

COMMITTEE ON APPROPRIATIONS

SENATE AMENDMENTS TO H.B. 2488

(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 41, chapter 10, article 1, Arizona Revised Statutes,
3 is amended by adding section 41-1519, to read:

4 41-1519. Computer data center incentives: definitions

5 A. FROM AND AFTER AUGUST 31, 2013, TAX INCENTIVES ARE ALLOWED FOR THE
6 OWNER, OPERATOR OR QUALIFIED COLOCATION TENANTS OF A COMPUTER DATA CENTER
7 CERTIFIED PURSUANT TO SUBSECTION C OF THIS SECTION. ALL TAX INCENTIVES APPLY
8 FROM THE DATE THAT THE AUTHORITY PURSUANT TO SUBSECTION C OF THIS SECTION
9 CERTIFIES THE FACILITY THROUGH THE EXPIRATION OF THE CERTIFICATION PERIOD.

10 B. TO QUALIFY FOR THE TAX INCENTIVES, THE OWNER OR OPERATOR SHALL
11 SUBMIT TO THE AUTHORITY A CERTIFICATION FORM PRESCRIBED BY THE AUTHORITY,
12 THAT MUST INCLUDE ALL OF THE FOLLOWING:

13 1. THE OWNER'S OR OPERATOR'S NAME, ADDRESS AND TELEPHONE NUMBER.

14 2. THE ADDRESS OF THE SITE WHERE THE COMPUTER DATA CENTER IS OR WILL
15 BE LOCATED, INCLUDING, IF APPLICABLE, INFORMATION SUFFICIENT TO IDENTIFY THE
16 SPECIFIC BUILDING, CONDOMINIUM OR MODULAR UNIT COMPOSING THE COMPUTER DATA
17 CENTER.

18 3. THE ANTICIPATED INVESTMENT AND JOB CREATION ASSOCIATED WITH THE
19 COMPUTER DATA CENTER FOR WHICH THE TAX INCENTIVE IS BEING SOUGHT AND WHETHER
20 THE COMPUTER DATA CENTER IS ANTICIPATED TO QUALIFY AS A SUSTAINABLE
21 REDEVELOPMENT PROJECT.

22 4. AN AFFIRMATION, SIGNED BY AN AUTHORIZED EXECUTIVE REPRESENTING THE
23 OWNER OR OPERATOR, THAT THE COMPUTER DATA CENTER IS EXPECTED TO SATISFY EACH
24 OF THE CERTIFICATION REQUIREMENTS PRESCRIBED IN SUBSECTION E OF THIS SECTION.

25 C. WITHIN SIXTY DAYS AFTER RECEIVING A COMPLETE AND CORRECT FORM, THE
26 AUTHORITY SHALL REVIEW THE FORM AND EITHER CERTIFY THE FACILITY AS QUALIFYING
27 FOR THE TAX INCENTIVES OR PROVIDE WRITTEN REASONS FOR ITS DENIAL. A FAILURE
28 TO APPROVE OR DENY THE FORM WITHIN SIXTY DAYS AFTER THE DATE THE OWNER OR
29 OPERATOR SUBMITS THE FORM TO THE AUTHORITY CONSTITUTES CERTIFICATION OF THE
30 COMPUTER DATA CENTER. THE AUTHORITY SHALL SEND A COPY OF THE CERTIFICATION
31 TO THE DEPARTMENT OF REVENUE. THE CERTIFICATION EXPIRES AT THE END OF THE
32 CERTIFICATION PERIOD. THE AUTHORITY SHALL NOT CERTIFY ANY NEW COMPUTER DATA
33 CENTER FROM AND AFTER DECEMBER 31, 2023.

1 D. AT THE DISCRETION OF AN OWNER OR OPERATOR, ONE OR MORE OF THE
2 BUILDINGS, CONDOMINIUMS OR MODULAR UNITS IN A FACILITY, BUT NOT ALL OF THE
3 BUILDINGS, CONDOMINIUMS OR MODULAR UNITS AT A FACILITY, MAY BE CONSIDERED A
4 SEPARATE COMPUTER DATA CENTER AND MAY RECEIVE A SEPARATE CERTIFICATION IF THE
5 BUILDING OR UNIT INDIVIDUALLY MEETS THE REQUIREMENTS PRESCRIBED IN SUBSECTION
6 E OF THIS SECTION. A BUILDING, UNIT OR ARTICLE OF COMPUTER DATA EQUIPMENT
7 SHALL NOT BE DEEMED TO BE A PART OF MORE THAN ONE COMPUTER DATA CENTER. AT
8 THE DISCRETION OF THE OWNER OR OPERATOR, SINGLE OR AFFILIATED, ONE OR MORE
9 SEPARATE FACILITIES MAY BE AGGREGATED INTO A SINGLE COMPUTER DATA CENTER AND
10 MAY RECEIVE A SINGLE CERTIFICATION PROVIDED, IN THE AGGREGATE, THEY MEET THE
11 REQUIREMENTS PRESCRIBED IN SUBSECTION E OF THIS SECTION.

12 E. TO QUALIFY FOR TAX INCENTIVES UNDER THIS SECTION, ON OR BEFORE THE
13 FIFTH ANNIVERSARY OF THE CERTIFICATION OF THE COMPUTER DATA CENTER, THE
14 COMPUTER DATA CENTER MUST CREATE A MINIMUM INVESTMENT OF AT LEAST:

15 1. TWENTY-FIVE MILLION DOLLARS INCLUDING COSTS OF LAND, BUILDINGS,
16 MODULAR UNITS AND COMPUTER DATA CENTER EQUIPMENT, IF THE COMPUTER DATA CENTER
17 IS LOCATED IN A COUNTY WITH A POPULATION OF FEWER THAN EIGHT HUNDRED THOUSAND
18 PERSONS OR IN A MUNICIPALITY WITH A POPULATION OF FEWER THAN FIFTY THOUSAND
19 PERSONS IN A COUNTY WITH A POPULATION OF AT LEAST EIGHT HUNDRED THOUSAND
20 PERSONS.

21 2. FIFTY MILLION DOLLARS INCLUDING COSTS OF LAND, BUILDINGS, MODULAR
22 UNITS AND COMPUTER DATA CENTER EQUIPMENT, IF THE COMPUTER DATA CENTER IS
23 LOCATED ANY PLACE IN THIS STATE OTHER THAN AN AREA DESCRIBED IN PARAGRAPH 1
24 OF THIS SUBSECTION.

25 F. ON OR BEFORE THE FIFTH ANNIVERSARY OF THE CERTIFICATION OF THE
26 COMPUTER DATA CENTER, THE OWNER OR OPERATOR SHALL NOTIFY THE AUTHORITY IN
27 WRITING THAT THE COMPUTER DATA CENTER FOR WHICH THE CERTIFICATION IS
28 REQUESTED HAS OR HAS NOT SATISFIED THE REQUIREMENTS PRESCRIBED IN SUBSECTION
29 E OF THIS SECTION AND, IF SO, THE DATE ON WHICH ALL OF THE REQUIREMENTS WERE
30 SATISFIED.

31 G. BUSINESS INFORMATION CONTAINED IN THE CERTIFICATION FORM DESCRIBED
32 IN SUBSECTION B OF THIS SECTION OR THE WRITTEN NOTICE UNDER SUBSECTION F OF
33 THIS SECTION IS CONFIDENTIAL AND SHALL NOT BE DISCLOSED TO THE PUBLIC, EXCEPT
34 THAT THE INFORMATION SHALL BE TRANSMITTED TO THE DEPARTMENT OF REVENUE.

35 H. IF THE DEPARTMENT OF REVENUE DETERMINES THAT THE REQUIREMENTS IN
36 SUBSECTION E OF THIS SECTION HAVE NOT BEEN SATISFIED, THE DEPARTMENT MAY
37 REVOKE THE CERTIFICATION OF A COMPUTER DATA CENTER AND THE OWNER OR OPERATOR

1 MAY APPEAL THE REVOCATION PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10. THE
2 AUTHORITY AND THE DEPARTMENT OF REVENUE SHALL NOT REVOKE A CERTIFICATION IF A
3 COMPUTER DATA CENTER SATISFIES THE REQUIREMENTS OF SUBSECTION E OF THIS
4 SECTION. IF CERTIFICATION IS REVOKED PURSUANT TO THIS SUBSECTION, THE
5 CERTIFICATION PERIOD EXPIRES AND THE DEPARTMENT OF REVENUE MAY RECAPTURE FROM
6 THE OWNER OR OPERATOR ALL OR PART OF THE TAX INCENTIVES PROVIDED DIRECTLY TO
7 THE OWNER OR OPERATOR. THE DEPARTMENT MAY GIVE SPECIAL CONSIDERATION OR ALLOW
8 A TEMPORARY EXEMPTION FROM RECAPTURE OF THE TAX INCENTIVES, IF THERE IS
9 EXTRAORDINARY HARDSHIP DUE TO FACTORS BEYOND THE CONTROL OF THE OWNER OR
10 OPERATOR. THE DEPARTMENT OF REVENUE MAY REQUIRE THE OWNER OR OPERATOR TO
11 FILE APPROPRIATE AMENDED TAX RETURNS TO REFLECT ANY RECAPTURE OF THE TAX
12 INCENTIVES.

13 I. THE AUTHORITY AND THE DEPARTMENT OF REVENUE SHALL ADOPT RULES AND
14 PRESCRIBE FORMS AND PROCEDURES AS NECESSARY FOR THE PURPOSES OF THIS SECTION.
15 THE AUTHORITY AND THE DEPARTMENT OF REVENUE SHALL COLLABORATE IN ADOPTING
16 RULES AS NECESSARY TO AVOID DUPLICATION AND INCONSISTENCIES WHILE
17 ACCOMPLISHING THE PURPOSES OF THIS SECTION.

18 J. THE OWNER OR OPERATOR SHALL PROVIDE THE AUTHORITY AND THE
19 DEPARTMENT OF REVENUE A LIST OF QUALIFIED COLOCATION TENANTS AND SHALL NOTIFY
20 THE AUTHORITY AND THE DEPARTMENT OF ANY CHANGES TO THE LIST.

21 K. FOR THE PURPOSES OF THIS SECTION:

22 1. "CERTIFICATION PERIOD" MEANS A PERIOD OF TIME BEGINNING ON THE DATE
23 THAT THE AUTHORITY CERTIFIES THE COMPUTER DATA CENTER AND EXPIRING AT THE END
24 OF THE TENTH CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE COMPUTER
25 DATA CENTER SATISFIES ALL OF THE REQUIREMENTS PRESCRIBED IN SUBSECTION E OF
26 THIS SECTION, EXCEPT IF A COMPUTER DATA CENTER IS A SUSTAINABLE REDEVELOPMENT
27 PROJECT, CERTIFICATION PERIOD MEANS A PERIOD OF TIME BEGINNING ON THE DATE
28 THAT THE AUTHORITY CERTIFIES THE COMPUTER DATA CENTER AND EXPIRING AT THE END
29 OF THE TWENTIETH CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE
30 COMPUTER DATA CENTER SATISFIES ALL OF THE REQUIREMENTS PRESCRIBED IN
31 SUBSECTION E OF THIS SECTION. UPON CERTIFICATION, THE COMPUTER DATA CENTER
32 SHALL REMAIN CERTIFIED FOR THE DURATION OF THE CERTIFICATION PERIOD UNDER
33 THIS SECTION REGARDLESS OF A FUTURE TRANSFER, SALE OR DISPOSITION, DIRECTLY
34 OR INDIRECTLY, OF THE COMPUTER DATA CENTER.

35 2. "COMPUTER DATA CENTER" MEANS ALL OR PART OF A FACILITY OR
36 FACILITIES, IN THE CASE OF MULTIPLE FACILITIES OWNED BY A SINGLE ENTITY OR
37 AFFILIATED ENTITIES WITHIN THIS STATE ELECTING TO TREAT THE MULTIPLE

1 FACILITIES AS A SINGLE COMPUTER DATA CENTER, THAT ARE OR WILL BE COMPOSED OF
2 ONE OR MORE BUILDINGS, CONDOMINIUM UNITS OR MODULAR UNITS, THAT MAY BE
3 COMPOSED OF MULTIPLE BUSINESSES OR OWNERS, THAT IS OR WILL BE PREDOMINATELY
4 USED TO HOUSE WORKING SERVERS AND THAT HAS UNINTERRUPTIBLE POWER SUPPLY OR
5 GENERATOR BACKUP POWER, OR BOTH, FIRE SUPPRESSION AND PREVENTION SYSTEMS,
6 COOLING SYSTEMS, TOWERS AND OTHER TEMPERATURE CONTROL INFRASTRUCTURE.

7 3. "COMPUTER DATA CENTER EQUIPMENT" MEANS EQUIPMENT USED TO CONSTRUCT,
8 REFURBISH, OUTFIT, OPERATE OR BENEFIT A COMPUTER DATA CENTER AND
9 REFRESHMENTS, REPLACEMENTS AND UPGRADES TO THIS EQUIPMENT, WHETHER ANY OF THE
10 PROPERTY IS AFFIXED TO OR INCORPORATED INTO REAL PROPERTY, INCLUDING:

11 (a) ALL EQUIPMENT NECESSARY FOR THE TRANSFORMATION, GENERATION,
12 DISTRIBUTION OR MANAGEMENT OF ELECTRICITY THAT IS REQUIRED TO OPERATE
13 COMPUTER SERVER EQUIPMENT, INCLUDING GENERATORS, UNINTERRUPTIBLE POWER
14 SUPPLIES, CONDUIT, GASEOUS FUEL PIPING, CABLING, DUCT BANKS, SWITCHES,
15 SWITCHBOARDS, BATTERIES AND TESTING EQUIPMENT.

16 (b) ALL EQUIPMENT NECESSARY TO COOL AND MAINTAIN A CONTROLLED
17 ENVIRONMENT FOR THE OPERATION OF THE COMPUTER SERVER AND OTHER COMPONENTS OF
18 THE DATA CENTER, INCLUDING MECHANICAL, GASEOUS FUEL PIPING, ADIABATIC AND
19 FREE COOLING SYSTEMS, COOLING TOWERS, WATER SOFTENERS, AIR HANDLING UNITS,
20 INDOOR DIRECT EXCHANGE UNITS, FANS, DUCTING AND FILTERS.

21 (c) ALL WATER CONSERVATION SYSTEMS, INCLUDING FACILITIES OR MECHANISMS
22 THAT ARE DESIGNED TO COLLECT, CONSERVE AND REUSE WATER.

23 (d) ALL ENABLING SOFTWARE, COMPUTER SERVER EQUIPMENT, CHASSIS,
24 NETWORKING EQUIPMENT, SWITCHES, RACKS, CABLING, TRAYS AND CONDUIT.

25 (e) ALL MONITORING EQUIPMENT AND SECURITY SYSTEMS.

26 (f) MODULAR UNITS AND PREASSEMBLED COMPONENTS OF ANY ITEM DESCRIBED IN
27 THIS PARAGRAPH, INCLUDING COMPONENTS UTILIZED IN THE MANUFACTURING OF MODULAR
28 UNITS.

29 (g) OTHER TANGIBLE PERSONAL PROPERTY ESSENTIAL TO THE OPERATIONS OF A
30 COMPUTER DATA CENTER.

31 4. "FACILITY" MEANS ONE OR MORE PARCELS OF LAND IN THIS STATE, AND ANY
32 STRUCTURES AND PERSONAL PROPERTY CONTAINED ON THE LAND.

33 5. "MODULAR UNIT" MEANS A UNIT THAT GENERALLY CONSISTS OF
34 UNINTERRUPTED ENERGY SUPPLY, POWER DISTRIBUTION, SERVER ENCLOSURES AND
35 COOLING AND OTHER DATA CENTER COMPONENTS.

1 6. "QUALIFIED COLOCATION TENANT" MEANS A SINGLE TENANT THAT CONTRACTS
2 WITH THE OWNER OR OPERATOR OF THE COMPUTER DATA CENTER FOR A MINIMUM OF FIVE
3 HUNDRED KILOWATTS FOR A TERM OF TWO OR MORE YEARS.

4 7. "SUSTAINABLE REDEVELOPMENT PROJECT" MEANS A COMPUTER DATA CENTER
5 THAT SATISFIES THE REQUIREMENTS IN SUBSECTION E OF THIS SECTION AND THAT IS
6 OR WAS INTENDED TO OCCUPY THE STRUCTURAL IMPROVEMENTS OF A PREEXISTING
7 FACILITY THAT EITHER:

8 (a) WAS AT LEAST FIFTY PER CENT VACANT FOR SIX OF THE TWELVE MONTHS
9 BEFORE THE ACQUISITION BY PURCHASE OR ENTERING OF A LEASEHOLD INTEREST OF OR
10 WITH RESPECT TO THE FACILITY.

11 (b) ATTAINS CERTIFICATION UNDER THE LEADERSHIP IN ENERGY AND
12 ENVIRONMENTAL DESIGN GREEN BUILDING RATING STANDARD DEVELOPED BY THE UNITED
13 STATES GREEN BUILDING COUNCIL OR AN EQUIVALENT GREEN BUILDING STANDARD AND
14 WAS NOT PREVIOUSLY CERTIFIED UNDER THESE STANDARDS.

15 8. "TAX INCENTIVE" MEANS AN EXCLUSION FROM THE GROSS PROCEEDS OF SALE
16 OR GROSS INCOME RELATED TO A COMPUTER DATA CENTER THAT IS CERTIFIED PURSUANT
17 TO THIS SECTION AS PRESCRIBED IN SECTION 42-5061, 42-5063, 42-5075 OR
18 42-5159.

19 Sec. 2. Section 42-5061, Arizona Revised Statutes, is amended to read:
20 42-5061. Retail classification; definitions

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

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

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

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

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

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

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

6 7. The sale of stocks and bonds.

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

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

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

14 11. Prescription eyeglasses or contact lenses.

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

16 13. Durable medical equipment which has a centers for medicare and
17 medicaid services common procedure code, is designated reimbursable by
18 medicare, is prescribed by a person who is licensed under title 32, chapter
19 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
20 customarily used to serve a medical purpose, is generally not useful to a
21 person in the absence of illness or injury and is appropriate for use in the
22 home.

23 14. Sales to nonresidents of this state for use outside this state if
24 the vendor ships or delivers the tangible personal property out of this
25 state.

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

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

33 17. Textbooks by any bookstore that are required by any state
34 university or community college.

35 18. Food and drink to a person who is engaged in business that is
36 classified under the restaurant classification and that provides such food

1 and drink without monetary charge to its employees for their own consumption
2 on the premises during the employees' hours of employment.

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

8 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
9 article 1.

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

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

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

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

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

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

33 25. Tangible personal property sold to:

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

35 (b) A qualifying health care organization as defined in section
36 42-5001 if the tangible personal property is used by the organization solely
37 to provide health and medical related educational and charitable services.

1 (c) A qualifying health care organization as defined in section
2 42-5001 if the organization is dedicated to providing educational,
3 therapeutic, rehabilitative and family medical education training for blind,
4 visually impaired and multihandicapped children from the time of birth to age
5 twenty-one.

6 (d) A qualifying community health center as defined in section
7 42-5001.

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

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

19 26. Magazines or other periodicals or other publications by this state
20 to encourage tourist travel.

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

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

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

31 28. The sale of a motor vehicle to:

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

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

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

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

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

20 32. Sales of tangible personal property by a nonprofit organization
21 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
22 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
23 sponsors or operates a rodeo featuring primarily farm and ranch animals and
24 no part of the organization's net earnings inures to the benefit of any
25 private shareholder or individual.

26 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
27 propagative material to persons who use those items to commercially produce
28 agricultural, horticultural, viticultural or floricultural crops in this
29 state.

30 34. Machinery, equipment, technology or related supplies that are only
31 useful to assist a person who is physically disabled as defined in section
32 46-191, has a developmental disability as defined in section 36-551 or has a
33 head injury as defined in section 41-3201 to be more independent and
34 functional.

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

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

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

6 38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
7 sold to a qualified environmental technology manufacturer, producer or
8 processor as defined in section 41-1514.02 and directly used or consumed in
9 the generation or provision of on-site power or energy solely for
10 environmental technology manufacturing, producing or processing or
11 environmental protection. This paragraph shall apply for twenty full
12 consecutive calendar or fiscal years from the date the first paper
13 manufacturing machine is placed in service. In the case of an environmental
14 technology manufacturer, producer or processor who does not manufacture
15 paper, the time period shall begin with the date the first manufacturing,
16 processing or production equipment is placed in service.

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

30 40. Through December 31, 1994, personal property liquidation
31 transactions, conducted by a personal property liquidator. From and after
32 December 31, 1994, personal property liquidation transactions shall be
33 taxable under this section provided that nothing in this subsection shall be
34 construed to authorize the taxation of casual activities or transactions
35 under this chapter. For the purposes of this paragraph:

36 (a) "Personal property liquidation transaction" means a sale of
37 personal property made by a personal property liquidator acting solely on

1 behalf of the owner of the personal property sold at the dwelling of the
2 owner or on the death of any owner, on behalf of the surviving spouse, if
3 any, any devisee or heir or the personal representative of the estate of the
4 deceased, if one has been appointed.

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

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

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

15 43. Livestock and poultry feed, salts, vitamins and other additives for
16 livestock or poultry consumption that are sold to persons who are engaged in
17 producing livestock, poultry, or livestock or poultry products or who are
18 engaged in feeding livestock or poultry commercially. For the purposes of
19 this paragraph, "poultry" includes ratites.

20 44. Sales of implants used as growth promotants and injectable
21 medicines, not already exempt under paragraph 8 of this subsection, for
22 livestock or poultry owned by or in possession of persons who are engaged in
23 producing livestock, poultry, or livestock or poultry products or who are
24 engaged in feeding livestock or poultry commercially. For the purposes of
25 this paragraph, "poultry" includes ratites.

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

30 46. Tangible personal property sold to a person engaged in business and
31 subject to tax under the transient lodging classification if the tangible
32 personal property is a personal hygiene item or articles used by human beings
33 for food, drink or condiment, except alcoholic beverages, that are furnished
34 without additional charge to and intended to be consumed by the transient
35 during the transient's occupancy.

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

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

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

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

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

18 50. Sales of alternative fuel vehicles if the vehicle was manufactured
19 as a diesel fuel vehicle and converted to operate on alternative fuel and
20 equipment that is installed in a conventional diesel fuel motor vehicle to
21 convert the vehicle to operate on an alternative fuel, as defined in section
22 1-215.

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

26 52. Sales of tangible personal property to be incorporated or installed
27 as part of environmental response or remediation activities under section
28 42-5075, subsection B, paragraph 6.

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

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

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

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

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

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

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

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

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

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

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

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

1 includes underground, surface and open pit operations for extracting ores and
2 minerals.

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

9 4. Machinery, equipment or transmission lines used directly in
10 producing or transmitting electrical power, but not including distribution.
11 Transformers and control equipment used at transmission substation sites
12 constitute equipment used in producing or transmitting electrical power.

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

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

20 7. Aircraft, navigational and communication instruments and other
21 accessories and related equipment sold to:

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

28 (b) Any foreign government.

29 (c) Persons who are not residents of this state and who will not use
30 such property in this state other than in removing such property from this
31 state. This subdivision also applies to corporations that are not
32 incorporated in this state, regardless of maintaining a place of business in
33 this state, if the principal corporate office is located outside this state
34 and the property will not be used in this state other than in removing the
35 property from this state.

36 8. Machinery, tools, equipment and related supplies used or consumed
37 directly in repairing, remodeling or maintaining aircraft, aircraft engines

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

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

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

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

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

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

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

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

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

1 included in the definition of research and development, or other
2 nontechnological activities or technical services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 21. Qualifying equipment that is purchased from and after June 30, 2004
37 through June 30, 2024 by a qualified business under section 41-1516 for

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

5 22. COMPUTER DATA CENTER EQUIPMENT AS DEFINED IN SECTION 41-1519 THAT
6 IS USED IN A COMPUTER DATA CENTER THAT IS CERTIFIED BY THE ARIZONA COMMERCE
7 AUTHORITY UNDER SECTION 41-1519 BY OR ON BEHALF OF THE OWNER, OPERATOR OR
8 QUALIFIED COLOCATION TENANT OF THE COMPUTER DATA CENTER, OR THE AUTHORIZED
9 AGENT OWNER, OPERATOR OR QUALIFIED COLOCATION TENANT OF THE COMPUTER DATA
10 CENTER.

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

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

17 2. Janitorial equipment and hand tools.

18 3. Office equipment, furniture and supplies.

19 4. Tangible personal property used in selling or distributing
20 activities, other than the telecommunications transmissions described in
21 subsection B, paragraph ~~16~~ 15 of this section.

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

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

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

29 D. In addition to the deductions from the tax base prescribed by
30 subsection A of this section, there shall be deducted from the tax base the
31 gross proceeds of sales or gross income derived from sales of machinery,
32 equipment, materials and other tangible personal property used directly and
33 predominantly to construct a qualified environmental technology
34 manufacturing, producing or processing facility as described in section
35 41-1514.02. This subsection applies for ten full consecutive calendar or
36 fiscal years after the start of initial construction.

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

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

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

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

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

- 29 1. Transporting classification.
- 30 2. Utilities classification.
- 31 3. Telecommunications classification.
- 32 4. Pipeline classification.
- 33 5. Private car line classification.
- 34 6. Publication classification.
- 35 7. Job printing classification.
- 36 8. Prime contracting classification.
- 37 9. Owner builder sales classification.

1 10. Restaurant classification.

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

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

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

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

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

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

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

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

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

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

35 N. There shall be deducted from the tax base the amount received from
36 sales of solar energy devices. The retailer shall register with the
37 department as a solar energy retailer. By registering, the retailer

1 acknowledges that it will make its books and records relating to sales of
2 solar energy devices available to the department for examination.

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

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

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

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

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

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

27 S. If a seller is entitled to a deduction pursuant to subsection B,
28 paragraph 15, subdivision (b) of this section, the department may require the
29 purchaser to establish that the requirements of subsection B, paragraph 15,
30 subdivision (b) of this section have been satisfied. If the purchaser cannot
31 establish that the requirements of subsection B, paragraph 15, subdivision
32 (b) of this section have been satisfied, the purchaser is liable in an amount
33 equal to any tax, penalty and interest which the seller would have been
34 required to pay under article 1 of this chapter if the seller had not made a
35 deduction pursuant to subsection B, paragraph 15, subdivision (b) of this
36 section. Payment of the amount under this subsection exempts the purchaser
37 from liability for any tax imposed under article 4 of this chapter and

1 related to the tangible personal property purchased. The amount shall be
2 treated as transaction privilege tax to the purchaser and as tax revenues
3 collected from the seller to designate the distribution base pursuant to
4 section 42-5029.

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

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

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

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

25 V. For the purposes of this section:

26 1. "Aircraft" includes:

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

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

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

36 3. "Selling at retail" means a sale for any purpose other than for
37 resale in the regular course of business in the form of tangible personal

1 property, but transfer of possession, lease and rental as used in the
2 definition of sale mean only such transactions as are found on investigation
3 to be in lieu of sales as defined without the words lease or rental.

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

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

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

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

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

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

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

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

33 42-5063. Utilities classification; definitions

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

35 1. Producing and furnishing or furnishing to consumers natural or
36 artificial gas and water.

1 2. Providing to retail electric customers ancillary services, electric
2 distribution services, electric generation services, electric transmission
3 services and other services related to providing electricity.

4 B. The utilities classification does not include:

5 1. Sales of ancillary services, electric distribution services,
6 electric generation services, electric transmission services and other
7 services related to providing electricity, gas or water to a person who
8 resells the services.

9 2. Sales of natural gas or liquefied petroleum gas used to propel a
10 motor vehicle.

11 3. Sales of alternative fuel, as defined in section 1-215, to 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 4. Sales of ancillary services, electric distribution services,
15 electric generation services, electric transmission services and other
16 services that are related to providing electricity to a retail electric
17 customer who is located outside this state for use outside this state if the
18 electricity is delivered to a point of sale outside this state.

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

26 6. THE PORTION OF GROSS PROCEEDS OF SALE OR GROSS INCOME THAT IS
27 DERIVED FROM SALES TO THE OWNER, OPERATOR OR COLOCATION TENANT OF A COMPUTER
28 DATA CENTER AS DEFINED IN SECTION 41-1519 AND THAT IS DIRECTLY USED IN A
29 COMPUTER DATA CENTER THAT IS CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY
30 UNDER SECTION 41-1519.

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

34 1. Revenues received by a municipally owned utility in the form of
35 fees charged to persons constructing residential, commercial or industrial
36 developments or connecting residential, commercial or industrial developments
37 to a municipal utility system or systems if the fees are segregated and used

1 only for capital expansion, system enlargement or debt service of the utility
2 system or systems.

3 2. Revenues received by any person or persons owning a utility system
4 in the form of reimbursement or contribution compensation for property and
5 equipment installed to provide utility access to, on or across the land of an
6 actual utility consumer if the property and equipment become the property of
7 the utility. This deduction shall not exceed the value of such property and
8 equipment.

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

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

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

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

24 5. The portion of gross proceeds of sales or gross income attributable
25 to transfers of electricity by any retail electric customer owning a solar
26 photovoltaic energy generating system to an electric distribution system, if
27 the electricity transferred is generated by the customer's system.

28 D. For the purposes of this section:

29 1. "Ancillary services" means those services so designated in federal
30 energy regulatory commission order 888 adopted in 1996 that include the
31 services necessary to support the transmission of electricity from resources
32 to loads while maintaining reliable operation of the transmission system
33 according to good utility practice.

34 2. "Electric distribution service" means distributing electricity to
35 retail electric customers through the use of electric distribution
36 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 42-5075, Arizona Revised Statutes, is amended to read:
14 42-5075. Prime contracting classification; exemptions;
15 definitions

16 A. The prime contracting classification is comprised of the business
17 of prime contracting and dealership of manufactured buildings. Sales for
18 resale to another dealership of manufactured buildings are not subject to
19 tax. Sales for resale do not include sales to a lessor of manufactured
20 buildings. The sale of a used manufactured building is not taxable under
21 this chapter. The proceeds from alteration and repairs to a used
22 manufactured building are taxable under this section.

23 B. The tax base for the prime contracting classification is sixty-five
24 per cent of the gross proceeds of sales or gross income derived from the
25 business. The following amounts shall be deducted from the gross proceeds of
26 sales or gross income before computing the tax base:

27 1. The sales price of land, which shall not exceed the fair market
28 value.

29 2. Sales and installation of groundwater measuring devices required
30 under section 45-604 and groundwater monitoring wells required by law,
31 including monitoring wells installed for acquiring information for a permit
32 required by law.

33 3. The sales price of furniture, furnishings, fixtures, appliances and
34 attachments that are not incorporated as component parts of or attached to a
35 manufactured building or the setup site. The sale of such items may be
36 subject to the taxes imposed by article 1 of this chapter separately and
37 distinctly from the sale of the manufactured building.

1 4. The gross proceeds of sales or gross income received from a
2 contract entered into for the construction, alteration, repair, addition,
3 subtraction, improvement, movement, wrecking or demolition of any building,
4 highway, road, railroad, excavation, manufactured building or other
5 structure, project, development or improvement located in a military reuse
6 zone for providing aviation or aerospace services or for a manufacturer,
7 assembler or fabricator of aviation or aerospace products within an active
8 military reuse zone after the zone is initially established or renewed under
9 section 41-1531. To be eligible to qualify for this deduction, before
10 beginning work under the contract, the prime contractor must have applied for
11 a letter of qualification from the department of revenue.

12 5. The gross proceeds of sales or gross income derived from a contract
13 to construct a qualified environmental technology manufacturing, producing or
14 processing facility, as described in section 41-1514.02, and from subsequent
15 construction and installation contracts that begin within ten years after the
16 start of initial construction. To qualify for this deduction, before
17 beginning work under the contract, the prime contractor must obtain a letter
18 of qualification from the department of revenue. This paragraph shall apply
19 for ten full consecutive calendar or fiscal years after the start of initial
20 construction.

21 6. The gross proceeds of sales or gross income from a contract to
22 provide for one or more of the following actions, or a contract for site
23 preparation, constructing, furnishing or installing machinery, equipment or
24 other tangible personal property, including structures necessary to protect
25 exempt incorporated materials or installed machinery or equipment, and
26 tangible personal property incorporated into the project, to perform one or
27 more of the following actions in response to a release or suspected release
28 of a hazardous substance, pollutant or contaminant from a facility to the
29 environment, unless the release was authorized by a permit issued by a
30 governmental authority:

31 (a) Actions to monitor, assess and evaluate such a release or a
32 suspected release.

33 (b) Excavation, removal and transportation of contaminated soil and
34 its treatment or disposal.

35 (c) Treatment of contaminated soil by vapor extraction, chemical or
36 physical stabilization, soil washing or biological treatment to reduce the
37 concentration, toxicity or mobility of a contaminant.

1 (d) Pumping and treatment or in situ treatment of contaminated
2 groundwater or surface water to reduce the concentration or toxicity of a
3 contaminant.

4 (e) The installation of structures, such as cutoff walls or caps, to
5 contain contaminants present in groundwater or soil and prevent them from
6 reaching a location where they could threaten human health or welfare or the
7 environment.

8 This paragraph does not include asbestos removal or the construction or use
9 of ancillary structures such as maintenance sheds, offices or storage
10 facilities for unattached equipment, pollution control equipment, facilities
11 or other control items required or to be used by a person to prevent or
12 control contamination before it reaches the environment.

13 7. The gross proceeds of sales or gross income that is derived from a
14 contract entered into for the installation, assembly, repair or maintenance
15 of machinery, equipment or other tangible personal property that is deducted
16 from the tax base of the retail classification pursuant to section 42-5061,
17 subsection B, or that is exempt from use tax pursuant to section 42-5159,
18 subsection B, and that does not become a permanent attachment to a building,
19 highway, road, railroad, excavation or manufactured building or other
20 structure, project, development or improvement. If the ownership of the
21 realty is separate from the ownership of the machinery, equipment or tangible
22 personal property, the determination as to permanent attachment shall be made
23 as if the ownership were the same. The deduction provided in this paragraph
24 does not include gross proceeds of sales or gross income from that portion of
25 any contracting activity that consists of the development of, or modification
26 to, real property in order to facilitate the installation, assembly, repair,
27 maintenance or removal of machinery, equipment or other tangible personal
28 property that is deducted from the tax base of the retail classification
29 pursuant to section 42-5061, subsection B or that is exempt from use tax
30 pursuant to section 42-5159, subsection B. For the purposes of this
31 paragraph, "permanent attachment" means at least one of the following:

32 (a) To be incorporated into real property.

33 (b) To become so affixed to real property that it becomes a part of
34 the real property.

35 (c) To be so attached to real property that removal would cause
36 substantial damage to the real property from which it is removed.

1 8. The gross proceeds of sales or gross income attributable to the
2 purchase of machinery, equipment or other tangible personal property that is
3 exempt from or deductible from transaction privilege and use tax under:

4 (a) Section 42-5061, subsection A, paragraph 25 or 29.

5 (b) Section 42-5061, subsection B.

6 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b),
7 (c), (d), (e), (f), (i), (j) or (l).

8 (d) Section 42-5159, subsection B.

9 9. The gross proceeds of sales or gross income received from a
10 contract for the construction of an environmentally controlled facility for
11 the raising of poultry for the production of eggs and the sorting, cooling
12 and packaging of eggs.

13 10. The gross proceeds of sales or gross income that is derived from a
14 contract entered into with a person who is engaged in the commercial
15 production of livestock, livestock products or agricultural, horticultural,
16 viticultural or floricultural crops or products in this state for the
17 construction, alteration, repair, improvement, movement, wrecking or
18 demolition or addition to or subtraction from any building, highway, road,
19 excavation, manufactured building or other structure, project, development or
20 improvement used directly and primarily to prevent, monitor, control or
21 reduce air, water or land pollution.

22 11. The gross proceeds of sales or gross income that is derived from
23 the installation, assembly, repair or maintenance of clean rooms that are
24 deducted from the tax base of the retail classification pursuant to section
25 42-5061, subsection B, paragraph 16.

26 12. For taxable periods beginning from and after June 30, 2001, the
27 gross proceeds of sales or gross income derived from a contract entered into
28 for the construction of a residential apartment housing facility that
29 qualifies for a federal housing subsidy for low income persons over sixty-two
30 years of age and that is owned by a nonprofit charitable organization that
31 has qualified under section 501(c)(3) of the internal revenue code.

32 13. For taxable periods beginning from and after December 31, 1996 and
33 ending before January 1, 2017, the gross proceeds of sales or gross income
34 derived from a contract to provide and install a solar energy device. The
35 contractor shall register with the department as a solar energy contractor.
36 By registering, the contractor acknowledges that it will make its books and

1 records relating to sales of solar energy devices available to the department
2 for examination.

3 14. The gross proceeds of sales or gross income derived from a contract
4 entered into for the construction of a launch site, as defined in 14 Code of
5 Federal Regulations section 401.5.

6 15. The gross proceeds of sales or gross income derived from a contract
7 entered into for the construction of a domestic violence shelter that is
8 owned and operated by a nonprofit charitable organization that has qualified
9 under section 501(c)(3) of the internal revenue code.

10 16. The gross proceeds of sales or gross income derived from contracts
11 to perform postconstruction treatment of real property for termite and
12 general pest control, including wood destroying organisms.

13 17. The gross proceeds of sales or gross income received from contracts
14 entered into before July 1, 2006 for constructing a state university research
15 infrastructure project if the project has been reviewed by the joint
16 committee on capital review before the university enters into the
17 construction contract for the project. For the purposes of this paragraph,
18 "research infrastructure" has the same meaning prescribed in section 15-1670.

19 18. The gross proceeds of sales or gross income received from a
20 contract for the construction of any building, or other structure, project,
21 development or improvement owned by a qualified business under section
22 41-1516 for harvesting or processing qualifying forest products removed from
23 qualifying projects as defined in section 41-1516 if actual construction
24 begins before January 1, 2024. To qualify for this deduction, the prime
25 contractor must obtain a letter of qualification from the Arizona commerce
26 authority before beginning work under the contract.

27 19. Any amount of the gross proceeds of sales or gross income
28 attributable to development fees that are incurred in relation to a contract
29 for construction, development or improvement of real property and that are
30 paid by a prime contractor or subcontractor. For the purposes of this
31 paragraph:

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

34 (b) The attributable amount is equal to the total amount of
35 development fees paid by the prime contractor or subcontractor, and the total
36 development fees credited in exchange for the construction of, contribution
37 to or dedication of real property for providing public infrastructure, public

1 safety or other public services necessary to the development. The real
2 property must be the subject of the development fees.

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

7 20. THE GROSS PROCEEDS OF SALE OR GROSS INCOME DERIVED FROM A CONTRACT
8 ENTERED INTO FOR THE CONSTRUCTION, MODIFICATION, REPAIR, IMPROVEMENT OR
9 ADDITION TO ALL OR ANY PART OF A COMPUTER DATA CENTER THAT IS CERTIFIED BY
10 THE ARIZONA COMMERCE AUTHORITY UNDER SECTION 41-1519, INCLUDING THE
11 INSTALLATION, ASSEMBLY, REPAIR OR MAINTENANCE OF ANY COMPUTER DATA CENTER
12 EQUIPMENT THAT IS DEDUCTED FROM THE TAX BASE OF THE RETAIL CLASSIFICATION
13 PURSUANT TO SECTION 42-5061, SUBSECTION B, PARAGRAPH 22.

14 C. Entitlement to the deduction pursuant to subsection B, paragraph 7
15 of this section is subject to the following provisions:

16 1. A prime contractor may establish entitlement to the deduction by
17 both:

18 (a) Marking the invoice for the transaction to indicate that the gross
19 proceeds of sales or gross income derived from the transaction was deducted
20 from the base.

21 (b) Obtaining a certificate executed by the purchaser indicating the
22 name and address of the purchaser, the precise nature of the business of the
23 purchaser, the purpose for which the purchase was made, the necessary facts
24 to establish the deductibility of the property under section 42-5061,
25 subsection B, and a certification that the person executing the certificate
26 is authorized to do so on behalf of the purchaser. The certificate may be
27 disregarded if the prime contractor has reason to believe that the
28 information contained in the certificate is not accurate or complete.

29 2. A person who does not comply with paragraph 1 of this subsection
30 may establish entitlement to the deduction by presenting facts necessary to
31 support the entitlement, but the burden of proof is on that person.

32 3. The department may prescribe a form for the certificate described
33 in paragraph 1, subdivision (b) of this subsection. The department may also
34 adopt rules that describe the transactions with respect to which a person is
35 not entitled to rely solely on the information contained in the certificate
36 provided in paragraph 1, subdivision (b) of this subsection but must instead

1 obtain such additional information as required in order to be entitled to the
2 deduction.

3 4. If a prime contractor is entitled to a deduction by complying with
4 paragraph 1 of this subsection, the department may require the purchaser who
5 caused the execution of the certificate to establish the accuracy and
6 completeness of the information required to be contained in the certificate
7 that would entitle the prime contractor to the deduction. If the purchaser
8 cannot establish the accuracy and completeness of the information, the
9 purchaser is liable in an amount equal to any tax, penalty and interest that
10 the prime contractor would have been required to pay under article 1 of this
11 chapter if the prime contractor had not complied with paragraph 1 of this
12 subsection. Payment of the amount under this paragraph exempts the purchaser
13 from liability for any tax imposed under article 4 of this chapter. The
14 amount shall be treated as a transaction privilege tax to the purchaser and
15 as tax revenues collected from the prime contractor in order to designate the
16 distribution base for purposes of section 42-5029.

17 D. Subcontractors or others who perform services in respect to any
18 improvement, building, highway, road, railroad, excavation, manufactured
19 building or other structure, project, development or improvement are not
20 subject to tax if they can demonstrate that the job was within the control of
21 a prime contractor or contractors or a dealership of manufactured buildings
22 and that the prime contractor or dealership is liable for the tax on the
23 gross income, gross proceeds of sales or gross receipts attributable to the
24 job and from which the subcontractors or others were paid.

25 E. Amounts received by a contractor for a project are excluded from
26 the contractor's gross proceeds of sales or gross income derived from the
27 business if the person who hired the contractor executes and provides a
28 certificate to the contractor stating that the person providing the
29 certificate is a prime contractor and is liable for the tax under article 1
30 of this chapter. The department shall prescribe the form of the certificate.
31 If the contractor has reason to believe that the information contained on the
32 certificate is erroneous or incomplete, the department may disregard the
33 certificate. If the person who provides the certificate is not liable for
34 the tax as a prime contractor, that person is nevertheless deemed to be the
35 prime contractor in lieu of the contractor and is subject to the tax under
36 this section on the gross receipts or gross proceeds received by the
37 contractor.

1 F. Every person engaging or continuing in this state in the business
2 of prime contracting or dealership of manufactured buildings shall present to
3 the purchaser of such prime contracting or manufactured building a written
4 receipt of the gross income or gross proceeds of sales from such activity and
5 shall separately state the taxes to be paid pursuant to this section.

6 G. For the purposes of section 42-5032.01, the department shall
7 separately account for revenues collected under the prime contracting
8 classification from any prime contractor engaged in the preparation or
9 construction of a multipurpose facility, and related infrastructure, that is
10 owned, operated or leased by the tourism and sports authority pursuant to
11 title 5, chapter 8.

12 H. For the purposes of section 42-5032.02, from and after September
13 30, 2013, the department shall separately account for revenues reported and
14 collected under the prime contracting classification from any prime
15 contractor engaged in the construction of any buildings and associated
16 improvements that are for the benefit of a manufacturing facility. For the
17 purposes of this subsection, "associated improvements" and "manufacturing
18 facility" have the same meanings prescribed in section 42-5032.02.

19 I. The gross proceeds of sales or gross income derived from a contract
20 for lawn maintenance services are not subject to tax under this section if
21 the contract does not include landscaping activities. Lawn maintenance
22 service is a service pursuant to section 42-5061, subsection A, paragraph 1,
23 and includes lawn mowing and edging, weeding, repairing sprinkler heads or
24 drip irrigation heads, seasonal replacement of flowers, refreshing gravel,
25 lawn de-thatching, seeding winter lawns, leaf and debris collection and
26 removal, tree or shrub pruning or clipping, garden and gravel raking and
27 applying pesticides, as defined in section 3-361, and fertilizer materials,
28 as defined in section 3-262.

29 J. The gross proceeds of sales or gross income derived from
30 landscaping activities are subject to tax under this section. Landscaping
31 includes installing lawns, grading or leveling ground, installing gravel or
32 boulders, planting trees and other plants, felling trees, removing or
33 mulching tree stumps, removing other imbedded plants, building or modifying
34 irrigation berms, repairing sprinkler or watering systems, installing
35 railroad ties and installing underground sprinkler or watering systems.

36 K. The portion of gross proceeds of sales or gross income attributable
37 to the actual direct costs of providing architectural or engineering services

1 that are incorporated in a contract is not subject to tax under this section.
2 For the purposes of this subsection, "direct costs" means the portion of the
3 actual costs that are directly expended in providing architectural or
4 engineering services.

5 L. Operating a landfill or a solid waste disposal facility is not
6 subject to taxation under this section, including filling, compacting and
7 creating vehicle access to and from cell sites within the landfill.
8 Constructing roads to a landfill or solid waste disposal facility and
9 constructing cells within a landfill or solid waste disposal facility may be
10 deemed prime contracting under this section.

11 M. The following apply to manufactured buildings:

12 1. For sales in this state where the dealership of manufactured
13 buildings contracts to deliver the building to a setup site or to perform the
14 setup in this state, the taxable situs is the setup site.

15 2. For sales in this state where the dealership of manufactured
16 buildings does not contract to deliver the building to a setup site or does
17 not perform the setup, the taxable situs is the location of the dealership
18 where the building is delivered to the buyer.

19 3. For sales in this state where the dealership of manufactured
20 buildings contracts to deliver the building to a setup site that is outside
21 this state, the situs is outside this state and the transaction is excluded
22 from tax.

23 N. The gross proceeds of sales or gross income attributable to a
24 separate, written design phase services contract or professional services
25 contract, executed before modification begins, is not subject to tax under
26 this section, regardless of whether the services are provided sequential to
27 or concurrent with prime contracting activities that are subject to tax under
28 this section. This subsection does not include the gross proceeds of sales
29 or gross income attributable to construction phase services. For the
30 purposes of this subsection:

31 1. "Construction phase services" means services for the execution and
32 completion of any modification, including the following:

33 (a) Administration or supervision of any modification performed on the
34 project, including team management and coordination, scheduling, cost
35 controls, submittal process management, field management, safety program,
36 close-out process and warranty period services.

1 (b) Administration or supervision of any modification performed
2 pursuant to a punch list. For the purposes of this subdivision, "punch list"
3 means minor items of modification work performed after substantial completion
4 and before final completion of the project.

5 (c) Administration or supervision of any modification performed
6 pursuant to change orders. For the purposes of this subdivision, "change
7 order" means a written instrument issued after execution of a contract for
8 modification work, providing for all of the following:

9 (i) The scope of a change in the modification work, contract for
10 modification work or other contract documents.

11 (ii) The amount of an adjustment, if any, to the guaranteed maximum
12 price as set in the contract for modification work. For the purposes of this
13 item, "guaranteed maximum price" means the amount guaranteed to be the
14 maximum amount due to a prime contractor for the performance of all
15 modification work for the project.

16 (iii) The extent of an adjustment, if any, to the contract time of
17 performance set forth in the contract.

18 (d) Administration or supervision of any modification performed
19 pursuant to change directives. For the purposes of this subdivision, "change
20 directive" means a written order directing a change in modification work
21 before agreement on an adjustment of the guaranteed maximum price or contract
22 time.

23 (e) Inspection to determine the dates of substantial completion or
24 final completion.

25 (f) Preparation of any manuals, warranties, as-built drawings, spares
26 or other items the prime contractor must furnish pursuant to the contract for
27 modification work. For the purposes of this subdivision, "as-built drawing"
28 means a drawing that indicates field changes made to adapt to field
29 conditions, field changes resulting from change orders or buried and
30 concealed installation of piping, conduit and utility services.

31 (g) Preparation of status reports after modification work has begun
32 detailing the progress of work performed, including preparation of any of the
33 following:

34 (i) Master schedule updates.

35 (ii) Modification work cash flow projection updates.

36 (iii) Site reports made on a periodic basis.

1 (iv) Identification of discrepancies, conflicts or ambiguities in
2 modification work documents that require resolution.

3 (v) Identification of any health and safety issues that have arisen in
4 connection with the modification work.

5 (h) Preparation of daily logs of modification work, including
6 documentation of personnel, weather conditions and on-site occurrences.

7 (i) Preparation of any submittals or shop drawings used by the prime
8 contractor to illustrate details of the modification work performed.

9 (j) Administration or supervision of any other activities for which a
10 prime contractor receives a certificate for payment or certificate for final
11 payment based on the progress of modification work performed on the project.

12 2. "Design phase services" means services for developing and
13 completing a design for a project that are not construction phase services,
14 including the following:

15 (a) Evaluating surveys, reports, test results or any other information
16 on-site conditions for the project, including physical characteristics, legal
17 limitations and utility locations for the site.

18 (b) Evaluating any criteria or programming objectives for the project
19 to ascertain requirements for the project, such as physical requirements
20 affecting cost or projected utilization of the project.

21 (c) Preparing drawings and specifications for architectural program
22 documents, schematic design documents, design development documents,
23 modification work documents or documents that identify the scope of or
24 materials for the project.

25 (d) Preparing an initial schedule for the project, excluding the
26 preparation of updates to the master schedule after modification work has
27 begun.

28 (e) Preparing preliminary estimates of costs of modification work
29 before completion of the final design of the project, including an estimate
30 or schedule of values for any of the following:

31 (i) Labor, materials, machinery and equipment, tools, water, heat,
32 utilities, transportation and other facilities and services used in the
33 execution and completion of modification work, regardless of whether they are
34 temporary or permanent or whether they are incorporated in the
35 modifications.

36 (ii) The cost of labor and materials to be furnished by the owner of
37 the real property.

1 (iii) The cost of any equipment of the owner of the real property to
2 be assigned by the owner to the prime contractor.

3 (iv) The cost of any labor for installation of equipment separately
4 provided by the owner of the real property that has been designed, specified,
5 selected or specifically provided for in any design document for the project.

6 (v) Any fee paid by the owner of the real property to the prime
7 contractor pursuant to the contract for modification work.

8 (vi) Any bond and insurance premiums.

9 (vii) Any applicable taxes.

10 (viii) Any contingency fees for the prime contractor that may be used
11 before final completion of the project.

12 (f) Reviewing and evaluating cost estimates and project documents to
13 prepare recommendations on site use, site improvements, selection of
14 materials, building systems and equipment, modification feasibility,
15 availability of materials and labor, local modification activity as related
16 to schedules and time requirements for modification work.

17 (g) Preparing the plan and procedures for selection of subcontractors,
18 including any prequalification of subcontractor candidates.

19 3. "Professional services" means architect services, assayer services,
20 engineer services, geologist services, land surveying services or landscape
21 architect services that are within the scope of those services as provided in
22 title 32, chapter 1 and for which gross proceeds of sales or gross income has
23 not otherwise been deducted under subsection K of this section.

24 0. Notwithstanding subsection P, paragraph 8 of this section, a person
25 owning real property who enters into a contract for sale of the real
26 property, who is responsible to the new owner of the property for
27 modifications made to the property in the period subsequent to the transfer
28 of title and who receives a consideration for the modifications is considered
29 a prime contractor solely for purposes of taxing the gross proceeds of sale
30 or gross income received for the modifications made subsequent to the
31 transfer of title. The original owner's gross proceeds of sale or gross
32 income received for the modifications shall be determined according to the
33 following methodology:

34 1. If any part of the contract for sale of the property specifies
35 amounts to be paid to the original owner for the modifications to be made in
36 the period subsequent to the transfer of title, the amounts are included in
37 the original owner's gross proceeds of sale or gross income under this

1 section. Proceeds from the sale of the property that are received after
2 transfer of title and that are unrelated to the modifications made subsequent
3 to the transfer of title are not considered gross proceeds of sale or gross
4 income from the modifications.

5 2. If the original owner enters into an agreement separate from the
6 contract for sale of the real property providing for amounts to be paid to
7 the original owner for the modifications to be made in the period subsequent
8 to the transfer of title to the property, the amounts are included in the
9 original owner's gross proceeds of sale or gross income received for the
10 modifications made subsequent to the transfer of title.

11 3. If the original owner is responsible to the new owner for
12 modifications made to the property in the period subsequent to the transfer
13 of title and derives any gross proceeds of sale or gross income from the
14 project subsequent to the transfer of title other than a delayed disbursement
15 from escrow unrelated to the modifications, it is presumed that the amounts
16 are received for the modifications made subsequent to the transfer of title
17 unless the contrary is established by the owner through its books, records
18 and papers kept in the regular course of business.

19 4. The tax base of the original owner is computed in the same manner
20 as a prime contractor under this section.

21 P. For the purposes of this section:

22 1. "Contracting" means engaging in business as a contractor.

23 2. "Contractor" is synonymous with the term "builder" and means any
24 person or organization that undertakes to or offers to undertake to, or
25 purports to have the capacity to undertake to, or submits a bid to, or does
26 personally or by or through others, modify any building, highway, road,
27 railroad, excavation, manufactured building or other structure, project,
28 development or improvement, or to do any part of such a project, including
29 the erection of scaffolding or other structure or works in connection with
30 such a project, and includes subcontractors and specialty contractors. For
31 all purposes of taxation or deduction, this definition shall govern without
32 regard to whether or not such contractor is acting in fulfillment of a
33 contract.

34 3. "Dealership of manufactured buildings" means a dealer who either:

35 (a) Is licensed pursuant to title 41, chapter 16 and who sells
36 manufactured buildings to the final consumer.

1 (b) Supervises, performs or coordinates the excavation and completion
2 of site improvements, setup or moving of a manufactured building including
3 the contracting, if any, with any subcontractor or specialty contractor for
4 the completion of the contract.

5 4. "Manufactured building" means a manufactured home, mobile home or
6 factory-built building, as defined in section 41-2142.

7 5. "Modification" means construction, alteration, repair, addition,
8 subtraction, improvement, movement, wreckage or demolition.

9 6. "Modify" means to construct, alter, repair, add to, subtract from,
10 improve, move, wreck or demolish.

11 7. "Prime contracting" means engaging in business as a prime
12 contractor.

13 8. "Prime contractor" means a contractor who supervises, performs or
14 coordinates the modification of any building, highway, road, railroad,
15 excavation, manufactured building or other structure, project, development or
16 improvement including the contracting, if any, with any subcontractors or
17 specialty contractors and who is responsible for the completion of the
18 contract. Except as provided in subsections E and O of this section, a
19 person who owns real property, who engages one or more contractors to modify
20 that real property and who does not itself modify that real property is not a
21 prime contractor within the meaning of this paragraph regardless of the
22 existence of a contract for sale or the subsequent sale of that real
23 property.

24 9. "Sale of a used manufactured building" does not include a lease of
25 a used manufactured building.

26 Sec. 5. Section 42-5159, Arizona Revised Statutes, is amended to read:

27 42-5159. Exemptions

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

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

34 2. Tangible personal property the sale or use of which has already
35 been subjected to an excise tax at a rate equal to or exceeding the tax
36 imposed by this article under the laws of another state of the United States.
37 If the excise tax imposed by the other state is at a rate less than the tax

1 imposed by this article, the tax imposed by this article is reduced by the
2 amount of the tax already imposed by the other state.

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

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

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

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

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

29 8. Livestock, poultry, supplies, feed, salts, vitamins and other
30 additives for use or consumption in the businesses of farming, ranching and
31 feeding livestock or poultry, not including fertilizers, herbicides and
32 insecticides. For the purposes of this paragraph, "poultry" includes
33 ratites.

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

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

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

8 12. Materials that are purchased by or for publicly funded libraries
9 including school district libraries, charter school libraries, community
10 college libraries, state university libraries or federal, state, county or
11 municipal libraries for use by the public as follows:

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

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

14 13. Tangible personal property purchased by:

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

18 (b) A hospital operated by this state or a political subdivision of
19 this state.

20 (c) A licensed nursing care institution or a licensed residential care
21 institution or a residential care facility operated in conjunction with a
22 licensed nursing care institution or a licensed kidney dialysis center, which
23 provides medical services, nursing services or health related services and is
24 not used or held for profit.

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

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

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

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

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

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

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

14 (i) A qualifying community health center as defined in section
15 42-5001.

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

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

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

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

37 15. Tangible personal property sold by:

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

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

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

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

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

21 18. Prescription eyeglasses and contact lenses.

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

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

24 21. Durable medical equipment which has a centers for medicare and
25 medicaid services common procedure code, is designated reimbursable by
26 medicare, is prescribed by a person who is licensed under title 32, chapter
27 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
28 used to serve a medical purpose, is generally not useful to a person in the
29 absence of illness or injury and is appropriate for use in the home.

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

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

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

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

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

12 27. Lottery tickets or shares purchased pursuant to title 5, chapter
13 5.1, article 1.

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

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

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

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

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

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

36 (b) Public educational institutions.

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

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

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

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

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

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

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

35 39. Overhead materials or other tangible personal property that is used
36 in performing a contract between the United States government and a
37 manufacturer, modifier, assembler or repairer, including property used in

1 performing a subcontract with a government contractor who is a manufacturer,
2 modifier, assembler or repairer, to which title passes to the government
3 under the terms of the contract or subcontract. For the purposes of this
4 paragraph:

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

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

21 40. Through December 31, 1994, tangible personal property sold pursuant
22 to a personal property liquidation transaction, as defined in section
23 42-5061. From and after December 31, 1994, tangible personal property sold
24 pursuant to a personal property liquidation transaction, as defined in
25 section 42-5061, if the gross proceeds of the sales were included in the
26 measure of the tax imposed by article 1 of this chapter or if the personal
27 property liquidation was a casual activity or transaction.

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

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

34 43. Tangible personal property purchased by a commercial airline and
35 consisting of food, beverages and condiments and accessories used for serving
36 the food and beverages, if those items are to be provided without additional
37 charge to passengers for consumption in flight. For the purposes of this

1 paragraph, "commercial airline" means a person holding a federal certificate
2 of public convenience and necessity or foreign air carrier permit for air
3 transportation to transport persons, property or United States mail in
4 intrastate, interstate or foreign commerce.

5 44. Alternative fuel vehicles if the vehicle was manufactured as a
6 diesel fuel vehicle and converted to operate on alternative fuel and
7 equipment that is installed in a conventional diesel fuel motor vehicle to
8 convert the vehicle to operate on an alternative fuel, as defined in section
9 1-215.

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

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

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

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

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

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

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

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

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

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

6 51. Motor vehicle fuel and use fuel to a qualified business under
7 section 41-1516 for off-road use in harvesting, processing or transporting
8 qualifying forest products removed from qualifying projects as defined in
9 section 41-1516.

10 52. Repair parts installed in equipment used directly by a qualified
11 business under section 41-1516 in harvesting, processing or transporting
12 qualifying forest products removed from qualifying projects as defined in
13 section 41-1516.

14 53. Renewable energy credits or any other unit created to track energy
15 derived from renewable energy resources. For the purposes of this paragraph,
16 "renewable energy credit" means a unit created administratively by the
17 corporation commission or governing body of a public power entity to track
18 kilowatt hours of electricity derived from a renewable energy resource or the
19 kilowatt hour equivalent of conventional energy resources displaced by
20 distributed renewable energy resources.

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

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

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

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

7 4. Machinery, equipment or transmission lines used directly in
8 producing or transmitting electrical power, but not including distribution.
9 Transformers and control equipment used at transmission substation sites
10 constitute equipment used in producing or transmitting electrical power.

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

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

18 7. Aircraft, navigational and communication instruments and other
19 accessories and related equipment sold to:

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

26 (b) Any foreign government, or sold to persons who are not residents
27 of this state and who will not use such property in this state other than in
28 removing such property from this state.

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

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

35 10. Machinery or equipment used directly to drill for oil or gas or
36 used directly in the process of extracting oil or gas from the earth for
37 commercial purposes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 22. COMPUTER DATA CENTER EQUIPMENT AS DEFINED IN SECTION 41-1519 THAT
37 IS PURCHASED FOR USE IN A COMPUTER DATA CENTER THAT IS CERTIFIED BY THE

1 ARIZONA COMMERCE AUTHORITY UNDER SECTION 41-1519 BY OR ON BEHALF OF THE
2 OWNER, OPERATOR OR QUALIFIED COLOCATION TENANT OF THE COMPUTER DATA CENTER,
3 OR THE AUTHORIZED AGENT OWNER, OPERATOR OR QUALIFIED COLOCATION TENANT OF THE
4 COMPUTER DATA CENTER.

5 C. The exemptions provided by subsection B of this section do not
6 include:

7 1. Expendable materials. For the purposes of this paragraph,
8 expendable materials do not include any of the categories of tangible
9 personal property specified in subsection B of this section regardless of the
10 cost or useful life of that property.

11 2. Janitorial equipment and hand tools.

12 3. Office equipment, furniture and supplies.

13 4. Tangible personal property used in selling or distributing
14 activities, other than the telecommunications transmissions described in
15 subsection B, paragraph ~~16~~ 15 of this section.

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

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

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

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

25 1. Revenues received from sales of ancillary services, electric
26 distribution services, electric generation services, electric transmission
27 services and other services related to providing electricity to a retail
28 electric customer who is located outside this state for use outside this
29 state if the electricity is delivered to a point of sale outside this state.

30 2. Revenues received from providing electricity, including ancillary
31 services, electric distribution services, electric generation services,
32 electric transmission services and other services related to providing
33 electricity with respect to which the transaction privilege tax imposed under
34 section 42-5063 has been paid.

35 E. The tax levied by this article does not apply to the purchase of
36 solar energy devices from a retailer that is registered with the department
37 as a solar energy retailer or a solar energy contractor.

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

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

8 2. Reimbursement or contribution compensation to any person or persons
9 owning a utility system for property and equipment installed to provide
10 utility access to, on or across the land of an actual utility consumer if the
11 property and equipment become the property of the utility. This deduction
12 shall not exceed the value of such property and equipment.

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

14 1. "Aircraft" includes:

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

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

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

24 H. For the purposes of subsection D of this section, "ancillary
25 services", "electric distribution service", "electric generation service",
26 "electric transmission service" and "other services" have the same meanings
27 prescribed in section 42-5063."

28 Amend title to conform

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