

State of Arizona  
Senate  
Fiftieth Legislature  
Second Regular Session  
2012

# SENATE BILL 1229

AN ACT

AMENDING SECTIONS 42-5001, 42-5061, 42-5063 AND 42-5159, ARIZONA REVISED STATUTES; RELATING TO TRANSACTION PRIVILEGE TAX AND USE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5001, Arizona Revised Statutes, is amended to  
3 read:

4 42-5001. Definitions

5 In this article and article 2 of this chapter, unless the context  
6 otherwise requires:

7 1. "Business" includes all activities or acts, personal or corporate,  
8 engaged in or caused to be engaged in with the object of gain, benefit or  
9 advantage, either directly or indirectly, but DOES not INCLUDE EITHER:

10 (a) Casual activities or sales.

11 (b) THE TRANSFER OF ELECTRICITY FROM A SOLAR PHOTOVOLTAIC GENERATION  
12 SYSTEM TO AN ELECTRIC UTILITY DISTRIBUTION SYSTEM.

13 2. "Distribution base" means the portion of the revenues derived from  
14 the tax levied by this article and articles 5 and 8 of this chapter  
15 designated for distribution to counties, municipalities and other purposes  
16 according to section 42-5029, subsection D.

17 3. "Engaging", when used with reference to engaging or continuing in  
18 business, includes the exercise of corporate or franchise powers.

19 4. "Gross income" means the gross receipts of a taxpayer derived from  
20 trade, business, commerce or sales and the value proceeding or accruing from  
21 the sale of tangible personal property or service, or both, and without any  
22 deduction on account of losses.

23 5. "Gross proceeds of sales" means the value proceeding or accruing  
24 from the sale of tangible personal property without any deduction on account  
25 of the cost of property sold, expense of any kind or losses, but cash  
26 discounts allowed and taken on sales are not included as gross income.

27 6. "Gross income" and "gross proceeds of sales" do not include goods,  
28 wares or merchandise, or value thereof, returned by customers if the sale  
29 price is refunded either in cash or by credit, nor the value of merchandise  
30 traded in on the purchase of new merchandise when the trade-in allowance is  
31 deducted from the sales price of the new merchandise before completion of the  
32 sale.

33 7. "Gross receipts" means the total amount of the sale, lease or  
34 rental price, as the case may be, of the retail sales of retailers, including  
35 any services that are a part of the sales, valued in money, whether received  
36 in money or otherwise, including all receipts, cash, credits and property of  
37 every kind or nature, and any amount for which credit is allowed by the  
38 seller to the purchaser without any deduction from the amount on account of  
39 the cost of the property sold, materials used, labor or service performed,  
40 interest paid, losses or any other expense. Gross receipts do not include  
41 cash discounts allowed and taken nor the sale price of property returned by  
42 customers if the full sale price is refunded either in cash or by credit.

43 8. "Person" or "company" includes an individual, firm, partnership,  
44 joint venture, association, corporation, estate or trust, this state, any  
45 county, city, town, district, other than a school district, or other

1 political subdivision and any other group or combination acting as a unit,  
2 and the plural as well as the singular number.

3 9. "Qualifying community health center":

4 (a) Means an entity that is recognized as nonprofit under section  
5 501(c)(3) of the United States internal revenue code, that is a  
6 community-based, primary care clinic that has a community-based board of  
7 directors and that is either:

8 (i) The sole provider of primary care in the community.

9 (ii) A nonhospital affiliated clinic that is located in a federally  
10 designated medically underserved area in this state.

11 (b) Includes clinics that are being constructed as qualifying  
12 community health centers.

13 10. "Qualifying health care organization" means an entity that is  
14 recognized as nonprofit under section 501(c) of the United States internal  
15 revenue code and that uses, saves or invests at least eighty per cent of all  
16 monies that it receives from all sources each year only for health and  
17 medical related educational and charitable services, as documented by annual  
18 financial audits prepared by an independent certified public accountant,  
19 performed according to generally accepted accounting standards and filed  
20 annually with the department. Monies that are used, saved or invested to  
21 lease, purchase or construct a facility for health and medical related  
22 education and charitable services are included in the eighty per cent  
23 requirement.

24 11. "Qualifying hospital" means any of the following:

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

28 (b) 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.

33 (c) A hospital, nursing care institution or residential care  
34 institution which is operated by the federal government, this state or a  
35 political subdivision of this state.

36 (d) A facility that is under construction and that on completion will  
37 be a facility under subdivision (a), (b) or (c) of this paragraph.

38 12. "Retailer" includes every person engaged in the business classified  
39 under the retail classification pursuant to section 42-5061 and, when in the  
40 opinion of the department it is necessary for the efficient administration of  
41 this article, includes dealers, distributors, supervisors, employers and  
42 salesmen, representatives, peddlers or canvassers as the agents of the  
43 dealers, distributors, supervisors or employers under whom they operate or  
44 from whom they obtain the tangible personal property sold by them, whether in

1 making sales on their own behalf or on behalf of the dealers, distributors,  
2 supervisors or employers.

3 13. "Sale" means any transfer of title or possession, or both,  
4 exchange, barter, lease or rental, conditional or otherwise, in any manner or  
5 by any means whatever, including consignment transactions and auctions, of  
6 tangible personal property or other activities taxable under this chapter,  
7 for a consideration, and includes:

8 (a) Any transaction by which the possession of property is transferred  
9 but the seller retains the title as security for the payment of the price.

10 (b) Fabricating tangible personal property for consumers who furnish  
11 either directly or indirectly the materials used in the fabrication work.

12 (c) Furnishing, preparing or serving for a consideration any tangible  
13 personal property consumed on the premises of the person furnishing,  
14 preparing or serving the tangible personal property.

15 14. "Solar daylighting" means a device that is specifically designed to  
16 capture and redirect the visible portion of the solar beam, while controlling  
17 the infrared portion, for use in illuminating interior building spaces in  
18 lieu of artificial lighting.

19 15. "Solar energy device" means a system or series of mechanisms  
20 designed primarily to provide heating, to provide cooling, to produce  
21 electrical power, to produce mechanical power, to provide solar daylighting  
22 or to provide any combination of the foregoing by means of collecting and  
23 transferring solar generated energy into such uses either by active or  
24 passive means, including wind generator systems that produce electricity.  
25 Solar energy systems may also have the capability of storing solar energy for  
26 future use. Passive systems shall clearly be designed as a solar energy  
27 device, such as a trombe wall, and not merely as a part of a normal  
28 structure, such as a window.

29 16. "Tangible personal property" means personal property which may be  
30 seen, weighed, measured, felt or touched or is in any other manner  
31 perceptible to the senses.

32 17. "Tax year" or "taxable year" means either the calendar year or the  
33 taxpayer's fiscal year, if permission is obtained from the department to use  
34 a fiscal year as the tax period instead of the calendar year.

35 18. "Taxpayer" means any person who is liable for any tax which is  
36 imposed by this article.

37 19. "Wholesaler" or "jobber" means any person who sells tangible  
38 personal property for resale and not for consumption by the purchaser.

39 Sec. 2. Section 42-5061, Arizona Revised Statutes, is amended to read:  
40 42-5061. Retail classification; definitions

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

- 1           1. Professional or personal service occupations or businesses which  
2 involve sales or transfers of tangible personal property only as  
3 inconsequential elements.
- 4           2. Services rendered in addition to selling tangible personal property  
5 at retail.
- 6           3. Sales of warranty or service contracts. The storage, use or  
7 consumption of tangible personal property provided under the conditions of  
8 such contracts is subject to tax under section 42-5156.
- 9           4. Sales of tangible personal property by any nonprofit organization  
10 organized and operated exclusively for charitable purposes and recognized by  
11 the United States internal revenue service under section 501(c)(3) of the  
12 internal revenue code.
- 13           5. Sales to persons engaged in business classified under the  
14 restaurant classification of articles used by human beings for food, drink or  
15 condiment, whether simple, mixed or compounded.
- 16           6. Business activity which is properly included in any other business  
17 classification which is taxable under this article.
- 18           7. The sale of stocks and bonds.
- 19           8. Drugs and medical oxygen, including delivery hose, mask or tent,  
20 regulator and tank, on the prescription of a member of the medical, dental or  
21 veterinarian profession who is licensed by law to administer such substances.
- 22           9. Prosthetic appliances as defined in section 23-501 prescribed or  
23 recommended by a health professional who is licensed pursuant to title 32,  
24 chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 25           10. Insulin, insulin syringes and glucose test strips.
- 26           11. Prescription eyeglasses or contact lenses.
- 27           12. Hearing aids as defined in section 36-1901.
- 28           13. Durable medical equipment which has a centers for medicare and  
29 medicaid services common procedure code, is designated reimbursable by  
30 medicare, is prescribed by a person who is licensed under title 32, chapter  
31 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and  
32 customarily used to serve a medical purpose, is generally not useful to a  
33 person in the absence of illness or injury and is appropriate for use in the  
34 home.
- 35           14. Sales to nonresidents of this state for use outside this state if  
36 the vendor ships or delivers the tangible personal property out of this  
37 state.
- 38           15. Food, as provided in and subject to the conditions of article 3 of  
39 this chapter and section 42-5074.
- 40           16. Items purchased with United States department of agriculture food  
41 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.  
42 958) or food instruments issued under section 17 of the child nutrition act  
43 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code  
44 section 1786).

1 17. Textbooks by any bookstore that are required by any state  
2 university or community college.

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

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

12 20. Lottery tickets or shares pursuant to title 5, chapter 5,  
13 article 1.

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

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

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

25 22. Motor vehicle fuel and use fuel that are subject to a tax imposed  
26 under title 28, chapter 16, article 1, sales of use fuel to a holder of a  
27 valid single trip use fuel tax permit issued under section 28-5739, sales of  
28 aviation fuel that are subject to the tax imposed under section 28-8344 and  
29 sales of jet fuel that are subject to the tax imposed under article 8 of this  
30 chapter.

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

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

37 25. Tangible personal property sold to:

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

39 (b) A qualifying health care organization as defined in section  
40 42-5001 if the tangible personal property is used by the organization solely  
41 to provide health and medical related educational and charitable services.

42 (c) A qualifying health care organization as defined in section  
43 42-5001 if the organization is dedicated to providing educational,  
44 therapeutic, rehabilitative and family medical education training for blind,

1 visually impaired and multihandicapped children from the time of birth to age  
2 twenty-one.

3 (d) A qualifying community health center as defined in section  
4 42-5001.

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

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

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

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

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

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

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

32 28. The sale of a motor vehicle to:

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

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

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

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

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

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

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

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

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

30           36. Sales of natural gas or liquefied petroleum gas used to propel a  
31 motor vehicle.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12           56. SALES OR OTHER TRANSFERS OF RENEWABLE ENERGY CREDITS OR ANY OTHER  
13 UNIT CREATED TO TRACK ENERGY DERIVED FROM RENEWABLE ENERGY RESOURCES. FOR  
14 THE PURPOSES OF THIS PARAGRAPH, "RENEWABLE ENERGY CREDIT" MEANS A UNIT  
15 CREATED ADMINISTRATIVELY BY THE CORPORATION COMMISSION OR GOVERNING BODY OF A  
16 PUBLIC POWER UTILITY TO TRACK KILOWATT HOURS OF ELECTRICITY DERIVED FROM A  
17 RENEWABLE ENERGY RESOURCE OR THE KILOWATT HOUR EQUIVALENT OF CONVENTIONAL  
18 ENERGY RESOURCES DISPLACED BY DISTRIBUTED RENEWABLE ENERGY RESOURCES.

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

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

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

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

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

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

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

8           7. Aircraft, navigational and communication instruments and other  
9 accessories and related equipment sold to:

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

16           (b) Any foreign government.

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

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

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

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

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

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

41           13. New machinery and equipment consisting of tractors, tractor-drawn  
42 implements, self-powered implements, machinery and equipment necessary for  
43 extracting milk, and machinery and equipment necessary for cooling milk and  
44 livestock, and drip irrigation lines not already exempt under paragraph 6 of  
45 this subsection and that are used for commercial production of agricultural,

1 horticultural, viticultural and floricultural crops and products in this  
2 state. For the purposes of this paragraph:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1           20. Machinery and equipment that are sold to a person engaged in the  
2 commercial production of livestock, livestock products or agricultural,  
3 horticultural, viticultural or floricultural crops or products in this state  
4 and that are used directly and primarily to prevent, monitor, control or  
5 reduce air, water or land pollution.

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

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

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

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

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

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

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

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

38           2. Janitorial equipment and hand tools.

39           3. Office equipment, furniture and supplies.

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

43           5. Motor vehicles required to be licensed by this state, except buses  
44 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. In addition to the deductions from the tax base prescribed by  
7 subsection A of this section, there shall be deducted from the tax base the  
8 gross proceeds of sales or gross income derived from sales of machinery,  
9 equipment, materials and other tangible personal property used directly and  
10 predominantly to construct a qualified environmental technology  
11 manufacturing, producing or processing facility as described in section  
12 41-1514.02. This subsection applies for ten full consecutive calendar or  
13 fiscal years after the start of initial construction.

14 E. In computing the tax base, gross proceeds of sales or gross income  
15 from retail sales of heavy trucks and trailers does not include any amount  
16 attributable to federal excise taxes imposed by 26 United States Code section  
17 4051.

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

22 G. 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 as  
24 to show separately the gross proceeds of sales of tangible personal property  
25 and the gross income from sales of services, and if not so kept the tax shall  
26 be imposed on the total of the person's gross proceeds of sales of tangible  
27 personal property and gross income from services.

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

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

- 42 1. Transporting classification.
- 43 2. Utilities classification.
- 44 3. Telecommunications classification.
- 45 4. Pipeline classification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13           Q. Retail sales of prepaid calling cards or prepaid authorization  
14 numbers for telecommunications services, including sales of reauthorization  
15 of a prepaid card or authorization number, are subject to tax under this  
16 section.

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

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

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

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

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

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

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

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

16           V. For the purposes of this section:

17           1. "Aircraft" includes:

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

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

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

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

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

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

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

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

42           4. "Overhead materials" means tangible personal property, the gross  
43 proceeds of sales or gross income derived from which would otherwise be  
44 included in the retail classification, and which are used or consumed in the  
45 performance of a contract, the cost of which is charged to an overhead

1 expense account and allocated to various contracts based upon generally  
2 accepted accounting principles and consistent with government contract  
3 accounting standards.

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

6 6. "Subcontract" means an agreement between a contractor and any  
7 person who is not an employee of the contractor for furnishing of supplies or  
8 services that, in whole or in part, are necessary to the performance of one  
9 or more government contracts, or under which any portion of the contractor's  
10 obligation under one or more government contracts is performed, undertaken or  
11 assumed and that includes provisions causing title to overhead materials or  
12 other tangible personal property used in the performance of the subcontract  
13 to pass to the government or that includes provisions incorporating such  
14 title passing clauses in a government contract into the subcontract.

15 Sec. 3. Section 42-5063, Arizona Revised Statutes, is amended to read:

16 42-5063. Utilities classification; definitions

17 A. The utilities classification is comprised of the business of:

18 1. Producing and furnishing or furnishing to consumers natural or  
19 artificial gas and water.

20 2. Providing to retail electric customers ancillary services, electric  
21 distribution services, electric generation services, electric transmission  
22 services and other services related to providing electricity.

23 B. The utilities classification does not include:

24 1. Sales of ancillary services, electric distribution services,  
25 electric generation services, electric transmission services and other  
26 services related to providing electricity, gas or water to a person who  
27 resells the services.

28 2. Sales of natural gas or liquefied petroleum gas used to propel a  
29 motor vehicle.

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

33 4. Sales of ancillary services, electric distribution services,  
34 electric generation services, electric transmission services and other  
35 services that are related to providing electricity to a retail electric  
36 customer who is located outside this state for use outside this state if the  
37 electricity is delivered to a point of sale outside this state.

38 5. SALES OR OTHER TRANSFERS OF RENEWABLE ENERGY CREDITS OR ANY OTHER  
39 UNIT CREATED TO TRACK ENERGY DERIVED FROM RENEWABLE ENERGY RESOURCES. FOR  
40 THE PURPOSES OF THIS PARAGRAPH, "RENEWABLE ENERGY CREDIT" MEANS A UNIT  
41 CREATED ADMINISTRATIVELY BY THE CORPORATION COMMISSION OR GOVERNING BODY OF A  
42 PUBLIC POWER UTILITY TO TRACK KILOWATT HOURS OF ELECTRICITY DERIVED FROM A  
43 RENEWABLE ENERGY RESOURCE OR THE KILOWATT HOUR EQUIVALENT OF CONVENTIONAL  
44 ENERGY RESOURCES DISPLACED BY DISTRIBUTED RENEWABLE ENERGY RESOURCES.

1 C. The tax base for the utilities classification is the gross proceeds  
2 of sales or gross income derived from the business, but the following shall  
3 be deducted from the tax base:

4 1. Revenues received by a municipally owned utility in the form of  
5 fees charged to persons constructing residential, commercial or industrial  
6 developments or connecting residential, commercial or industrial developments  
7 to a municipal utility system or systems if the fees are segregated and used  
8 only for capital expansion, system enlargement or debt service of the utility  
9 system or systems.

10 2. Revenues received by any person or persons owning a utility system  
11 in the form of reimbursement or contribution compensation for property and  
12 equipment installed to provide utility access to, on or across the land of an  
13 actual utility consumer if the property and equipment become the property of  
14 the utility. This deduction shall not exceed the value of such property and  
15 equipment.

16 3. Gross proceeds of sales or gross income derived from sales to:

17 (a) Qualifying hospitals as defined in section 42-5001.

18 (b) A qualifying health care organization as defined in section  
19 42-5001 if the tangible personal property is used by the organization solely  
20 to provide health and medical related educational and charitable services.

21 4. The portion of gross proceeds of sales or gross income that is  
22 derived from sales to a qualified environmental technology manufacturer,  
23 producer or processor as defined in section 41-1514.02 of a utility product  
24 and that is used directly in environmental technology manufacturing,  
25 producing or processing. This paragraph shall apply for twenty full  
26 consecutive calendar or fiscal years from the date the first paper  
27 manufacturing machine is placed in service. In the case of a qualified  
28 environmental technology manufacturer, producer or processor who does not  
29 manufacture paper, the time period shall begin with the date the first  
30 manufacturing, processing or production equipment is placed in service.

31 5. THE PORTION OF GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE  
32 TO TRANSFERS OF ELECTRICITY BY ANY RETAIL ELECTRIC CUSTOMER OWNING A SOLAR  
33 PHOTOVOLTAIC ENERGY GENERATING SYSTEM TO AN ELECTRIC DISTRIBUTION SYSTEM, IF  
34 THE ELECTRICITY TRANSFERRED IS GENERATED BY THE CUSTOMER'S SYSTEM.

35 D. For the purposes of this section:

36 1. "Ancillary services" means those services so designated in federal  
37 energy regulatory commission order 888 adopted in 1996 that include the  
38 services necessary to support the transmission of electricity from resources  
39 to loads while maintaining reliable operation of the transmission system  
40 according to good utility practice.

41 2. "Electric distribution service" means distributing electricity to  
42 retail electric customers through the use of electric distribution  
43 facilities.

1           3. "Electric generation service" means providing electricity for sale  
2 to retail electric customers but excluding electric distribution or  
3 transmission services.

4           4. "Electric transmission service" means transmitting electricity to  
5 retail electric customers or to electric distribution facilities so  
6 classified by the federal energy regulatory commission or, to the extent  
7 permitted by law, so classified by the Arizona corporation commission.

8           5. "Other services" includes metering, meter reading services, billing  
9 and collecting services.

10          6. "Retail electric customer" means a person who purchases electricity  
11 for that person's own use, including use in that person's trade or business  
12 and not for resale, redistribution or retransmission.

13          Sec. 4. Section 42-5159, Arizona Revised Statutes, is amended to read:  
14          42-5159. Exemptions

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

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

21           2. Tangible personal property the sale or use of which has already  
22 been subjected to an excise tax at a rate equal to or exceeding the tax  
23 imposed by this article under the laws of another state of the United States.  
24 If the excise tax imposed by the other state is at a rate less than the tax  
25 imposed by this article, the tax imposed by this article is reduced by the  
26 amount of the tax already imposed by the other state.

27           3. Tangible personal property, the storage, use or consumption of  
28 which the constitution or laws of the United States prohibit this state from  
29 taxing or to the extent that the rate or imposition of tax is  
30 unconstitutional under the laws of the United States.

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

34           5. Motor vehicle fuel and use fuel, the sales, distribution or use of  
35 which in this state is subject to the tax imposed under title 28, chapter 16,  
36 article 1, use fuel which is sold to or used by a person holding a valid  
37 single trip use fuel tax permit issued under section 28-5739, aviation fuel,  
38 the sales, distribution or use of which in this state is subject to the tax  
39 imposed under section 28-8344, and jet fuel, the sales, distribution or use  
40 of which in this state is subject to the tax imposed under article 8 of this  
41 chapter.

42           6. Tangible personal property brought into this state by an individual  
43 who was a nonresident at the time the property was purchased for storage, use  
44 or consumption by the individual if the first actual use or consumption of

1 the property was outside this state, unless the property is used in  
2 conducting a business in this state.

3 7. Purchases of implants used as growth promotants and injectable  
4 medicines, not already exempt under paragraph 16 of this subsection, for  
5 livestock and poultry owned by, or in possession of, persons who are engaged  
6 in producing livestock, poultry, or livestock or poultry products, or who are  
7 engaged in feeding livestock or poultry commercially. For the purposes of  
8 this paragraph, "poultry" includes ratites.

9 8. Livestock, poultry, supplies, feed, salts, vitamins and other  
10 additives for use or consumption in the businesses of farming, ranching and  
11 feeding livestock or poultry, not including fertilizers, herbicides and  
12 insecticides. For the purposes of this paragraph, "poultry" includes  
13 ratites.

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

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

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

24 12. Materials that are purchased by or for publicly funded libraries  
25 including school district libraries, charter school libraries, community  
26 college libraries, state university libraries or federal, state, county or  
27 municipal libraries for use by the public as follows:

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

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

30 13. Tangible personal property purchased by:

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

34 (b) A hospital operated by this state or a political subdivision of  
35 this state.

36 (c) A licensed nursing care institution or a licensed residential care  
37 institution or a residential care facility operated in conjunction with a  
38 licensed nursing care institution or a licensed kidney dialysis center, which  
39 provides medical services, nursing services or health related services and is  
40 not used or held for profit.

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

44 (e) A qualifying health care organization as defined in section  
45 42-5001 if the organization is dedicated to providing educational,

1 therapeutic, rehabilitative and family medical education training for blind,  
2 visually impaired and multihandicapped children from the time of birth to age  
3 twenty-one.

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

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

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

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

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

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

26 (i) A qualifying community health center as defined in section  
27 42-5001.

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

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

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

44 14. Commodities, as defined by title 7 United States Code section 2,  
45 that are consigned for resale in a warehouse in this state in or from which

1 the commodity is deliverable on a contract for future delivery subject to the  
2 rules of a commodity market regulated by the United States commodity futures  
3 trading commission.

4 15. Tangible personal property sold by:

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

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

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

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

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

25 18. Prescription eyeglasses and contact lenses.

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

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

28 21. Durable medical equipment which has a centers for medicare and  
29 medicaid services common procedure code, is designated reimbursable by  
30 medicare, is prescribed by a person who is licensed under title 32, chapter  
31 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily  
32 used to serve a medical purpose, is generally not useful to a person in the  
33 absence of illness or injury and is appropriate for use in the home.

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

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

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

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

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

9           27. Lottery tickets or shares purchased pursuant to title 5, chapter 5,  
10 article 1.

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

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

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

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

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

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

33           (b) Public educational institutions.

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

37           33. Natural gas or liquefied petroleum gas used to propel a motor  
38 vehicle.

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

44           35. Liquid, solid or gaseous chemicals used in manufacturing,  
45 processing, fabricating, mining, refining, metallurgical operations, research

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

12 36. Food, drink and condiment purchased for consumption within the  
13 premises of any prison, jail or other institution under the jurisdiction of  
14 the state department of corrections, the department of public safety, the  
15 department of juvenile corrections or a county sheriff.

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

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

23 39. Overhead materials or other tangible personal property that is used  
24 in performing a contract between the United States government and a  
25 manufacturer, modifier, assembler or repairer, including property used in  
26 performing a subcontract with a government contractor who is a manufacturer,  
27 modifier, assembler or repairer, to which title passes to the government  
28 under the terms of the contract or subcontract. For the purposes of this  
29 paragraph:

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

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

1           40. Through December 31, 1994, tangible personal property sold pursuant  
2 to a personal property liquidation transaction, as defined in section  
3 42-5061. From and after December 31, 1994, tangible personal property sold  
4 pursuant to a personal property liquidation transaction, as defined in  
5 section 42-5061, if the gross proceeds of the sales were included in the  
6 measure of the tax imposed by article 1 of this chapter or if the personal  
7 property liquidation was a casual activity or transaction.

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

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

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

22           44. Alternative fuel vehicles if the vehicle was manufactured as a  
23 diesel fuel vehicle and converted to operate on alternative fuel and  
24 equipment that is installed in a conventional diesel fuel motor vehicle to  
25 convert the vehicle to operate on an alternative fuel, as defined in section  
26 1-215.

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

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

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

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

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

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

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

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

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

12           (b) "Curriculum design or enhancement" means planning, implementing or  
13 reporting on courses of study, lessons, assignments or other learning  
14 activities.

15           51. RENEWABLE ENERGY CREDITS OR ANY OTHER UNIT CREATED TO TRACK ENERGY  
16 DERIVED FROM RENEWABLE ENERGY RESOURCES. FOR THE PURPOSES OF THIS PARAGRAPH,  
17 "RENEWABLE ENERGY CREDIT" MEANS A UNIT CREATED ADMINISTRATIVELY BY THE  
18 CORPORATION COMMISSION OR GOVERNING BODY OF A PUBLIC POWER ENTITY TO TRACK  
19 KILOWATT HOURS OF ELECTRICITY DERIVED FROM A RENEWABLE ENERGY RESOURCE OR THE  
20 KILOWATT HOUR EQUIVALENT OF CONVENTIONAL ENERGY RESOURCES DISPLACED BY  
21 DISTRIBUTED RENEWABLE ENERGY RESOURCES.

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

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

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

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

44           4. Machinery, equipment or transmission lines used directly in  
45 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, or sold to persons who are not residents  
19 of this state and who will not use such property in this state other than in  
20 removing such property from this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (i) Over two-thirds of the transmissions, measured in megabytes,  
44 transmitted by the facility during the test period were transmitted to or on  
45 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 that are used directly in the feeding of  
29 poultry, the environmental control of housing for poultry, the movement of  
30 eggs within a production and packaging facility or the sorting or cooling of  
31 eggs. This exemption does not apply to vehicles used for transporting eggs.

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

42 20. Machinery and equipment that are used in the commercial production  
43 of livestock, livestock products or agricultural, horticultural, viticultural  
44 or floricultural crops or products in this state and that are used directly

1 and primarily to prevent, monitor, control or reduce air, water or land  
2 pollution.

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

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

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

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

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

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

29 C. The exemptions provided by subsection B of this section do not  
30 include:

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

35 2. Janitorial equipment and hand tools.

36 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

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

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

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

35           1. Fees charged by a municipally owned utility to persons constructing  
36 residential, commercial or industrial developments or connecting residential,  
37 commercial or industrial developments to a municipal utility system or  
38 systems if the fees are segregated and used only for capital expansion,  
39 system enlargement or debt service of the utility system or systems.

40           2. Reimbursement or contribution compensation to any person or persons  
41 owning a utility system for property and equipment installed to provide  
42 utility access to, on or across the land of an actual utility consumer if the  
43 property and equipment become the property of the utility. This deduction  
44 shall not exceed the value of such property and equipment.

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

2 1. "Aircraft" includes:

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

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

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

12 H. For the purposes of subsection D of this section, "ancillary  
13 services", "electric distribution service", "electric generation service",  
14 "electric transmission service" and "other services" have the same meanings  
15 prescribed in section 42-5063.

16 Sec. 5. Retroactivity

17 This act applies retroactively to taxable periods beginning from and  
18 after December 31, 2006.