

PROPOSED AMENDMENT

SENATE AMENDMENTS TO H.B. 2341

(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

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 selling
6 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 to
9 the gross proceeds of sales or gross income from:

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

13 2. Services rendered in addition to selling tangible personal property
14 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 organization
19 organized and operated exclusively for charitable purposes and recognized by
20 the United States internal revenue service under section 501(c)(3) of the
21 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 or
24 condiment, whether simple, mixed or compounded.

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

27 7. The sale of stocks and bonds.

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

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

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

8 11. Prescription eyeglasses or contact lenses.

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

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

17 14. Sales to nonresidents of this state for use outside this state if
18 the vendor ships or delivers the tangible personal property out of this
19 state.

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

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

27 17. Textbooks by any bookstore that are required by any state
28 university or community college.

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

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

6 20. Lottery tickets or shares pursuant to title 5, chapter 5,
7 article 1.

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

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

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

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

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

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

31 25. Tangible personal property sold to:

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

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

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

9 (d) A qualifying community health center as defined in section
10 42-5001.

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

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

22 26. Magazines or other periodicals or other publications by this state
23 to encourage tourist travel.

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

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

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

3 (c) Incorporated or fabricated by the person into any lake facility
4 development in a commercial enhancement reuse district under conditions
5 prescribed for the deduction allowed by section 42-5075, subsection B,
6 paragraph 8.

7 28. The sale of a motor vehicle to:

8 (a) A nonresident of this state if the purchaser's state of residence
9 does not allow a corresponding use tax exemption to the tax imposed by
10 article 1 of this chapter and if the nonresident has secured a special ninety
11 day nonresident registration permit for the vehicle as prescribed by sections
12 28-2154 and 28-2154.01.

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

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

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

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

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

7 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
8 propagative material to persons who use those items to commercially produce
9 agricultural, horticultural, viticultural or floricultural crops in this
10 state.

11 34. Machinery, equipment, technology or related supplies that are only
12 useful to assist a person who is physically disabled as defined in section
13 46-191, has a developmental disability as defined in section 36-551 or has a
14 head injury as defined in section 41-3201 to be more independent and
15 functional.

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

19 36. Sales of natural gas or liquefied petroleum gas used to propel a
20 motor vehicle.

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

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

1 paper, the time period shall begin with the date the first manufacturing,
2 processing or production equipment is placed in service.

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

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

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

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

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

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

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

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

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

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

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

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

31 48. Sales of materials that are purchased by or for publicly funded
32 libraries including school district libraries, charter school libraries,

1 community college libraries, state university libraries or federal, state,
2 county or municipal libraries for use by the public as follows:

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

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

5 49. Tangible personal property sold to a commercial airline and
6 consisting of food, beverages and condiments and accessories used for serving
7 the food and beverages, if those items are to be provided without additional
8 charge to passengers for consumption in flight. For the purposes of this
9 paragraph, "commercial airline" means a person holding a federal certificate
10 of public convenience and necessity or foreign air carrier permit for air
11 transportation to transport persons, property or United States mail in
12 intrastate, interstate or foreign commerce.

13 50. Sales of alternative fuel vehicles if the vehicle was manufactured
14 as a diesel fuel vehicle and converted to operate on alternative fuel and
15 equipment that is installed in a conventional diesel fuel motor vehicle to
16 convert the vehicle to operate on an alternative fuel, as defined in section
17 1-215.

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

21 52. Sales of tangible personal property to be incorporated or installed
22 as part of environmental response or remediation activities under section
23 42-5075, subsection B, paragraph 6.

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

29 54. Through August 31, 2014, sales of Arizona centennial medallions by
30 the historical advisory commission.

31 55. Application services that are designed to assess or test student
32 learning or to promote curriculum design or enhancement purchased by or for

1 any school district, charter school, community college or state university.
2 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 or
6 reporting on courses of study, lessons, assignments or other learning
7 activities.

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

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

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

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

31 4. Machinery, equipment or transmission lines used directly in
32 producing or transmitting electrical power, but not including distribution.

1 Transformers and control equipment used at transmission substation sites
2 constitute equipment used in producing or transmitting electrical power.

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

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

10 7. Aircraft, navigational and communication instruments and other
11 accessories and related equipment sold to:

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

18 (b) Any foreign government ~~for use by such government outside of this~~
19 ~~state.~~

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

27 8. Machinery, tools, equipment and related supplies used or consumed
28 directly in repairing, remodeling or maintaining aircraft, aircraft engines
29 or aircraft component parts by or on behalf of a certificated or licensed
30 carrier of persons or property.

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

1 10. Machinery or equipment used directly to drill for oil or gas or
2 used directly in the process of extracting oil or gas from the earth for
3 commercial purposes.

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

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

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

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

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

24 14. Machinery or equipment used in research and development. For the
25 purposes of this paragraph, "research and development" means basic and
26 applied research in the sciences and engineering, and designing, developing
27 or testing prototypes, processes or new products, including research and
28 development of computer software that is embedded in or an integral part of
29 the prototype or new product or that is required for machinery or equipment
30 otherwise exempt under this section to function effectively. Research and
31 development do not include manufacturing quality control, routine consumer
32 product testing, market research, sales promotion, sales service, research in

1 social sciences or psychology, computer software research that is not
2 included in the definition of research and development, or other
3 nontechnological activities or technical services.

4 15. Machinery and equipment that are purchased by or on behalf of the
5 owners of a soundstage complex and primarily used for motion picture,
6 multimedia or interactive video production in the complex. This paragraph
7 applies only if the initial construction of the soundstage complex begins
8 after June 30, 1996 and before January 1, 2002 and the machinery and
9 equipment are purchased before the expiration of five years after the start
10 of initial construction. For the purposes of this paragraph:

11 (a) "Motion picture, multimedia or interactive video production"
12 includes products for theatrical and television release, educational
13 presentations, electronic retailing, documentaries, music videos, industrial
14 films, CD-ROM, video game production, commercial advertising and television
15 episode production and other genres that are introduced through developing
16 technology.

17 (b) "Soundstage complex" means a facility of multiple stages including
18 production offices, construction shops and related areas, prop and costume
19 shops, storage areas, parking for production vehicles and areas that are
20 leased to businesses that complement the production needs and orientation of
21 the overall facility.

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

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

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

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

1 transmission services that operate pursuant to 47 Code of Federal Regulations
2 part 25.

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

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

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

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

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

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

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

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

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

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

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

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

30 22. Qualifying equipment that is purchased from and after June 30, 2004
31 through June 30, 2014 by a qualified business under section 41-1516 for
32 harvesting or the initial processing of qualifying forest products removed

1 from qualifying projects as defined in section 41-1516. To qualify for this
2 deduction, the qualified business at the time of purchase must present its
3 certification approved by the department.

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

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

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

16 2. Janitorial equipment and hand tools.

17 3. Office equipment, furniture and supplies.

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

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

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

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

28 D. In addition to the deductions from the tax base prescribed by
29 subsection A of this section, there shall be deducted from the tax base the
30 gross proceeds of sales or gross income derived from sales of machinery,
31 equipment, materials and other tangible personal property used directly and
32 predominantly to construct a qualified environmental technology

1 manufacturing, producing or processing facility as described in section
2 41-1514.02. This subsection applies for ten full consecutive calendar or
3 fiscal years after the start of initial construction.

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

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

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

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

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

- 32 1. Transporting classification.

2. Utilities classification.
3. Telecommunications classification.
4. Pipeline classification.
5. Private car line classification.
6. Publication classification.
7. Job printing classification.
8. Prime contracting classification.
9. Owner builder sales classification.
10. Restaurant classification.

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

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

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

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

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

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

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

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

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

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

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

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

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

28 Q. Retail sales of prepaid calling cards or prepaid authorization
29 numbers for telecommunications services, including sales of reauthorization
30 of a prepaid card or authorization number, are subject to tax under this
31 section.

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

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

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

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

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

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

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

1 U. In computing the tax base for the sale of a motor vehicle to a
2 nonresident of this state, if the purchaser's state of residence allows a
3 corresponding use tax exemption to the tax imposed by article 1 of this
4 chapter and the rate of the tax in the purchaser's state of residence is
5 lower than the rate prescribed in article 1 of this chapter or if the
6 purchaser's state of residence does not impose an excise tax, and the
7 nonresident has secured a special ninety day nonresident registration permit
8 for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall
9 be deducted from the tax base a portion of the gross proceeds or gross income
10 from the sale so that the amount of transaction privilege tax that is paid in
11 this state is equal to the excise tax that is imposed by the purchaser's
12 state of residence on the nonexempt sale or use of the motor vehicle.

13 V. For the purposes of this section:

14 1. "Aircraft" includes:

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

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

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

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

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

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

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

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

7 4. "Overhead materials" means tangible personal property, the gross
8 proceeds of sales or gross income derived from which would otherwise be
9 included in the retail classification, and which are used or consumed in the
10 performance of a contract, the cost of which is charged to an overhead
11 expense account and allocated to various contracts based upon generally
12 accepted accounting principles and consistent with government contract
13 accounting standards.

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

16 6. "Subcontract" means an agreement between a contractor and any
17 person who is not an employee of the contractor for furnishing of supplies or
18 services that, in whole or in part, are necessary to the performance of one
19 or more government contracts, or under which any portion of the contractor's
20 obligation under one or more government contracts is performed, undertaken or
21 assumed and that includes provisions causing title to overhead materials or
22 other tangible personal property used in the performance of the subcontract
23 to pass to the government or that includes provisions incorporating such
24 title passing clauses in a government contract into the subcontract.

25 Sec. 2. Section 42-5159, Arizona Revised Statutes, is amended to read:

26 42-5159. Exemptions

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

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

1 2. Tangible personal property the sale or use of which has already
2 been subjected to an excise tax at a rate equal to or exceeding the tax
3 imposed by this article under the laws of another state of the United States.
4 If the excise tax imposed by the other state is at a rate less than the tax
5 imposed by this article, the tax imposed by this article is reduced by the
6 amount of the tax already imposed by the other state.

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

11 4. Tangible personal property which directly enters into and becomes
12 an ingredient or component part of any manufactured, fabricated or processed
13 article, substance or commodity for sale in the regular course of business.

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

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

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

1 8. Livestock, poultry, supplies, feed, salts, vitamins and other
2 additives for use or consumption in the businesses of farming, ranching and
3 feeding livestock or poultry, not including fertilizers, herbicides and
4 insecticides. For the purposes of this paragraph, "poultry" includes
5 ratites.

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

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

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

16 12. Materials that are purchased by or for publicly funded libraries
17 including school district libraries, charter school libraries, community
18 college libraries, state university libraries or federal, state, county or
19 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 13. Tangible personal property purchased by:

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

26 (b) A hospital operated by this state or a political subdivision of
27 this state.

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

1 (d) A qualifying health care organization, as defined in section
2 42-5001, if the tangible personal property is used by the organization solely
3 to provide health and medical related educational and charitable services.

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

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

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

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

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

23 (iii) Incorporated or fabricated by the person into any lake facility
24 development in a commercial enhancement reuse district under conditions
25 prescribed for the deduction allowed by section 42-5075, subsection B,
26 paragraph 8.

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

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

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

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

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

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

22 15. Tangible personal property sold by:

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

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

31 (c) A nonprofit organization that is exempt from taxation under
32 section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the

1 internal revenue code if the organization sponsors or operates a rodeo
2 featuring primarily farm and ranch animals and no part of the organization's
3 net earnings inures to the benefit of any private shareholder or individual.

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

7 17. Prosthetic appliances, as defined in section 23-501, prescribed or
8 recommended by a person who is licensed, registered or otherwise
9 professionally credentialed as a physician, dentist, podiatrist,
10 chiropractor, naturopath, homeopath, nurse or optometrist.

11 18. Prescription eyeglasses and contact lenses.

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

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

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

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

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

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

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

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

6 27. Lottery tickets or shares purchased pursuant to title 5, chapter 5,
7 article 1.

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

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

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

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

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

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

30 (b) Public educational institutions.

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

4 33. Natural gas or liquefied petroleum gas used to propel a motor
5 vehicle.

6 34. Machinery, equipment, technology or related supplies that are only
7 useful to assist a person who is physically disabled as defined in section
8 46-191, has a developmental disability as defined in section 36-551 or has a
9 head injury as defined in section 41-3201 to be more independent and
10 functional.

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

24 36. Food, drink and condiment purchased for consumption within the
25 premises of any prison, jail or other institution under the jurisdiction of
26 the state department of corrections, the department of public safety, the
27 department of juvenile corrections or a county sheriff.

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

1 38. Tangible personal property which is or directly enters into and
2 becomes an ingredient or component part of cards used as prescription plan
3 identification cards.

4 39. Overhead materials or other tangible personal property that is used
5 in performing a contract between the United States government and a
6 manufacturer, modifier, assembler or repairer, including property used in
7 performing a subcontract with a government contractor who is a manufacturer,
8 modifier, assembler or repairer, to which title passes to the government
9 under the terms of the contract or subcontract. For the purposes of this
10 paragraph:

11 (a) "Overhead materials" means tangible personal property, the gross
12 proceeds of sales or gross income derived from which would otherwise be
13 included in the retail classification, and which are used or consumed in the
14 performance of a contract, the cost of which is charged to an overhead
15 expense account and allocated to various contracts based upon generally
16 accepted accounting principles and consistent with government contract
17 accounting standards.

18 (b) "Subcontract" means an agreement between a contractor and any
19 person who is not an employee of the contractor for furnishing of supplies or
20 services that, in whole or in part, are necessary to the performance of one
21 or more government contracts, or under which any portion of the contractor's
22 obligation under one or more government contracts is performed, undertaken or
23 assumed, and that includes provisions causing title to overhead materials or
24 other tangible personal property used in the performance of the subcontract
25 to pass to the government or that includes provisions incorporating such
26 title passing clauses in a government contract into the subcontract.

27 40. Through December 31, 1994, tangible personal property sold pursuant
28 to a personal property liquidation transaction, as defined in section
29 42-5061. From and after December 31, 1994, tangible personal property sold
30 pursuant to a personal property liquidation transaction, as defined in
31 section 42-5061, if the gross proceeds of the sales were included in the

1 measure of the tax imposed by article 1 of this chapter or if the personal
2 property liquidation was a casual activity or transaction.

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

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

9 43. Tangible personal property purchased by a commercial airline and
10 consisting of food, beverages and condiments and accessories used for serving
11 the food and beverages, if those items are to be provided without additional
12 charge to passengers for consumption in flight. For the purposes of this
13 paragraph, "commercial airline" means a person holding a federal certificate
14 of public convenience and necessity or foreign air carrier permit for air
15 transportation to transport persons, property or United States mail in
16 intrastate, interstate or foreign commerce.

17 44. Alternative fuel vehicles if the vehicle was manufactured as a
18 diesel fuel vehicle and converted to operate on alternative fuel and
19 equipment that is installed in a conventional diesel fuel motor vehicle to
20 convert the vehicle to operate on an alternative fuel, as defined in section
21 1-215.

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

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

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

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

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

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

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

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

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

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

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

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

1 2. Machinery, or equipment, used directly in the process of extracting
2 ores or minerals from the earth for commercial purposes, including equipment
3 required to prepare the materials for extraction and handling, loading or
4 transporting such extracted material to the surface. "Mining" includes
5 underground, surface and open pit operations for extracting ores and
6 minerals.

7 3. Tangible personal property sold to persons engaged in business
8 classified under the telecommunications classification under section 42-5064
9 and consisting of central office switching equipment, switchboards, private
10 branch exchange equipment, microwave radio equipment and carrier equipment
11 including optical fiber, coaxial cable and other transmission media which are
12 components of carrier systems.

13 4. Machinery, equipment or transmission lines used directly in
14 producing or transmitting electrical power, but not including distribution.
15 Transformers and control equipment used at transmission substation sites
16 constitute equipment used in producing or transmitting electrical power.

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

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

24 7. Aircraft, navigational and communication instruments and other
25 accessories and related equipment sold to:

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

1 (b) Any foreign government ~~for use by such government outside of this~~
2 ~~state~~, or sold to persons who are not residents of this state and who will
3 not use such property in this state other than in removing such property from
4 this state.

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

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

11 10. Machinery or equipment used directly to drill for oil or gas or
12 used directly in the process of extracting oil or gas from the earth for
13 commercial purposes.

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

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

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

29 (a) "New machinery and equipment" means machinery or equipment which
30 has never been sold at retail except pursuant to leases or rentals which do
31 not total two years or more.

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

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

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

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

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

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

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

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

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

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

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

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

30 (a) Includes the integrated systems, fixtures, piping, movable
31 partitions, lighting and all property that is necessary or adapted to reduce
32 contamination or to control airflow, temperature, humidity, chemical purity

1 or other environmental conditions or manufacturing tolerances, as well as the
2 production machinery and equipment operating in conjunction with the clean
3 room environment.

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

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

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

20 20. Machinery and equipment that are used in the commercial production
21 of livestock, livestock products or agricultural, horticultural, viticultural
22 or floricultural crops or products in this state and that are used directly
23 and primarily to prevent, monitor, control or reduce air, water or land
24 pollution.

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

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

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

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

8 22. Qualifying equipment that is purchased from and after June 30, 2004
9 through June 30, 2014 by a qualified business under section 41-1516 for
10 harvesting or the initial processing of qualifying forest products removed
11 from qualifying projects as defined in section 41-1516. To qualify for this
12 exemption, the qualified business must obtain and present its certification
13 from the department of commerce at the time of purchase.

14 23. Machinery, equipment and other tangible personal property used
15 directly in motion picture production by a motion picture production company.
16 To qualify for this exemption, at the time of purchase, the motion picture
17 production company must present to the retailer its certificate that is
18 issued pursuant to section 42-5009, subsection H and that establishes its
19 qualification for the exemption.

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

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

26 2. Janitorial equipment and hand tools.

27 3. Office equipment, furniture and supplies.

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

31 5. Motor vehicles required to be licensed by this state, except buses
32 or other urban mass transit vehicles specifically exempted pursuant to

1 subsection B, paragraph 11 of this section, without regard to the use of such
2 motor vehicles.

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

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

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

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

13 2. Revenues received from providing electricity, including ancillary
14 services, electric distribution services, electric generation services,
15 electric transmission services and other services related to providing
16 electricity with respect to which the transaction privilege tax imposed under
17 section 42-5063 has been paid.

18 E. The tax levied by this article does not apply to:

19 1. The storage, use or consumption in Arizona of machinery, equipment,
20 materials or other tangible personal property if used directly and
21 predominantly to construct a qualified environmental technology
22 manufacturing, producing or processing facility, as described in section
23 41-1514.02. This paragraph applies for ten full consecutive calendar or
24 fiscal years after the start of initial construction.

25 2. The purchase of electricity by a qualified environmental technology
26 manufacturer, producer or processor as defined in section 41-1514.02 that is
27 used directly in environmental technology manufacturing, producing or
28 processing. This paragraph shall apply for twenty full consecutive calendar
29 or fiscal years from the date the first paper manufacturing machine is placed
30 in service. In the case of an environmental technology manufacturer,
31 producer or processor who does not manufacture paper, the time period shall

1 begin with the date the first manufacturing, processing or production
2 equipment is placed in service.

3 3. The purchase of solar energy devices from a retailer that is
4 registered with the department as a solar energy retailer or a solar energy
5 contractor.

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

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

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

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

19 1. "Aircraft" includes:

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

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

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

29 H. For the purposes of subsection D of this section, "ancillary
30 services", "electric distribution service", "electric generation service",
31

Senate Amendments to H.B. 2341

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

ANDY BIGGS

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