THAT IS SANCTIONED
36 BY A NATIONALLY RECOGNIZED PREMIER NATIONAL AUTO RACING SERIES GOVERNING BODY
37 THAT ESTABLISHES AN ANNUAL SCHEDULE OF SPORTING EVENTS AND GRANTS RIGHTS TO
38 CONDUCT THE EVENTS, THAT HAS ESTABLISHED AND ADMINISTERS RULES AND
39 REGULATIONS GOVERNING ALL PARTICIPANTS INVOLVED IN THE EVENTS AND ALL PERSONS
40 CONDUCTING THE EVENTS AND THAT REQUIRES CERTAIN LIABILITY ASSURANCES,
41 INCLUDING INSURANCE.

42 3. "SPECIAL SPORTING EVENT PROJECT" MEANS:

(a) THE ACQUISITION OF LAND SUBJECT TO PROPERTY TAX IN THIS STATE TO CONSTRUCT A HOST FACILITY FOR A SPECIAL SPORTING EVENT.

(b) THE CONSTRUCTION, RECONSTRUCTION, IMPROVEMENT OR RENOVATION OF IMPROVEMENTS TO LAND SUBJECT TO PROPERTY TAX IN THIS STATE OF A HOST FACILITY FOR A SPECIAL SPORTING EVENT.

4. "SPECIAL SPORTING EVENT PROJECT COST" MEANS THE MONIES SPENT FROM AND AFTER DECEMBER 31, 2016 BY THE OWNER OF THE HOST FACILITY ON THE SPECIAL SPORTING EVENT PROJECT.

5. "SPECIAL SPORTING EVENT TAX REVENUE" MEANS THE ENTIRE AMOUNT OF STATE TRANSACTION PRIVILEGE TAX REVENUES DIRECTLY ATTRIBUTABLE TO THE SPECIAL SPORTING EVENT AND COLLECTED FROM PERSONS CONDUCTING BUSINESS UNDER THE RETAIL, AMUSEMENT AND RESTAURANT CLASSIFICATIONS AT OR WITH RESPECT TO THE SPECIAL SPORTING EVENT HELD AT THE HOST FACILITY WITHOUT ANY ADJUSTMENT FOR AMOUNTS DESIGNATED AS DISTRIBUTION BASE.

15 Sec. 5. Section 42-5061, Arizona Revised Statutes, is amended to read:
16 **42-5061. Retail classification; definitions**

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

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

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

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

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

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

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

7. The sale of stocks and bonds.

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

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

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

2 11. Prescription eyeglasses or contact lenses.

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

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

11 14. Sales of motor vehicles to nonresidents of this state for use
12 outside this state if the motor vehicle dealer ships or delivers the motor
13 vehicle to a destination out of this state.

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

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

21 17. Textbooks by any bookstore that are required by any state
22 university or community college.

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

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

32 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
33 article 1.

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

41 (a) "Cash equivalents" means items or intangibles, whether or not
42 negotiable, that are sold to one or more persons, through which a value
43 denominated in money is purchased in advance and may be redeemed in full or
44 in part for tangible personal property, intangibles or services. Cash
45 equivalents include gift cards, stored value cards, gift certificates,

1 vouchers, traveler's checks, money orders or other instruments, orders or
2 electronic mechanisms, such as an electronic code, personal identification
3 number or digital payment mechanism, or any other prepaid intangible right to
4 acquire tangible personal property, intangibles or services in the future,
5 whether from the seller or the cash equivalent or from another person. Cash
6 equivalents do not include either of the following:

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

9 (ii) Prepaid calling cards or prepaid authorization numbers for
10 telecommunications services made taxable by subsection P of this section.

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

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

18 22. Motor vehicle fuel and use fuel that are subject to a tax imposed
19 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
20 valid single trip use fuel tax permit issued under section 28-5739, sales of
21 aviation fuel that are subject to the tax imposed under section 28-8344 and
22 sales of jet fuel that are subject to the tax imposed under article 8 of this
23 chapter.

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

27 24. Tangible personal property sold in interstate or foreign commerce
28 if prohibited from being so taxed by the constitution of the United States or
29 the constitution of this state.

30 25. Tangible personal property sold to:
31 (a) A qualifying hospital as defined in section 42-5001.
32 (b) A qualifying health care organization as defined in section
33 42-5001 if the tangible personal property is used by the organization solely
34 to provide health and medical related educational and charitable services.

35 (c) A qualifying health care organization as defined in section
36 42-5001 if the organization is dedicated to providing educational,
37 therapeutic, rehabilitative and family medical education training for blind
38 and visually impaired children and children with multiple disabilities from
39 the time of birth to age twenty-one.

40 (d) A qualifying community health center as defined in section
41 42-5001.

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

1 (f) 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 (g) A qualifying health sciences educational institution as defined in
10 section 42-5001.

11 (h) Any person representing or working on behalf of another person
12 described in subdivisions (a) through (g) of this paragraph if the tangible
13 personal property is incorporated or fabricated into a project described in
14 section 42-5075, subsection 0.

15 26. Magazines or other periodicals or other publications by this state
16 to encourage tourist travel.

17 27. Tangible personal property sold to:

18 (a) A person that is subject to tax under this article by reason of
19 being engaged in business classified under section 42-5075 or to a
20 subcontractor working under the control of a person engaged in business
21 classified under section 42-5075, if the property so sold is any of the
22 following:

23 (i) Incorporated or fabricated by the person into any real property,
24 structure, project, development or improvement as part of the business.

25 (ii) Incorporated or fabricated by the person into any project
26 described in section 42-5075, subsection 0.

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

29 (b) A person that is not subject to tax under section 42-5075 and that
30 has been provided a copy of a certificate under section 42-5009, subsection
31 L, if the property so sold is incorporated or fabricated by the person into
32 the real property, structure, project, development or improvement described
33 in the certificate.

34 28. The sale of a motor vehicle to:

35 (a) A nonresident of this state if the purchaser's state of residence
36 does not allow a corresponding use tax exemption to the tax imposed by
37 article 1 of this chapter and if the nonresident has secured a special ninety
38 day nonresident registration permit for the vehicle as prescribed by sections
39 28-2154 and 28-2154.01.

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

42 29. Tangible personal property purchased in this state by a nonprofit
43 charitable organization that has qualified under section 501(c)(3) of the
44 United States internal revenue code and that engages in and uses such
45 property exclusively in programs for persons with mental or physical

1 disabilities if the programs are exclusively for training, job placement,
2 rehabilitation or testing.

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

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

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

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

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

29 35. Sales of natural gas or liquefied petroleum gas used to propel a
30 motor vehicle.

31 36. Paper machine clothing, such as forming fabrics and dryer felts,
32 sold to a paper manufacturer and directly used or consumed in paper
33 manufacturing.

34 37. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
35 sold to a qualified environmental technology manufacturer, producer or
36 processor as defined in section 41-1514.02 and directly used or consumed in
37 the generation or provision of on-site power or energy solely for
38 environmental technology manufacturing, producing or processing or
39 environmental protection. This paragraph shall apply for twenty full
40 consecutive calendar or fiscal years from the date the first paper
41 manufacturing machine is placed in service. In the case of an environmental
42 technology manufacturer, producer or processor who does not manufacture
43 paper, the time period shall begin with the date the first manufacturing,
44 processing or production equipment is placed in service.

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

14 39. Through December 31, 1994, personal property liquidation
15 transactions, conducted by a personal property liquidator. From and after
16 December 31, 1994, personal property liquidation transactions shall be
17 taxable under this section provided that nothing in this subsection shall be
18 construed to authorize the taxation of casual activities or transactions
19 under this chapter. For the purposes of this paragraph:

20 (a) "Personal property liquidation transaction" means a sale of
21 personal property made by a personal property liquidator acting solely on
22 behalf of the owner of the personal property sold at the dwelling of the
23 owner or on the death of any owner, on behalf of the surviving spouse, if
24 any, any devisee or heir or the personal representative of the estate of the
25 deceased, if one has been appointed.

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

28 40. Sales of food, drink and condiment for consumption within the
29 premises of any prison, jail or other institution under the jurisdiction of
30 the state department of corrections, the department of public safety, the
31 department of juvenile corrections or a county sheriff.

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

36 42. Livestock and poultry feed, salts, vitamins and other additives for
37 livestock or poultry consumption that are sold to persons who are engaged in
38 producing livestock, poultry, or livestock or poultry products or who are
39 engaged in feeding livestock or poultry commercially. For the purposes of
40 this paragraph, "poultry" includes ratites.

41 43. Sales of implants used as growth promotants and injectable
42 medicines, not already exempt under paragraph 8 of this subsection, for
43 livestock or poultry owned by or in possession of persons who are engaged in
44 producing livestock, poultry, or livestock or poultry products or who are

1 engaged in feeding livestock or poultry commercially. For the purposes of
2 this paragraph, "poultry" includes ratites.

3 44. Sales of motor vehicles at auction to nonresidents of this state
4 for use outside this state if the vehicles are shipped or delivered out of
5 this state, regardless of where title to the motor vehicles passes or its
6 free on board point.

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

13 46. Sales of alternative fuel, as defined in section 1-215, to a used
14 oil fuel burner who has received a permit to burn used oil or used oil fuel
15 under section 49-426 or 49-480.

16 47. Sales of materials that are purchased by or for publicly funded
17 libraries including school district libraries, charter school libraries,
18 community college libraries, state university libraries or federal, state,
19 county or municipal libraries for use by the public as follows:

20 (a) Printed or photographic materials, beginning August 7, 1985.
21 (b) Electronic or digital media materials, beginning July 17, 1994.

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

30 49. Sales of alternative fuel vehicles if the vehicle was manufactured
31 as a diesel fuel vehicle and converted to operate on alternative fuel and
32 equipment that is installed in a conventional diesel fuel motor vehicle to
33 convert the vehicle to operate on an alternative fuel, as defined in section
34 1-215.

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

38 51. Sales of tangible personal property to be incorporated or installed
39 as part of environmental response or remediation activities under section
40 42-5075, subsection B, paragraph 6.

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

1 53. Application services that are designed to assess or test student
2 learning or to promote curriculum design or enhancement purchased by or for
3 any school district, charter school, community college or state university.
4 For the purposes of this paragraph:

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

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

10 54. Sales of motor vehicle fuel and use fuel to a qualified business
11 under section 41-1516 for off-road use in harvesting, processing or
12 transporting qualifying forest products removed from qualifying projects as
13 defined in section 41-1516.

14 55. Sales of repair parts installed in equipment used directly by a
15 qualified business under section 41-1516 in harvesting, processing or
16 transporting qualifying forest products removed from qualifying projects as
17 defined in section 41-1516.

18 56. Sales or other transfers of renewable energy credits or any other
19 unit created to track energy derived from renewable energy resources. For
20 the purposes of this paragraph, "renewable energy credit" means a unit
21 created administratively by the corporation commission or governing body of a
22 public power utility to track kilowatt hours of electricity derived from a
23 renewable energy resource or the kilowatt hour equivalent of conventional
24 energy resources displaced by distributed renewable energy resources.

25 57. Computer data center equipment purchased by the owner, operator or
26 qualified colocation tenant of the computer data center or an authorized
27 agent of the owner, operator or qualified colocation tenant during the
28 qualification period for use in a computer data center that is certified by
29 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
33 deduction. For the purposes of this paragraph, "computer data center",
34 "computer data center equipment", "qualification period" and "qualified
35 colocation tenant" have the same meanings prescribed in section 41-1519.

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

39 59. Sales of tangible personal property incorporated or fabricated into
40 a project described in section 42-5075, subsection 0, that is located within
41 the exterior boundaries of an Indian reservation for which the owner, as
42 defined in section 42-5075, of the project is an Indian tribe or an
43 affiliated Indian. For the purposes of this paragraph:

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

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

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

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

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

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

29 3. Tangible personal property sold to persons engaged in business
30 classified under the telecommunications classification, including a person
31 representing or working on behalf of such a person in a manner described in
32 section 42-5075, subsection 0, and consisting of central office switching
33 equipment, switchboards, private branch exchange equipment, microwave radio
34 equipment and carrier equipment including optical fiber, coaxial cable and
35 other transmission media that are components of carrier systems.

36 4. Machinery, equipment or transmission lines used directly in
37 producing or transmitting electrical power, but not including distribution.
38 Transformers and control equipment used at transmission substation sites
39 constitute equipment used in producing or transmitting electrical power.

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

43 6. Pipes or valves four inches in diameter or larger used to transport
44 oil, natural gas, artificial gas, water or coal slurry, including compressor

1 units, regulators, machinery and equipment, fittings, seals and any other
2 part that is used in operating the pipes or valves.

3 7. Aircraft, navigational and communication instruments and other
4 accessories and related equipment sold to:

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

11 (b) Any foreign government.

12 (c) Persons who are not residents of this state and who will not use
13 such property in this state other than in removing such property from this
14 state. This subdivision also applies to corporations that are not
15 incorporated in this state, regardless of maintaining a place of business in
16 this state, if the principal corporate office is located outside this state
17 and the property will not be used in this state other than in removing the
18 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. Railroad rolling stock, rails, ties and signal control equipment
24 used 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 that are used directly
29 to transport persons or property for hire or pursuant to a governmentally
30 adopted and controlled urban mass transportation program and that are sold to
31 bus companies holding a federal certificate of convenience and necessity or
32 operated by any city, town or other governmental entity or by any person
33 contracting with such governmental entity as part of a governmentally adopted
34 and controlled program to provide urban mass transportation.

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

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

43 (a) "New machinery and equipment" means machinery and equipment that
44 have never been sold at retail except pursuant to leases or rentals that do
45 not total two years or more.

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

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

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

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

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

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

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

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

44 (a) Includes the integrated systems, fixtures, piping, movable
45 partitions, lighting and all property that is necessary or adapted to reduce

1 contamination or to control airflow, temperature, humidity, chemical purity
2 or other environmental conditions or manufacturing tolerances, as well as the
3 production machinery and equipment operating in conjunction with the clean
4 room environment.

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

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

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

21 19. Machinery and equipment that are sold to a person engaged in the
22 commercial production of livestock, livestock products or agricultural,
23 horticultural, viticultural or floricultural crops or products in this state,
24 including a person representing or working on behalf of such a person in a
25 manner described in section 42-5075, subsection 0, if the machinery and
26 equipment are used directly and primarily to prevent, monitor, control or
27 reduce air, water or land pollution.

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

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

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

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

42 21. Qualifying equipment that is purchased from and after June 30, 2004
43 through June 30, 2024 by a qualified business under section 41-1516 for
44 harvesting or processing qualifying forest products removed from qualifying
45 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
33 attributable to federal excise taxes imposed by 26 United States Code section
34 4051.

35 F. If a person is engaged in an occupation or business to which
36 subsection A of this section applies, the person's books shall be kept so as
37 to show separately the gross proceeds of sales of tangible personal property
38 and the gross income from sales of services, and if not so kept the tax shall
39 be imposed on the total of the person's gross proceeds of sales of tangible
40 personal property and gross income from services.

41 G. If a person is engaged in the business of selling tangible personal
42 property at both wholesale and retail, the tax under this section applies
43 only to the gross proceeds of the sales made other than at wholesale if the
44 person's books are kept so as to show separately the gross proceeds of sales

1 of each class, and if the books are not so kept, the tax under this section
2 applies to the gross proceeds of every sale so made.

3 H. A person who engages in manufacturing, baling, crating, boxing,
4 barreling, canning, bottling, sacking, preserving, processing or otherwise
5 preparing for sale or commercial use any livestock, agricultural or
6 horticultural product or any other product, article, substance or commodity
7 and who sells the product of such business at retail in this state is deemed,
8 as to such sales, to be engaged in business classified under the retail
9 classification. This subsection does not apply to businesses classified
10 under the:

- 11 1. Transporting classification.
- 12 2. Utilities classification.
- 13 3. Telecommunications classification.
- 14 4. Pipeline classification.
- 15 5. Private car line classification.
- 16 6. Publication classification.
- 17 7. Job printing classification.
- 18 8. Prime contracting classification.
- 19 9. Restaurant classification.

20 I. The gross proceeds of sales or gross income derived from the
21 following shall be deducted from the tax base for the retail classification:

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

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

28 3. Overhead materials or other tangible personal property that is used
29 in performing a contract between the United States government and a
30 manufacturer, modifier, assembler or repairer, including property used in
31 performing a subcontract with a government contractor who is a manufacturer,
32 modifier, assembler or repairer, to which title passes to the government
33 under the terms of the contract or subcontract.

34 4. Sales of overhead materials or other tangible personal property to
35 a manufacturer, modifier, assembler or repairer if the gross proceeds of
36 sales or gross income derived from the property by the manufacturer,
37 modifier, assembler or repairer will be exempt under paragraph 3 of this
38 subsection.

39 J. There shall be deducted from the tax base fifty percent of the
40 gross proceeds or gross income from any sale of tangible personal property
41 made directly to the United States government or its departments or agencies
42 that is not deducted under subsection I of this section.

43 K. The department shall require every person claiming a deduction
44 provided by subsection I or J of this section to file on forms prescribed by
45 the department at such times as the department directs a sworn statement

1 disclosing the name of the purchaser and the exact amount of sales on which
2 the exclusion or deduction is claimed.

3 L. In computing the tax base, gross proceeds of sales or gross income
4 does not include:

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

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

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

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

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

25 P. Retail sales of prepaid calling cards or prepaid authorization
26 numbers for telecommunications services, including sales of reauthorization
27 of a prepaid card or authorization number, are subject to tax under this
28 section.

29 Q. For the purposes of this section, the diversion of gas from a
30 pipeline by a person engaged in the business of:

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

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

37 R. For the purposes of this section, the transfer of title or
38 possession of coal from an owner or operator of a power plant to a person in
39 the business of refining coal is not a sale of coal if both of the following
40 apply:

41 1. The transfer of title or possession of the coal is for the purpose
42 of refining the coal.

43 2. The title or possession of the coal is transferred back to the
44 owner or operator of the power plant after completion of the coal refining
45 process. For the purposes of this paragraph, "coal refining process"

1 means the application of a coal additive system that aids in the reduction of
2 power plant emissions during the combustion of coal and the treatment of flue
3 gas.

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

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

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

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

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

39 V. BEGINNING JANUARY 1, 2020, FOR THE PURPOSES OF SECTION 42-5032.03,
40 THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES THAT ARE COLLECTED UNDER
41 THE RETAIL CLASSIFICATION FROM BUSINESSES SELLING TANGIBLE PERSONAL PROPERTY
42 AT RETAIL AND THAT ARE DIRECTLY ATTRIBUTABLE TO THE SPECIAL SPORTING EVENT
43 HELD AT THE HOST FACILITY.

44 ~~V.~~ W. For the purposes of this section:

45 1. "Aircraft" includes:

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

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

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

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

15 W. X. For the purposes of subsection I of this section:

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

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

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

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

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

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

1 Sec. 6. Section 42-5073, Arizona Revised Statutes, is amended to read:

2 **42-5073. Amusement classification**

3 A. The amusement classification is comprised of the business of
4 operating or conducting theaters, movies, operas, shows of any type or
5 nature, exhibitions, concerts, carnivals, circuses, amusement parks,
6 menageries, fairs, races, contests, games, billiard or pool parlors, bowling
7 alleys, public dances, dance halls, boxing and wrestling matches, skating
8 rinks, tennis courts, except as provided in subsection B of this section,
9 video games, pinball machines, sports events or any other business charging
10 admission or user fees for exhibition, amusement or entertainment, including
11 the operation or sponsorship of events by a tourism and sports authority
12 under title 5, chapter 8. For the purposes of this section, admission or
13 user fees include, but are not limited to, any revenues derived from any form
14 of contractual agreement for rights to or use of premium or special seating
15 facilities or arrangements. The amusement classification does not include:

16 1. Activities or projects of bona fide religious or educational
17 institutions.

18 2. Private or group instructional activities. For the purposes of
19 this paragraph, "private or group instructional activities" includes, but is
20 not limited to, performing arts, martial arts, gymnastics and aerobic
21 instruction.

22 3. The operation or sponsorship of events by the Arizona exposition
23 and state fair board or county fair commissions.

24 4. A musical, dramatic or dance group or a botanical garden, museum or
25 zoo that is qualified as a nonprofit charitable organization under section
26 501(c)(3) of the United States internal revenue code and if no part of its
27 net income inures to the benefit of any private shareholder or individual.

28 5. Exhibition events in this state sponsored, conducted or operated by
29 a nonprofit organization that is exempt from taxation under section
30 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
31 organization is associated with major league baseball teams or a national
32 touring professional golfing association and no part of the organization's
33 net earnings inures to the benefit of any private shareholder or individual.

34 6. Operating or sponsoring rodeos that feature primarily farm and
35 ranch animals in this state and that are sponsored, conducted or operated by
36 a nonprofit organization that is exempt from taxation under section
37 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal
38 revenue code and no part of the organization's net earnings inures to the
39 benefit of any private shareholder or individual.

40 7. Sales of admissions to intercollegiate football contests if the
41 contests are both:

42 (a) Operated by a nonprofit organization that is exempt from taxation
43 under section 501(c)(3) of the internal revenue code and no part of the
44 organization's net earnings inures to the benefit of any private shareholder
45 or individual.

(b) Not held in a multipurpose facility that is owned or operated by the tourism and sports authority pursuant to title 5, chapter 8.

8. Activities and events of, or fees and assessments received by, a homeowners organization from persons who are members of the organization or accompanied guests of members. For the purposes of this paragraph, "homeowners organization" means a mandatory membership organization comprised of owners of residential property within a specified residential real estate subdivision development or similar area and established to own property for the benefit of its members where both of the following apply:

(a) No part of the organization's net earnings inures to the benefit of any private shareholder or individual.

(b) The primary purpose of the organization is to provide for the acquisition, construction, management, maintenance or care of organization property.

9. Activities and events of, or fees received by, a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

10. Arranging an amusement activity as a service to a person's customers if that person is not otherwise engaged in the business of operating or conducting an amusement personally or through others. This exception does not apply to businesses that operate or conduct amusements pursuant to customer orders and send the billings and receive the payments associated with that activity, including when the amusement is performed by ~~third-party~~ THIRD-PARTY independent contractors. For the purposes of this paragraph, "arranging" includes billing for or collecting amusement charges from a person's customers on behalf of the persons providing the amusement.

B. The tax base for the amusement classification is the gross proceeds of sales or gross income derived from the business, except that the following shall be deducted from the tax base:

1. The gross proceeds of sales or gross income derived from memberships, including initiation fees, which provide for the right to use a health or fitness establishment or a private recreational establishment, or any portion of an establishment, including tennis and other racquet courts at that establishment, for participatory purposes for twenty-eight days or more and fees charged for use of the health or fitness establishment or private recreational establishment by bona fide accompanied guests of members, except that this paragraph does not include additional fees, other than initiation fees, charged by a health or fitness establishment or a private recreational establishment for purposes other than memberships ~~which THAT~~ provide for the right to use a health or fitness establishment or private recreational establishment, or any portion of an establishment, for participatory purposes for twenty-eight days or more and accompanied guest use fees.

1 2. Amounts that are exempt under section 5-111, subsection H.

2 3. The gross proceeds of sales or gross income derived from membership
3 fees, including initiation fees, that provide for the right to use a
4 transient lodging recreational establishment, including golf courses and
5 tennis and other racquet courts at that establishment, for participatory
6 purposes for twenty-eight days or more, except that this paragraph does not
7 include additional fees, other than initiation fees, that are charged by a
8 transient lodging recreational establishment for purposes other than
9 memberships and that provide for the right to use a transient lodging
10 recreational establishment or any portion of the establishment for
11 participatory purposes for twenty-eight days or more.

12 4. The gross proceeds of sales or gross income derived from sales to
13 persons engaged in the business of transient lodging classified under section
14 42-5070, if all of the following apply:

15 (a) The persons who are engaged in the transient lodging business sell
16 the amusement to another person for consideration.

17 (b) The consideration received by the transient lodging business is
18 equal to or greater than the amount to be deducted under this subsection.

19 (c) The transient lodging business has provided an exemption
20 certificate to the person engaging in business under this section.

21 5. The gross proceeds of sales or gross income derived from:

22 (a) Business activity that is properly included in any other business
23 classification under this article and that is taxable to the person engaged
24 in that classification, but the gross proceeds of sales or gross income to be
25 deducted shall not exceed the consideration paid to the person conducting the
26 activity.

27 (b) Business activity that is arranged by the person who is subject to
28 tax under this section and that is not taxable to the person conducting the
29 activity due to an exclusion, exemption or deduction under this section or
30 section 42-5062, but the gross proceeds of sales or gross income to be
31 deducted shall not exceed the consideration paid to the person conducting the
32 activity.

33 (c) Business activity that is arranged by a person who is subject to
34 tax under this section and that is taxable to another person under this
35 section who conducts the activity, but the gross proceeds of sales or gross
36 income to be deducted shall not exceed the consideration paid to the person
37 conducting the activity.

38 C. For the purposes of subsection B of this section:

39 1. "Health or fitness establishment" means a facility whose primary
40 purpose is to provide facilities, equipment, instruction or education to
41 promote the health and fitness of its members and at least eighty ~~per cent~~
42 **PERCENT** of the monthly gross revenue of the facility is received through
43 accounts of memberships and accompanied guest use fees which provide for the
44 right to use the facility, or any portion of the facility, under the terms of

1 the membership agreement for participatory purposes for twenty-eight days or
2 more.

3 2. "Private recreational establishment" means a facility whose primary
4 purpose is to provide recreational facilities, such as tennis, golf and
5 swimming, for its members and where at least eighty ~~per cent~~ PERCENT of the
6 monthly gross revenue of the facility is received through accounts of
7 memberships and accompanied guest use fees which provide for the right to use
8 the facility, or any portion of the facility, for participatory purposes for
9 twenty-eight days or more.

10 3. "Transient lodging recreational establishment" means a facility
11 whose primary purpose is to provide facilities for transient lodging, that is
12 subject to taxation under this chapter and that also provides recreational
13 facilities, such as tennis, golf and swimming, for members for a period of
14 twenty-eight days or more.

15 D. Until December 31, 1988, the revenues from hayrides and other
16 animal-drawn amusement rides, from horseback riding and riding instruction
17 and from recreational tours using motor vehicles designed to operate on and
18 off public highways are exempt from the tax imposed by this section.
19 Beginning January 1, 1989, the gross proceeds or gross income from hayrides
20 and other animal-drawn amusement rides, from horseback riding and from
21 recreational tours using motor vehicles designed to operate on and off public
22 highways are subject to taxation under this section. Tax liabilities,
23 penalties and interest paid for taxable periods before January 1, 1989 shall
24 not be refunded unless the taxpayer requesting the refund provides proof
25 satisfactory to the department that the taxes will be returned to the
26 customer.

27 E. If a person is engaged in the business of offering both exhibition,
28 amusement or entertainment and private or group instructional activities, the
29 person's books shall be kept to show separately the gross income from
30 exhibition, amusement or entertainment and the gross income from
31 instructional activities. If the books do not provide this separate
32 accounting, the tax is imposed on the person's total gross income from the
33 business.

34 F. The department shall separately account for revenues collected
35 under the amusement classification for the purposes of section 42-5029,
36 subsection D, paragraph 4, subdivision (b).

37 G. For THE purposes of section 42-5032.01, the department shall
38 separately account for revenues collected under the amusement classification
39 from sales of admissions to:

40 1. Events that are held in a multipurpose facility that is owned or
41 operated by the tourism and sports authority pursuant to title 5, chapter 8,
42 including intercollegiate football contests that are operated by a nonprofit
43 organization that is exempt from taxation under section 501(c)(3) of the
44 internal revenue code.

1 2. Professional football contests that are held in a stadium located
2 on the campus of an institution under the jurisdiction of the Arizona board
3 of regents.

4 H. BEGINNING JANUARY 1, 2020, FOR THE PURPOSES OF SECTION 42-5032.03,
5 THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES COLLECTED UNDER THE
6 AMUSEMENT CLASSIFICATION FROM SALES DIRECTLY ATTRIBUTABLE TO THE SPECIAL
7 SPORTING EVENT HELD AT THE HOST FACILITY.

8 Sec. 7. Section 42-5074, Arizona Revised Statutes, is amended to read:
9 42-5074. Restaurant classification

10 A. The restaurant classification is comprised of the business of
11 operating restaurants, dining cars, dining rooms, lunchrooms, lunch stands,
12 soda fountains, catering services or similar establishments where articles of
13 food or drink are sold for consumption on or off the premises.

14 B. The tax base for the restaurant classification is the gross
15 proceeds of sales or gross income derived from the business. The gross
16 proceeds of sales or gross income derived from the following shall be
17 deducted from the tax base:

18 1. Sales to a person engaged in business classified under the
19 restaurant classification if the items sold are to be resold in the regular
20 course of the business.

21 2. Sales by a congressionally chartered veterans organization of food
22 or drink prepared for consumption on the premises leased, owned or maintained
23 by the organization.

24 3. Sales by churches, fraternal benefit societies and other nonprofit
25 organizations, as these organizations are defined in the federal internal
26 revenue code (26 United States Code section 501), that do not regularly
27 engage or continue in the restaurant business for the purpose of
28 fund-raising.

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

35 5. Sales at a rodeo featuring primarily farm and ranch animals in this
36 state by a nonprofit organization that is exempt from taxation under section
37 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal
38 revenue code and no part of the organization's net earnings inures to the
39 benefit of any private shareholder or individual.

40 6. Sales by any nonprofit organization organized and operated
41 exclusively for charitable purposes and recognized by the United States
42 internal revenue service under section 501(c)(3) of the internal revenue
43 code.

44 7. Sales to qualifying hospitals as defined in section 42-5001.

1 8. Sales to a qualifying health care organization as defined in
2 section 42-5001 if the tangible personal property is used by the organization
3 solely to provide health and medical related educational and charitable
4 services.

5 9. Sales of food, drink and condiment for consumption within the
6 premises of any prison, jail or other institution under the jurisdiction of
7 the state department of corrections, the department of public safety, the
8 department of juvenile corrections or a county sheriff.

9 10. Sales of articles of prepared or unprepared food, drink or
10 condiment and accessory tangible personal property to a school district or
11 charter school if the articles and accessory tangible personal property are
12 served to persons for consumption on the premises of a public school in the
13 school district or charter school during school hours.

14 11. Prepared food, drink or condiment donated by a restaurant to a
15 nonprofit charitable organization that has qualified under section 501(c)(3)
16 of the internal revenue code and that regularly serves meals to the needy and
17 indigent on a continuing basis at no cost.

18 12. Sales of articles of food and drink at low or reduced prices to
19 eligible elderly, ~~disabled~~ or homeless persons **OR PERSONS WITH A DISABILITY**
20 by a restaurant that contracts with the department of economic security and
21 that is approved by the food and nutrition services of the United States
22 department of agriculture pursuant to the supplemental nutrition assistance
23 program established by the food and nutrition act of 2008 (P.L. 110-246; 122
24 Stat. 1651; 7 United States Code sections 2011 through 2036a), if the
25 purchases of the articles of food and drink are made with the benefits issued
26 pursuant to the supplemental nutrition assistance program.

27 C. The tax imposed on the restaurant classification pursuant to this
28 section does not apply to the gross proceeds of sales or gross income from
29 tangible personal property sold to a commercial airline consisting of food,
30 beverages and condiments and accessories used for serving the food and
31 beverages, if those items are to be provided without additional charge to
32 passengers for consumption in flight. For the purposes of this subsection,
33 "commercial airline" means a person holding a federal certificate of public
34 convenience and necessity or foreign air carrier permit for air
35 transportation to transport persons, property or United States mail in
36 intrastate, interstate or foreign commerce.

37 D. The department shall separately account for revenues collected
38 under the restaurant classification for the purposes of section 42-5029,
39 subsection D, paragraph 4, subdivision (b).

40 E. For **THE** purposes of section 42-5032.01, the department shall
41 separately account for revenues collected under the restaurant classification
42 from businesses operating restaurants, dining rooms, lunchrooms, lunch
43 stands, soda fountains, catering services or similar establishments:

1 1. On the premises of a multipurpose facility that is owned or
2 operated by the tourism and sports authority pursuant to title 5, chapter 8
3 for consumption on or off the premises.

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

7 F. BEGINNING JANUARY 1, 2020, FOR THE PURPOSES OF SECTION 42-5032.03,
8 THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES THAT ARE COLLECTED UNDER
9 THE RESTAURANT CLASSIFICATION FROM BUSINESSES OPERATING RESTAURANTS, DINING
10 ROOMS, LUNCHROOMS, LUNCH STANDS, SODA FOUNTAINS, CATERING SERVICES OR SIMILAR
11 ESTABLISHMENTS AND THAT ARE DIRECTLY ATTRIBUTABLE TO THE SPECIAL SPORTING
12 EVENT HELD AT THE HOST FACILITY.