



STATE OF ARIZONA  
OFFICE OF THE GOVERNOR

DOUGLAS A. DUCEY  
GOVERNOR

EXECUTIVE OFFICE

April 25, 2018

The Honorable Michele Reagan  
Secretary of State  
1700 W. Washington, 7<sup>th</sup> Floor  
Phoenix, AZ 85007

Dear Secretary Reagan:

I am transmitting to you the following bills from the Fifty-third Legislature, 2<sup>nd</sup> Regular Session, which I signed on April 25, 2018:

- SB 1437 elections; equipment; amendments (Borges)
- SB 1449 schools; statewide assessment contracts; review (Allen,S)
- HB 2003 coal mining; TPT; repeal (Finchem)
- HB 2020 sexual assault; harassment; confidentiality agreements (Syms)
- HB 2166 vehicle fees; alternative fuel VLT (Campbell)
- HB 2283 definition; defenses; sexual offenses (Kern)
- HB 2563 postsecondary institutions; free expression policies (Boyer)

Sincerely,

Douglas A. Ducey  
Governor  
State of Arizona

cc: Senate Secretary  
Chief Clerk of the House of Representatives  
Arizona News Service



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The Honorable Michele Reagan  
Secretary of State  
1700 W. Washington, 7<sup>th</sup> Floor  
Phoenix, AZ 85007

Re: H.B. 2003 coal mining; TPT; repeal

Dear Secretary Reagan:

Today, I signed House Bill 2003. This bill is essential for the economic success of the Navajo Nation, the Hopi Tribe and surrounding communities. As a state, we must do everything we can to help protect these rural jobs.

This bill provides another tool in the toolbox to find another buyer of the Navajo Generating Station and protect more than 800 jobs.

Included are statements of support from the Navajo Nation and Hopi Tribe.

Sincerely,

Douglas A. Ducey  
Governor  
State of Arizona

cc: The Honorable JD Mesnard  
The Honorable Mark Finchem  
The Honorable Steve Yarbrough

**Statement from Navajo Nation President Russell Begaye:**

"We appreciate the effort and support of the legislators on HB 2003. On behalf of the Navajo Nation, we respectfully ask Governor Ducey sign HB 2003 to continue operations for coal mining and the power plant, which provide valuable resources not only to Navajo and Hopi but also to the state of Arizona. Towns like Page, Flagstaff and Winslow will suffer right along with Navajo if these two entities were closed. This bill is designed to provide incentives for continuing operations at the plant and the coal mine. It's a step in the right direction supporting the entire region."

**Statement from Clark Tenakhongva, Vice-Chairman of the Hopi Tribal Council:**

"On behalf of the Hopi Tribe, I, Clark Tenakhongva, Vice-Chairman of the Hopi Tribal Council, wish to express my deepest request to you Governor Ducey to sign H.B. 2003. The decommissioning of the Navajo Generating Station will have dramatic negative effects on the Hopi Tribe and the State of Arizona. It is encouraging to see the steps the State Legislature has taken but it must be signed by you Governor Ducey to make this bill a law. I am hopeful that as we move forward over the coming months that we can forge a new partnership to face this challenge and save the Navajo Generating Station." Thank you for considering this bill in the effort to keep NGS operational, save jobs for Hopi workers and a critical source for the Hopi general fund. The loss of 85% of our general fund that NGS provides would be simply devastating to the Hopi people."

House Engrossed

**FILED**

**MICHELE REAGAN**  
**SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Fifty-third Legislature  
Second Regular Session  
2018

**CHAPTER 263**  
**HOUSE BILL 2003**

AN ACT

AMENDING SECTIONS 42-5061, 42-5072 AND 42-6004, ARIZONA REVISED STATUTES;  
AMENDING TITLE 42, CHAPTER 6, ARTICLE 3, ARIZONA REVISED STATUTES; BY  
ADDING SECTION 42-6113; RELATING TO TRANSACTION PRIVILEGE, USE AND OTHER  
EXCISE TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5061, Arizona Revised Statutes, is amended to  
3 read:

4 42-5061. Retail classification; definitions

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

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

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

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

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

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

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

27 7. The sale of stocks and bonds.

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

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

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

36 11. Prescription eyeglasses or contact lenses.

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

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

1           14. Sales of motor vehicles to nonresidents of this state for use  
2 outside this state if the motor vehicle dealer ships or delivers the motor  
3 vehicle to a destination out of this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 25. Tangible personal property sold to:

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

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

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

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

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

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

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

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

7 26. Magazines or other periodicals or other publications by this  
8 state to encourage tourist travel.

9 27. Tangible personal property sold to:

10 (a) A person that is subject to tax under this article by reason of  
11 being engaged in business classified under section 42-5075 or to a  
12 subcontractor working under the control of a person engaged in business  
13 classified under section 42-5075, if the property so sold is any of the  
14 following:

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

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

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

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

27 28. The sale of a motor vehicle to:

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

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

35 29. Tangible personal property purchased in this state by a  
36 nonprofit charitable organization that has qualified under section  
37 501(c)(3) of the United States internal revenue code and that engages in  
38 and uses such property exclusively in programs for persons with mental or  
39 physical disabilities if the programs are exclusively for training, job  
40 placement, rehabilitation or testing.

41 30. Sales of tangible personal property by a nonprofit organization  
42 that is exempt from taxation under section 501(c)(3), 501(c)(4) or  
43 501(c)(6) of the internal revenue code if the organization is associated  
44 with a major league baseball team or a national touring professional

1 golfing association and no part of the organization's net earnings inures  
2 to the benefit of any private shareholder or individual.

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

8 32. Sales of tangible personal property by a nonprofit organization  
9 that is exempt from taxation under section 501(c)(3), 501(c)(4),  
10 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the  
11 organization sponsors or operates a rodeo featuring primarily farm and  
12 ranch animals and no part of the organization's net earnings inures to the  
13 benefit of any private shareholder or individual.

14 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other  
15 propagative material to persons who use those items to commercially  
16 produce agricultural, horticultural, viticultural or floricultural crops  
17 in this state.

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

23 35. Sales of natural gas or liquefied petroleum gas used to propel  
24 a motor vehicle.

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

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

39 38. Sales of liquid, solid or gaseous chemicals used in  
40 manufacturing, processing, fabricating, mining, refining, metallurgical  
41 operations, research and development and, beginning on January 1, 1999,  
42 printing, if using or consuming the chemicals, alone or as part of an  
43 integrated system of chemicals, involves direct contact with the materials  
44 from which the product is produced for the purpose of causing or  
45 permitting a chemical or physical change to occur in the materials as part

1 of the production process. This paragraph does not include chemicals that  
2 are used or consumed in activities such as packaging, storage or  
3 transportation but does not affect any deduction for such chemicals that  
4 is otherwise provided by this section. For the purposes of this  
5 paragraph, "printing" means a commercial printing operation and includes  
6 job printing, engraving, embossing, copying and bookbinding.

7 39. Through December 31, 1994, personal property liquidation  
8 transactions, conducted by a personal property liquidator. From and after  
9 December 31, 1994, personal property liquidation transactions shall be  
10 taxable under this section provided that nothing in this subsection shall  
11 be construed to authorize the taxation of casual activities or  
12 transactions under this chapter. For the purposes of this paragraph:

13 (a) "Personal property liquidation transaction" means a sale of  
14 personal property made by a personal property liquidator acting solely on  
15 behalf of the owner of the personal property sold at the dwelling of the  
16 owner or on the death of any owner, on behalf of the surviving spouse, if  
17 any, any devisee or heir or the personal representative of the estate of  
18 the deceased, if one has been appointed.

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

21 40. Sales of food, drink and condiment for consumption within the  
22 premises of any prison, jail or other institution under the jurisdiction  
23 of the state department of corrections, the department of public safety,  
24 the department of juvenile corrections or a county sheriff.

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

30 42. Sales of:

31 (a) Livestock and poultry to persons engaging in the businesses of  
32 farming, ranching or producing livestock or poultry.

33 (b) Livestock and poultry feed, salts, vitamins and other additives  
34 for livestock or poultry consumption that are sold to persons for use or  
35 consumption by their own livestock or poultry, for use or consumption in  
36 the businesses of farming, ranching and producing or feeding livestock,  
37 poultry, or livestock or poultry products or for use or consumption in  
38 noncommercial boarding of livestock. For the purposes of this paragraph,  
39 "poultry" includes ratites.

40 43. Sales of implants used as growth promotants and injectable  
41 medicines, not already exempt under paragraph 8 of this subsection, for  
42 livestock or poultry owned by or in possession of persons who are engaged  
43 in producing livestock, poultry, or livestock or poultry products or who  
44 are engaged in feeding livestock or poultry commercially. For the  
45 purposes of this paragraph, "poultry" includes ratites.

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

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

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

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

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

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

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

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

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

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

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

44           53. Application services that are designed to assess or test  
45 student learning or to promote curriculum design or enhancement purchased

1 by or for any school district, charter school, community college or state  
2 university. For the purposes of this paragraph:

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

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

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

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

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

24 57. Computer data center equipment sold to the owner, operator or  
25 qualified colocation tenant of a computer data center that is certified by  
26 the Arizona commerce authority under section 41-1519 or an authorized  
27 agent of the owner, operator or qualified colocation tenant during the  
28 qualification period for use in the qualified computer data center. For  
29 the purposes of this paragraph, "computer data center", "computer data  
30 center equipment", "qualification period" and "qualified colocation  
31 tenant" have the same meanings prescribed in section 41-1519.

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

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

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

43 (b) "Indian reservation" means all lands that are within the limits  
44 of areas set aside by the United States for the exclusive use and  
45 occupancy of an Indian tribe by treaty, law or executive order and that

1 are recognized as Indian reservations by the United States department of  
2 the interior.

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

7 60. Sales of works of fine art, as defined in section 44-1771, at  
8 an art auction or gallery in this state to nonresidents of this state for  
9 use outside this state if the vendor ships or delivers the work of fine  
10 art to a destination outside this state.

11 61. SALES OF COAL.

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  
15 property shall be deducted from the tax base:

16 1. Machinery, or equipment, used directly in manufacturing,  
17 processing, fabricating, job printing, refining or metallurgical  
18 operations. The terms "manufacturing", "processing", "fabricating", "job  
19 printing", "refining" and "metallurgical" as used in this paragraph refer  
20 to and include those operations commonly understood within their ordinary  
21 meaning. "Metallurgical operations" includes leaching, milling,  
22 precipitating, 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,  
25 including equipment required to prepare the materials for extraction and  
26 handling, loading or transporting such extracted material to the surface.  
27 "Mining" includes underground, surface and open pit operations for  
28 extracting ores and 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  
32 in section 42-5075, subsection 0, and consisting of central office  
33 switching equipment, switchboards, private branch exchange equipment,  
34 microwave radio equipment and carrier equipment including optical fiber,  
35 coaxial cable and other transmission media that are components of carrier  
36 systems.

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

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

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

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

7           (a) A person:

8           (i) Holding, or exempted by federal law from obtaining, a federal  
9 certificate of public convenience and necessity for use as, in conjunction  
10 with or becoming part of an aircraft to be used to transport persons for  
11 hire in intrastate, interstate or foreign commerce.

12           (ii) That is certificated or licensed under federal aviation  
13 administration regulations (14 Code of Federal Regulations part 121 or  
14 135) as a scheduled or unscheduled carrier of persons for hire for use as  
15 or in conjunction with or becoming part of an aircraft to be used to  
16 transport persons for hire in intrastate, interstate or foreign commerce.

17           (iii) Holding a foreign air carrier permit for air transportation  
18 for use as or in conjunction with or becoming a part of aircraft to be  
19 used to transport persons, property or United States mail in intrastate,  
20 interstate or foreign commerce.

21           (iv) Operating an aircraft to transport persons in any manner for  
22 compensation or hire, or for use in a fractional ownership program that  
23 meets the requirements of federal aviation administration regulations  
24 (14 Code of Federal Regulations part 91, subpart K), including as an air  
25 carrier, a foreign air carrier or a commercial operator or under a  
26 restricted category, within the meaning of 14 Code of Federal Regulations,  
27 regardless of whether the operation or aircraft is regulated or certified  
28 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code  
29 of Federal Regulations.

30           (v) That will lease or otherwise transfer operational control,  
31 within the meaning of federal aviation administration operations  
32 specification A008, or its successor, of the aircraft, instruments or  
33 accessories to one or more persons described in item (i), (ii), (iii) or  
34 (iv) of this subdivision, subject to section 42-5009, subsection Q.

35           (b) Any foreign government.

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

43           8. Machinery, tools, equipment and related supplies used or  
44 consumed directly in repairing, remodeling or maintaining aircraft,

1 aircraft engines or aircraft component parts by or on behalf of a  
2 certificated or licensed carrier of persons or property.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 18. Machinery or equipment, including related structural  
42 components, that is employed in connection with manufacturing, processing,  
43 fabricating, job printing, refining, mining, natural gas pipelines,  
44 metallurgical operations, telecommunications, producing or transmitting  
45 electricity or research and development and that is used directly to meet

1 or exceed rules or regulations adopted by the federal energy regulatory  
2 commission, the United States environmental protection agency, the United  
3 States nuclear regulatory commission, the Arizona department of  
4 environmental quality or a political subdivision of this state to prevent,  
5 monitor, control or reduce land, water or air pollution.

6 19. Machinery and equipment that are sold to a person engaged in  
7 the commercial production of livestock, livestock products or  
8 agricultural, horticultural, viticultural or floricultural crops or  
9 products in this state, including a person representing or working on  
10 behalf of such a person in a manner described in section 42-5075,  
11 subsection 0, if the machinery and equipment are used directly and  
12 primarily to prevent, monitor, control or reduce air, water or land  
13 pollution.

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

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

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

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

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

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

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

41 2. Janitorial equipment and hand tools.

42 3. Office equipment, furniture and supplies.

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

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

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

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

8           8. Machinery and equipment or other tangible personal property used  
9 by a contractor in the performance of a contract.

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

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

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

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

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

42           1. Agricultural producers who are owners, proprietors or tenants of  
43 agricultural lands, orchards, farms or gardens where agricultural products  
44 are grown, raised or prepared for market and who are marketing their own  
45 agricultural products.

1           2. Businesses classified under the:  
2           (a) Transporting classification.  
3           (b) Utilities classification.  
4           (c) Telecommunications classification.  
5           (d) Pipeline classification.  
6           (e) Private car line classification.  
7           (f) Publication classification.  
8           (g) Job printing classification.  
9           (h) Prime contracting classification.  
10          (i) Restaurant classification.  
11          I. The gross proceeds of sales or gross income derived from the  
12 following shall be deducted from the tax base for the retail  
13 classification:  
14          1. Sales made directly to the United States government or its  
15 departments or agencies by a manufacturer, modifier, assembler or  
16 repairer.  
17          2. Sales made directly to a manufacturer, modifier, assembler or  
18 repairer if such sales are of any ingredient or component part of products  
19 sold directly to the United States government or its departments or  
20 agencies by the manufacturer, modifier, assembler or repairer.  
21          3. Overhead materials or other tangible personal property that is  
22 used in performing a contract between the United States government and a  
23 manufacturer, modifier, assembler or repairer, including property used in  
24 performing a subcontract with a government contractor who is a  
25 manufacturer, modifier, assembler or repairer, to which title passes to  
26 the government under the terms of the contract or subcontract.  
27          4. Sales of overhead materials or other tangible personal property  
28 to a manufacturer, modifier, assembler or repairer if the gross proceeds  
29 of sales or gross income derived from the property by the manufacturer,  
30 modifier, assembler or repairer will be exempt under paragraph 3 of this  
31 subsection.  
32          J. There shall be deducted from the tax base fifty percent of the  
33 gross proceeds or gross income from any sale of tangible personal property  
34 made directly to the United States government or its departments or  
35 agencies that is not deducted under subsection I of this section.  
36          K. The department shall require every person claiming a deduction  
37 provided by subsection I or J of this section to file on forms prescribed  
38 by the department at such times as the department directs a sworn  
39 statement disclosing the name of the purchaser and the exact amount of  
40 sales on which the exclusion or deduction is claimed.  
41          L. In computing the tax base, gross proceeds of sales or gross  
42 income does not include:  
43          1. A manufacturer's cash rebate on the sales price of a motor  
44 vehicle if the buyer assigns the buyer's right in the rebate to the  
45 retailer.

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

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

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

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

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

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

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

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

32           ~~R. For the purposes of this section, the transfer of title or~~  
33 ~~possession of coal from an owner or operator of a power plant to a person~~  
34 ~~in the business of refining coal is not a sale of coal if both of the~~  
35 ~~following apply:~~

36           ~~1. The transfer of title or possession of the coal is for the~~  
37 ~~purpose of refining the coal.~~

38           ~~2. The title or possession of the coal is transferred back to the~~  
39 ~~owner or operator of the power plant after completion of the coal refining~~  
40 ~~process. For the purposes of this paragraph, "coal refining process"~~  
41 ~~means the application of a coal additive system that aids in the reduction~~  
42 ~~of power plant emissions during the combustion of coal and the treatment~~  
43 ~~of flue gas.~~

44           ~~S.~~ R. If a seller is entitled to a deduction pursuant to  
45 subsection B, paragraph 15, subdivision (b) of this section, the

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

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

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

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

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

37 ~~H.~~ U. For the purposes of this section:

38 1. "Agricultural aircraft" means an aircraft that is built for  
39 agricultural use for the aerial application of pesticides or fertilizer or  
40 for aerial seeding.

- 1           2. "Aircraft" includes:
- 2           (a) An airplane flight simulator that is approved by the federal
- 3 aviation administration for use as a phase II or higher flight simulator
- 4 under appendix H, 14 Code of Federal Regulations part 121.
- 5           (b) Tangible personal property that is permanently affixed or
- 6 attached as a component part of an aircraft that is owned or operated by a
- 7 certificated or licensed carrier of persons or property.
- 8           3. "Other accessories and related equipment" includes aircraft
- 9 accessories and equipment such as ground service equipment that physically
- 10 contact aircraft at some point during the overall carrier operation.
- 11           4. "Selling at retail" means a sale for any purpose other than for
- 12 resale in the regular course of business in the form of tangible personal
- 13 property, but transfer of possession, lease and rental as used in the
- 14 definition of sale mean only such transactions as are found on
- 15 investigation to be in lieu of sales as defined without the words lease or
- 16 rental.
- 17           ~~W.~~ V. For the purposes of subsection I of this section:
- 18           1. "Assembler" means a person who unites or combines products,
- 19 wares or articles of manufacture so as to produce a change in form or
- 20 substance without changing or altering the component parts.
- 21           2. "Manufacturer" means a person who is principally engaged in the
- 22 fabrication, production or manufacture of products, wares or articles for
- 23 use from raw or prepared materials, imparting to those materials new
- 24 forms, qualities, properties and combinations.
- 25           3. "Modifier" means a person who reworks, changes or adds to
- 26 products, wares or articles of manufacture.
- 27           4. "Overhead materials" means tangible personal property, the gross
- 28 proceeds of sales or gross income derived from that would otherwise be
- 29 included in the retail classification, and that are used or consumed in
- 30 the performance of a contract, the cost of which is charged to an overhead
- 31 expense account and allocated to various contracts based on generally
- 32 accepted accounting principles and consistent with government contract
- 33 accounting standards.
- 34           5. "Repairer" means a person who restores or renews products, wares
- 35 or articles of manufacture.
- 36           6. "Subcontract" means an agreement between a contractor and any
- 37 person who is not an employee of the contractor for furnishing of supplies
- 38 or services that, in whole or in part, are necessary to the performance of
- 39 one or more government contracts, or under which any portion of the
- 40 contractor's obligation under one or more government contracts is
- 41 performed, undertaken or assumed and that includes provisions causing
- 42 title to overhead materials or other tangible personal property used in
- 43 the performance of the subcontract to pass to the government or that
- 44 includes provisions incorporating such title passing clauses in a
- 45 government contract into the subcontract.

1           Sec. 2. Section 42-5072, Arizona Revised Statutes, is amended to  
2 read:

3           42-5072. Mining classification; definition

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

9           B. The tax base for the mining classification is the gross proceeds  
10 of sales or gross income derived from the business. The gross proceeds of  
11 sales or gross income derived from sales described under section 42-5061,  
12 subsection A, paragraph 27 and subsection I, paragraph 2 shall be deducted  
13 from the tax base.

14           C. The tax base includes the value of the entire product mined,  
15 quarried or produced for sale, profit or commercial use in this state,  
16 regardless of the place of sale of the product or of the fact that  
17 deliveries may be made to points without this state. ~~If, however,~~ the  
18 sale price of the product includes freight, the sale price shall be  
19 reduced by the actual freight paid by any person from the place of  
20 production to the place of delivery.

21           D. In the case of a person WHO IS engaged in business classified  
22 under the mining classification AND all or part of whose income is derived  
23 from service or manufacturing charges instead of from sales of the  
24 products manufactured or handled, the tax base includes the gross income  
25 of the person derived from the service or manufacturing charge.

26           E. If a person engaging in business classified under the mining  
27 classification ships or transports all or part of a product out of this  
28 state without making sale of the product or ships ~~the~~ THE product outside  
29 of this state in an unfinished condition, the value of the product or  
30 article in the condition or form in which it existed when transported out  
31 of this state and before it enters interstate commerce is included in the  
32 tax base, and the department shall prescribe equitable and uniform rules  
33 for ascertaining that value. In determining the tax base, if the product  
34 or any part of the product has been processed in this state and the  
35 proceeds of such processing have been included in the tax base of the  
36 processor under this chapter, the person may deduct from the value of the  
37 product when transported out of this state the cost of such processing.

38           F. A person who conducts a business classified under the mining  
39 classification may be deemed also to be engaged in business classified  
40 under the retail classification to the extent the person's activities  
41 comprise business under the retail classification if the tax is paid at  
42 the rate imposed on the retail classification by section 42-5010. If the  
43 transaction is not subject to taxation under the retail classification,  
44 the transaction shall be included in the tax base under this  
45 section., ~~except for the transfer of title or possession of coal back and~~

1 ~~forth between an owner or operator of a power plant and a person who is~~  
2 ~~responsible for refining coal if both of the following apply:~~

3 ~~1. The transfer of title or possession of the coal is for the~~  
4 ~~purpose of refining the coal.~~

5 ~~2. The title or possession of the coal is transferred back to the~~  
6 ~~owner or operator of the power plant after completion of the coal refining~~  
7 ~~process. For the purposes of this paragraph, "coal refining process"~~  
8 ~~means the application of a coal additive system that aids the reduction of~~  
9 ~~power plant emissions during the combustion of coal and the treatment of~~  
10 ~~flue gas.~~

11 G. For the purposes of this section, "nonmetalliferous mineral  
12 product" means oil, natural gas, limestone, sand, gravel or any other  
13 nonmetalliferous mineral product, compound or combination of  
14 nonmetalliferous mineral products, BUT DOES NOT INCLUDE COAL.

15 Sec. 3. Section 42-6004, Arizona Revised Statutes, is amended to  
16 read:

17 42-6004. Exemption from municipal tax; definitions

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

20 1. Exhibition events in this state sponsored, conducted or operated  
21 by a nonprofit organization that is exempt from taxation under section  
22 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the  
23 organization is associated with a major league baseball team or a national  
24 touring professional golfing association and no part of the organization's  
25 net earnings inures to the benefit of any private shareholder or  
26 individual.

27 2. Interstate telecommunications services, which include that  
28 portion of telecommunications services, such as subscriber line service,  
29 allocable by federal law to interstate telecommunications service.

30 3. Sales of warranty or service contracts.

31 4. Sales of motor vehicles to nonresidents of this state for use  
32 outside this state if the motor vehicle dealer ships or delivers the motor  
33 vehicle to a destination outside this state.

34 5. Interest on finance contracts.

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

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

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

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

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

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

15           10. The gross proceeds of sales or gross income retained by the  
16 Arizona exposition and state fair board from ride ticket sales at the  
17 annual Arizona state fair.

18           11. Leasing real property between affiliated companies, businesses,  
19 persons or reciprocal insurers. For the purposes of this paragraph:

20           (a) "Affiliated companies, businesses, persons or reciprocal  
21 insurers" means the lessor holds a controlling interest in the lessee, the  
22 lessee holds a controlling interest in the lessor, affiliated persons hold  
23 a controlling interest in both the lessor and the lessee, or an unrelated  
24 person holds a controlling interest in both the lessor and lessee.

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

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

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

33           (e) "Reciprocal insurer" has the same meaning prescribed in section  
34 20-762.

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

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

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

44           (ii) Any activity performed on any tangible personal property  
45 relating to machinery, equipment or other tangible personal property with

1 independent functional utility in furtherance of any of the purposes  
2 provided for under subdivision (d) of this paragraph.

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

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

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

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

20 (i) Assembling the machinery, equipment or other tangible personal  
21 property.

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

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

27 (iv) Stabilizing or protecting the machinery, equipment or other  
28 tangible personal property during operation by bolting, burying or  
29 performing other dissimilar nonpermanent connections to either real  
30 property or real property improvements.

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

35 14. Computer data center equipment sold to the owner, operator or  
36 qualified colocation tenant of a computer data center that is certified by  
37 the Arizona commerce authority under section 41-1519 or an authorized  
38 agent of the owner, operator or qualified colocation tenant during the  
39 qualification period for use in the qualified computer data center. For  
40 the purposes of this paragraph, "computer data center", "computer data  
41 center equipment", "qualification period" and "qualified colocation  
42 tenant" have the same meanings prescribed in section 41-1519.

43 15. The gross proceeds of sales or gross income derived from a  
44 contract with the owner of real property or improvements to real property  
45 for the maintenance, repair, replacement or alteration of existing

1 property, except as specified in this paragraph. The gross proceeds of  
2 sales or gross income derived from a de minimis amount of modification  
3 activity does not subject the contract or any part of the contract to tax.  
4 For the purposes of this paragraph:

5 (a) Each contract is independent of another contract, except that  
6 any change order that directly relates to the scope of work of the  
7 original contract shall be treated the same as the original contract under  
8 this paragraph, regardless of the amount of modification activities  
9 included in the change order. If a change order does not directly relate  
10 to the scope of work of the original contract, the change order shall be  
11 treated as a new contract, with the tax treatment of any subsequent change  
12 order to follow the tax treatment of the contract to which the scope of  
13 work of the subsequent change order directly relates.

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

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

24 (i) Community facilities districts, fire districts, county  
25 television improvement districts, community park maintenance districts,  
26 cotton pest control districts, hospital districts, pest abatement  
27 districts, health service districts, agricultural improvement districts,  
28 county free library districts, county jail districts, county stadium  
29 districts, special health care districts, public health services  
30 districts, theme park districts or revitalization districts.

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

35 16. Monitoring services relating to an alarm system as defined in  
36 section 32-101.

37 17. Tangible personal property, job printing or publications sold  
38 to or purchased by, or tangible personal property leased, rented or  
39 licensed for use to or by, a qualifying health sciences educational  
40 institution as defined in section 42-5001.

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

44 ~~(a) The transfer of title or possession of the coal is for the~~  
45 ~~purpose of refining the coal.~~

1           ~~(b) The title or possession of the coal is transferred back to the~~  
2 ~~owner or operator of the power plant after completion of the coal refining~~  
3 ~~process. For the purposes of this subdivision, "coal refining process"~~  
4 ~~means the application of a coal additive system that aids the reduction of~~  
5 ~~power plant emissions during the combustion of coal and the treatment of~~  
6 ~~flue gas.~~

7           19. The gross proceeds of sales or gross income from sales of low  
8 or reduced cost articles of food or drink to eligible elderly or homeless  
9 persons or persons with a disability by a business subject to tax under  
10 section 42-5074 that contracts with the department of economic security  
11 and that is approved by the food and nutrition service of the United  
12 States department of agriculture pursuant to the supplemental nutrition  
13 assistance program established by the food and nutrition act of 2008  
14 (P.L. 110-246; 122 Stat. 1651; 7 United States Code sections 2011 through  
15 2036a), if the purchases are made with the benefits issued pursuant to the  
16 supplemental nutrition assistance program.

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

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

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

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

34           21. The charges for the leasing or renting of space to make  
35 attachments to utility poles as follows:

36           (a) By a person that is engaged in the business of providing or  
37 furnishing electrical services or telecommunication services or that is a  
38 cable operator.

39           (b) To a person that is engaged in the business of providing or  
40 furnishing electrical services or telecommunication services or that is a  
41 cable operator.

42           22. Until March 1, 2017, the gross proceeds of sales or gross  
43 income derived from entry fees paid by participants for events that  
44 consist of a run, walk, swim or bicycle ride or a similar event, or any  
45 combination of these events.

1           23. The gross proceeds of sales or gross income derived from entry  
2 fees paid by participants for events that are operated or conducted by  
3 nonprofit organizations that are exempt from taxation under section  
4 501(c)(3) of the internal revenue code and of which no part of the  
5 organization's net earnings inures to the benefit of any private  
6 shareholder or individual, if the event consists of a run, walk, swim or  
7 bicycle ride or a similar event, or any combination of these events.

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

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

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

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

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

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

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

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

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

39           (b) The attributable amount is equal to the total amount of  
40 development fees paid by the taxpayer or by a contractor providing  
41 services to the taxpayer and the total development fees credited in  
42 exchange for the construction of, contribution to or dedication of real  
43 property for providing public infrastructure, public safety or other  
44 public services necessary to the development. The real property must be  
45 the subject of the development fees.

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

6 7. Any amount attributable to fees collected by transportation  
7 network companies issued a permit pursuant to section 28-9552.

8 8. Transporting for hire persons by transportation network company  
9 drivers on transactions involving transportation network services as  
10 defined in section 28-9551.

11 9. Transporting for hire persons by vehicle for hire companies that  
12 are issued permits pursuant to section 28-9503.

13 10. Transporting for hire persons by vehicle for hire drivers on  
14 transactions involving vehicle for hire services as defined in section  
15 28-9501.

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

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

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

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

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

33 G. For the purposes of this section:

34 1. "Cable operator" has the same meaning prescribed in section  
35 9-505.

36 2. "Electrical services" means transmitting or distributing  
37 electricity, electric lights, current or power over lines, wires or  
38 cables.

39 3. "Telecommunication services" means transmitting or relaying  
40 sound, visual image, data, information, images or material over lines,  
41 wires or cables by radio signal, light beam, telephone, telegraph or other  
42 electromagnetic means.

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

1           Sec. 4. Title 42, chapter 6, article 3, Arizona Revised Statutes,  
2 is amended by adding section 42-6113, to read:

3           42-6113. County excise tax on coal mining

4           A. A COUNTY EXCISE TAX IS LEVIED ON THE BUSINESS OF MINING OR  
5 PRODUCING FOR SALE, PROFIT OR COMMERCIAL USE COAL THAT HAS BEEN MINED OR  
6 OTHERWISE EXTRACTED WITHIN THE BOUNDARIES OF THE COUNTY. THE TAX SHALL BE  
7 LEVIED AND COLLECTED AT THE RATE OF .5 PERCENT OF THE TAX BASE, CONSISTING  
8 OF GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE BUSINESS.

9           B. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM SALES  
10 DESCRIBED UNDER SECTION 42-5061, SUBSECTION A, PARAGRAPH 27 AND SUBSECTION  
11 I, PARAGRAPH 2 SHALL BE DEDUCTED FROM THE TAX BASE.

12           C. THE TAX BASE INCLUDES THE VALUE OF THE ENTIRE PRODUCT MINED OR  
13 PRODUCED FOR SALE, PROFIT OR COMMERCIAL USE IN THIS STATE, REGARDLESS OF  
14 THE PRODUCT'S PLACE OF SALE OR OF THE FACT THAT DELIVERIES MAY BE MADE TO  
15 POINTS OUTSIDE THIS STATE. IF THE SALE PRICE OF THE PRODUCT INCLUDES  
16 FREIGHT, THE SALE PRICE SHALL BE REDUCED BY THE ACTUAL FREIGHT PAID BY ANY  
17 PERSON FROM THE PLACE OF PRODUCTION TO THE PLACE OF DELIVERY.

18           D. IF A PERSON ENGAGING IN BUSINESS CLASSIFIED UNDER THE MINING  
19 CLASSIFICATION SHIPS OR TRANSPORTS ALL OR PART OF THE COAL OUT OF THIS  
20 STATE WITHOUT MAKING SALE OF THE PRODUCT, THE VALUE OF THE COAL WHEN  
21 TRANSPORTED OUT OF THIS STATE AND BEFORE IT ENTERS INTERSTATE COMMERCE IS  
22 INCLUDED IN THE TAX BASE, AS DETERMINED ACCORDING TO RULES ADOPTED BY THE  
23 DEPARTMENT FOR THE PURPOSES OF THE MINING CLASSIFICATION UNDER SECTION  
24 42-5072.

25           E. A TAXPAYER THAT CONDUCTS A BUSINESS SUBJECT TO TAX UNDER THIS  
26 SECTION MAY BE CONSIDERED TO ALSO BE ENGAGED IN BUSINESS CLASSIFIED UNDER  
27 THE RETAIL CLASSIFICATION PURSUANT TO SECTION 42-5061 TO THE EXTENT THE  
28 TAXPAYER'S ACTIVITIES COMPRISE BUSINESS UNDER THE RETAIL CLASSIFICATION IF  
29 THE TAXPAYER PAYS STATE TRANSACTION PRIVILEGE TAX AT THE RATE PRESCRIBED  
30 BY SECTION 42-5010. IF THE TRANSACTION IS NOT SUBJECT TO TAXATION UNDER  
31 THE STATE RETAIL CLASSIFICATION, THE TRANSACTION SHALL BE INCLUDED IN THE  
32 TAX BASE UNDER THIS SECTION, EXCEPT FOR THE TRANSFER OF TITLE OR  
33 POSSESSION OF COAL BACK AND FORTH BETWEEN AN OWNER OR OPERATOR OF A POWER  
34 PLANT AND A PERSON THAT IS RESPONSIBLE FOR REFINING COAL IF BOTH OF THE  
35 FOLLOWING APPLY:

36           1. THE TRANSFER OF TITLE OR POSSESSION OF THE COAL IS FOR THE  
37 PURPOSE OF REFINING THE COAL.

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

1           Sec. 5. Conditional enactment; notice  
2           A. This act does not become effective unless on or before December  
3 31, 2022 both of the following occur:  
4           1. The Navajo Nation approves the transfer of ownership of the  
5 Navajo generating station by a resolution that is adopted by the Navajo  
6 Nation council and signed by the president of the Navajo Nation.  
7           2. The Navajo Nation delivers the resolution to the governor of  
8 this state and a copy to the director of the department of revenue.  
9           B. The department of revenue shall notify in writing the director  
10 of the Arizona legislative council on or before February 1, 2023 either:  
11           1. Of the date on which the condition was met.  
12           2. That the condition was not met.

**APPROVED BY THE GOVERNOR APRIL 25, 2018**

**FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 25, 2018**

Passed the House March 5, 20 18

Passed the Senate April 19, 20 18

by the following vote: 33 Ayes,

by the following vote: 18 Ayes,

22 Nays, 5 Not Voting

12 Nays, 0 Not Voting

[Signature]

Speaker of the House

Pro Tempore

[Signature]

President of the Senate

[Signature]

Chief Clerk of the House

[Signature]

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

19<sup>th</sup> day of April, 20 18

at 1:20 o'clock P M.

[Signature]

Secretary to the Governor

Approved this 20<sup>th</sup> day of

April 2018

at 3:26 o'clock P M.

[Signature]

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 25 day of April, 20 18

at 5:37 o'clock P M.

[Signature]

Secretary of State

H.B. 2003