

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

HB 2616

Introduced by
Representatives Dial, Forese, Gallego, Orr; Barton, Livingston, Robson,
Senators McComish, Worsley

AN ACT

AMENDING TITLE 41, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1519; AMENDING SECTIONS 42-5061, 42-5063 AND 42-5159, ARIZONA REVISED STATUTES; RELATING TO COMPUTER DATA CENTERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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 CERTIFIED FACILITY. ALL
7 TAX INCENTIVES APPLY FROM THE DATE THAT THE AUTHORITY PRECERTIFIES THE
8 FACILITY THROUGH THE EXPIRATION OF THE CERTIFICATION PERIOD.

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

13 1. THE APPLICANT'S NAME, ADDRESS AND TELEPHONE NUMBER.

14 2. THE ADDRESS OF THE SITE WHERE THE FACILITY IS OR WILL BE LOCATED.

15 3. THE ANTICIPATED SQUARE FOOTAGE, INVESTMENT AND JOB CREATION
16 ASSOCIATED WITH THE BUILDING, MODULAR UNIT OR FACILITY FOR WHICH THE TAX
17 INCENTIVE IS BEING SOUGHT AND WHETHER THE FACILITY IS ANTICIPATED TO QUALIFY
18 AS A SUSTAINABLE REDEVELOPMENT PROJECT.

19 4. AN AFFIRMATION, SIGNED BY AN AUTHORIZED EXECUTIVE REPRESENTING THE
20 OWNER OR OPERATOR, THAT THE OWNER OR OPERATOR EXPECTS TO SATISFY EACH OF THE
21 CERTIFICATION REQUIREMENTS PRESCRIBED IN SUBSECTION E OF THIS SECTION.

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

31 D. AN OWNER OR OPERATOR MAY RECEIVE SEPARATE CERTIFICATIONS WITH
32 RESPECT TO EACH BUILDING, CONDOMINIUM OR MODULAR UNIT IN A FACILITY AT THE
33 DISCRETION OF THE OWNER OR OPERATOR. EACH SEPARATE BUILDING OR UNIT MAY BE
34 CONSIDERED A SEPARATE COMPUTER DATA CENTER IF THE BUILDING OR UNIT
35 INDIVIDUALLY MEETS THE REQUIREMENTS PRESCRIBED IN SUBSECTION E OF THIS
36 SECTION. A BUILDING, UNIT OR ARTICLE OF COMPUTER DATA EQUIPMENT SHALL NOT BE
37 DEEMED TO BE A PART OF MORE THAN ONE COMPUTER DATA CENTER.

38 E. THE OWNER, OPERATOR OR QUALIFIED COLOCATION TENANTS OF A FACILITY
39 MAY QUALIFY FOR THE TAX INCENTIVES IF THE FACILITY MEETS ALL OF THE FOLLOWING
40 REQUIREMENTS:

41 1. IS USED PRIMARILY AS A COMPUTER DATA CENTER.

42 2. CREATES A MINIMUM INVESTMENT OF AT LEAST:

43 (a) TWENTY-FIVE MILLION DOLLARS INCLUDING COSTS OF LAND, BUILDINGS,
44 MODULAR UNITS AND COMPUTER DATA CENTER EQUIPMENT, IF THE COMPUTER DATA CENTER
45 IS LOCATED IN A COUNTY WITH A POPULATION OF FEWER THAN EIGHT HUNDRED THOUSAND

1 PERSONS OR IN A MUNICIPALITY WITH A POPULATION OF FEWER THAN FIFTY THOUSAND
2 PERSONS IN A COUNTY WITH A POPULATION OF AT LEAST EIGHT HUNDRED THOUSAND
3 PERSONS.

4 (b) FIFTY MILLION DOLLARS INCLUDING COSTS OF LAND, BUILDINGS, MODULAR
5 UNITS AND COMPUTER DATA CENTER EQUIPMENT, IF THE COMPUTER DATA CENTER IS
6 LOCATED ANY PLACE IN THIS STATE OTHER THAN AN AREA DESCRIBED IN SUBDIVISION
7 (a) OF THIS PARAGRAPH.

8 3. THE FACILITY CREATES AT LEAST ONE NEW QUALIFIED EMPLOYMENT POSITION
9 FOR EACH TEN THOUSAND SQUARE FEET OF NEWLY CONSTRUCTED OR REFURBISHED SERVER
10 SPACE.

11 F. ON OR BEFORE THE FIFTH ANNIVERSARY OF THE CERTIFICATION OF THE
12 FACILITY, THE OWNER OR OPERATOR SHALL NOTIFY THE AUTHORITY IN WRITING THAT
13 THE BUILDING, MODULAR UNIT OR FACILITY FOR WHICH THE CERTIFICATION IS
14 REQUESTED HAS OR HAS NOT SATISFIED THE REQUIREMENTS PRESCRIBED IN SUBSECTION
15 E OF THIS SECTION AND, IF SO, THE DATE ON WHICH ALL OF THE REQUIREMENTS WERE
16 SATISFIED.

17 G. IF THE DEPARTMENT OF REVENUE DETERMINES THAT THE REQUIREMENTS IN
18 SUBSECTION E OF THIS SECTION HAVE NOT BEEN SATISFIED, THE DEPARTMENT MAY
19 REVOKE THE CERTIFICATION OF A COMPUTER DATA CENTER AND THE OWNER OR OPERATOR
20 MAY APPEAL THE REVOCATION PURSUANT TO TITLE 42, CHAPTER 1, ARTICLE 6. THE
21 AUTHORITY SHALL NOT REVOKE A CERTIFICATION OF A BUILDING, MODULAR UNIT OR
22 FACILITY THAT SATISFIES THE REQUIREMENTS OF SUBSECTION E OF THIS SECTION. IF
23 CERTIFICATION IS REVOKED PURSUANT TO THIS SUBSECTION, THE CERTIFICATION
24 PERIOD EXPIRES AND THE DEPARTMENT MAY RECAPTURE FROM THE OWNER OR OPERATOR
25 ALL OR PART OF THE TAX INCENTIVES PROVIDED DIRECTLY TO THE OWNER OR OPERATOR.
26 THE DEPARTMENT MAY GIVE SPECIAL CONSIDERATION OR ALLOW A TEMPORARY EXEMPTION
27 FROM RECAPTURE OF THE TAX INCENTIVES, IF THERE IS EXTRAORDINARY HARDSHIP DUE
28 TO FACTORS BEYOND THE CONTROL OF THE FACILITY. THE DEPARTMENT MAY REQUIRE
29 THE OWNER OR OPERATOR TO FILE APPROPRIATE AMENDED TAX RETURNS TO REFLECT ANY
30 RECAPTURE OF THE TAX INCENTIVES.

31 H. THE AUTHORITY SHALL ADOPT RULES AND PRESCRIBE FORMS AND PROCEDURES
32 AS NECESSARY FOR THE PURPOSES OF THIS SECTION. THE AUTHORITY AND THE
33 DEPARTMENT OF REVENUE SHALL COLLABORATE IN ADOPTING RULES AS NECESSARY TO
34 AVOID DUPLICATION AND INCONSISTENCIES WHILE ACCOMPLISHING THE PURPOSES OF
35 THIS SECTION.

36 I. FOR THE PURPOSES OF THIS SECTION:

37 1. "CERTIFICATION PERIOD" MEANS A PERIOD OF TIME BEGINNING ON THE DATE
38 THAT THE AUTHORITY CERTIFIES THE FACILITY AND EXPIRING AT THE END OF THE
39 TENTH CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE COMPUTER DATA
40 CENTER SATISFIES ALL OF THE REQUIREMENTS PRESCRIBED IN SUBSECTION E OF THIS
41 SECTION, EXCEPT IF A COMPUTER DATA CENTER IS A SUSTAINABLE REDEVELOPMENT
42 PROJECT, CERTIFICATION PERIOD MEANS A PERIOD OF TIME BEGINNING ON THE DATE
43 THAT THE AUTHORITY CERTIFIES THE FACILITY AND EXPIRING AT THE END OF THE
44 TWENTIETH CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE COMPUTER

1 DATA CENTER SATISFIES ALL OF THE REQUIREMENTS PRESCRIBED IN SUBSECTION E OF
2 THIS SECTION.

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

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

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

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

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

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

26 (e) ALL MONITORING EQUIPMENT AND SECURITY SYSTEMS.

27 (f) MODULAR UNITS AND PREASSEMBLED COMPONENTS OF ANY ITEM DESCRIBED IN
28 THIS PARAGRAPH.

29 (g) OTHER TANGIBLE PERSONAL PROPERTY ESSENTIAL TO THE OPERATIONS OF A
30 COMPUTER DATA CENTER, WHETHER THE PROPERTY IS NOW IN EXISTENCE OR DEVELOPED
31 AFTER THE EFFECTIVE DATE OF THIS SECTION.

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

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

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

40 7. "QUALIFIED EMPLOYMENT POSITION" MEANS A POSITION THAT DOES ALL OF
41 THE FOLLOWING AND THAT MAY BE SATISFIED THROUGH A COMBINATION OF FULL-TIME
42 EQUIVALENT EMPLOYEES OR FULL-TIME EQUIVALENT VENDORS ASSIGNED TO WORK AT OR
43 FOR THE PRIMARY BENEFIT OF THE FACILITY, OR BOTH:

44 (a) PAYS COMPENSATION OF AT LEAST THE MEDIAN WAGE IN THE COUNTY AS OF
45 THE DATE OF CERTIFICATION AS CALCULATED BY THE AUTHORITY.

1 (b) CONSISTS OF AT LEAST ONE THOUSAND SEVEN HUNDRED FIFTY HOURS PER
2 YEAR IN WHICH THE JOB DUTIES ARE PRIMARILY PERFORMED AT OR FOR THE PRIMARY
3 BENEFIT OF THE FACILITY.

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

8 (a) WAS AT LEAST FIFTY PER CENT VACANT FOR SIX OF THE TWELVE MONTHS
9 BEFORE CERTIFICATION OF THE FACILITY.

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

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

17 Sec. 2. Section 42-5061, Arizona Revised Statutes, is amended to read:
18 42-5061. Retail classification; definitions

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

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

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

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

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

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

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

41 7. The sale of stocks and bonds.

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

- 1 9. Prosthetic appliances as defined in section 23-501 prescribed or
2 recommended by a health professional who is licensed pursuant to title 32,
3 chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 4 10. Insulin, insulin syringes and glucose test strips.
- 5 11. Prescription eyeglasses or contact lenses.
- 6 12. Hearing aids as defined in section 36-1901.
- 7 13. Durable medical equipment which has a centers for medicare and
8 medicaid services common procedure code, is designated reimbursable by
9 medicare, is prescribed by a person who is licensed under title 32, chapter
10 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
11 customarily used to serve a medical purpose, is generally not useful to a
12 person in the absence of illness or injury and is appropriate for use in the
13 home.
- 14 14. Sales to nonresidents of this state for use outside this state if
15 the vendor ships or delivers the tangible personal property out of this
16 state.
- 17 15. Food, as provided in and subject to the conditions of article 3 of
18 this chapter and section 42-5074.
- 19 16. Items purchased with United States department of agriculture food
20 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
21 958) or food instruments issued under section 17 of the child nutrition act
22 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
23 section 1786).
- 24 17. Textbooks by any bookstore that are required by any state
25 university or community college.
- 26 18. Food and drink to a person who is engaged in business that is
27 classified under the restaurant classification and that provides such food
28 and drink without monetary charge to its employees for their own consumption
29 on the premises during the employees' hours of employment.
- 30 19. Articles of food, drink or condiment and accessory tangible
31 personal property to a school district or charter school if such articles and
32 accessory tangible personal property are to be prepared and served to persons
33 for consumption on the premises of a public school within the district or on
34 the premises of the charter school during school hours.
- 35 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
36 article 1.
- 37 21. The sale of precious metal bullion and monetized bullion to the
38 ultimate consumer, but the sale of coins or other forms of money for
39 manufacture into jewelry or works of art is subject to the tax. For the
40 purposes of this paragraph:
- 41 (a) "Monetized bullion" means coins and other forms of money that are
42 manufactured from gold, silver or other metals and that have been or are used
43 as a medium of exchange in this or another state, the United States or a
44 foreign nation.

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

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

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

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

16 25. Tangible personal property sold to:

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

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

21 (c) A qualifying health care organization as defined in section
22 42-5001 if the organization is dedicated to providing educational,
23 therapeutic, rehabilitative and family medical education training for blind,
24 visually impaired and multihandicapped children from the time of birth to age
25 twenty-one.

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

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

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

39 26. Magazines or other periodicals or other publications by this state
40 to encourage tourist travel.

41 27. Tangible personal property sold to a person that is subject to tax
42 under this article by reason of being engaged in business classified under
43 the prime contracting classification under section 42-5075, or to a
44 subcontractor working under the control of a prime contractor that is subject

1 to tax under article 1 of this chapter, if the property so sold is any of the
2 following:

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

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

7 28. The sale of a motor vehicle to:

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

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

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

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

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

32 32. Sales of tangible personal property by a nonprofit organization
33 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
34 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
35 sponsors or operates a rodeo featuring primarily farm and ranch animals and
36 no part of the organization's net earnings inures to the benefit of any
37 private shareholder or individual.

38 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
39 propagative material to persons who use those items to commercially produce
40 agricultural, horticultural, viticultural or floricultural crops in this
41 state.

42 34. Machinery, equipment, technology or related supplies that are only
43 useful to assist a person who is physically disabled as defined in section
44 46-191, has a developmental disability as defined in section 36-551 or has a

1 head injury as defined in section 41-3201 to be more independent and
2 functional.

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

6 36. Sales of natural gas or liquefied petroleum gas used to propel a
7 motor vehicle.

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

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

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

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

41 (a) "Personal property liquidation transaction" means a sale of
42 personal property made by a personal property liquidator acting solely on
43 behalf of the owner of the personal property sold at the dwelling of the
44 owner or on the death of any owner, on behalf of the surviving spouse, if

1 any, any devisee or heir or the personal representative of the estate of the
2 deceased, if one has been appointed.

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

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

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

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

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

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

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

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

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

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

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

43 49. Tangible personal property sold to a commercial airline and
44 consisting of food, beverages and condiments and accessories used for serving
45 the food and beverages, if those items are to be provided without additional

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

6 50. Sales of alternative fuel vehicles if the vehicle was manufactured
7 as a diesel fuel vehicle and converted to operate on alternative fuel and
8 equipment that is installed in a conventional diesel fuel motor vehicle to
9 convert the vehicle to operate on an alternative fuel, as defined in section
10 1-215.

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

14 52. Sales of tangible personal property to be incorporated or installed
15 as part of environmental response or remediation activities under section
16 42-5075, subsection B, paragraph 6.

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

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

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

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

30 (b) "Curriculum design or enhancement" means planning, implementing or
31 reporting on courses of study, lessons, assignments or other learning
32 activities.

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

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

41 58. Sales or other transfers of renewable energy credits or any other
42 unit created to track energy derived from renewable energy resources. For
43 the purposes of this paragraph, "renewable energy credit" means a unit
44 created administratively by the corporation commission or governing body of a
45 public power utility to track kilowatt hours of electricity derived from a

1 renewable energy resource or the kilowatt hour equivalent of conventional
2 energy resources displaced by distributed renewable energy resources.

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

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

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

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

26 4. Machinery, equipment or transmission lines used directly in
27 producing or transmitting electrical power, but not including distribution.
28 Transformers and control equipment used at transmission substation sites
29 constitute equipment used in producing or transmitting electrical power.

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

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

37 7. Aircraft, navigational and communication instruments and other
38 accessories and related equipment sold to:

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

45 (b) Any foreign government.

1 (c) Persons who are not residents of this state and who will not use
2 such property in this state other than in removing such property from this
3 state. This subdivision also applies to corporations that are not
4 incorporated in this state, regardless of maintaining a place of business in
5 this state, if the principal corporate office is located outside this state
6 and the property will not be used in this state other than in removing the
7 property from this state.

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

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

14 10. Machinery or equipment used directly to drill for oil or gas or
15 used directly in the process of extracting oil or gas from the earth for
16 commercial purposes.

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

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

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

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

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

37 14. Machinery or equipment used in research and development. For the
38 purposes of this paragraph, "research and development" means basic and
39 applied research in the sciences and engineering, and designing, developing
40 or testing prototypes, processes or new products, including research and
41 development of computer software that is embedded in or an integral part of
42 the prototype or new product or that is required for machinery or equipment
43 otherwise exempt under this section to function effectively. Research and
44 development do not include manufacturing quality control, routine consumer
45 product testing, market research, sales promotion, sales service, research in

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

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

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

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

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

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

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

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

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

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

41 17. Machinery and equipment used directly in the feeding of poultry,
42 the environmental control of housing for poultry, the movement of eggs within
43 a production and packaging facility or the sorting or cooling of eggs. This
44 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 sold to a person engaged in the
12 commercial production of livestock, livestock products or agricultural,
13 horticultural, viticultural or floricultural crops or products in this state
14 and that are used directly and primarily to prevent, monitor, control or
15 reduce air, water or land pollution.

16 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 deduction, the
34 qualified business at the time of purchase must present its certification
35 approved by the department.

36 22. COMPUTER DATA CENTER EQUIPMENT THAT IS PURCHASED FOR USE IN A
37 COMPUTER DATA CENTER THAT IS CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY
38 UNDER SECTION 41-1519 BY OR ON BEHALF OF THE OWNER, OPERATOR OR QUALIFIED
39 COLOCATION TENANT OF THE COMPUTER DATA CENTER.

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

42 1. Expendable materials. For the purposes of this paragraph,
43 expendable materials do not include any of the categories of tangible
44 personal property specified in subsection B of this section regardless of the
45 cost or useful life of that property.

1 2. Janitorial equipment and hand tools.

2 3. Office equipment, furniture and supplies.

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

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

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

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

13 D. In addition to the deductions from the tax base prescribed by
14 subsection A of this section, there shall be deducted from the tax base the
15 gross proceeds of sales or gross income derived from sales of machinery,
16 equipment, materials and other tangible personal property used directly and
17 predominantly to construct a qualified environmental technology
18 manufacturing, producing or processing facility as described in section
19 41-1514.02. This subsection applies for ten full consecutive calendar or
20 fiscal years after the start of initial construction.

21 E. In computing the tax base, gross proceeds of sales or gross income
22 from retail sales of heavy trucks and trailers does not include any amount
23 attributable to federal excise taxes imposed by 26 United States Code section
24 4051.

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

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

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

41 I. A person who engages in manufacturing, baling, crating, boxing,
42 barreling, canning, bottling, sacking, preserving, processing or otherwise
43 preparing for sale or commercial use any livestock, agricultural or
44 horticultural product or any other product, article, substance or commodity
45 and who sells the product of such business at retail in this state is deemed,

1 as to such sales, to be engaged in business classified under the retail
2 classification. This subsection does not apply to businesses classified
3 under the:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 S. If a seller is entitled to a deduction pursuant to subsection B,
32 paragraph 15, subdivision (b) of this section, the department may require the
33 purchaser to establish that the requirements of subsection B, paragraph 15,
34 subdivision (b) of this section have been satisfied. If the purchaser cannot
35 establish that the requirements of subsection B, paragraph 15, subdivision
36 (b) of this section have been satisfied, the purchaser is liable in an amount
37 equal to any tax, penalty and interest which the seller would have been
38 required to pay under article 1 of this chapter if the seller had not made a
39 deduction pursuant to subsection B, paragraph 15, subdivision (b) of this
40 section. Payment of the amount under this subsection exempts the purchaser
41 from liability for any tax imposed under article 4 of this chapter and
42 related to the tangible personal property purchased. The amount shall be
43 treated as transaction privilege tax to the purchaser and as tax revenues
44 collected from the seller to designate the distribution base pursuant to
45 section 42-5029.

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

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

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

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

21 V. For the purposes of this section:

22 1. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

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

22 42-5063. Utilities classification; definitions

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

24 1. Producing and furnishing or furnishing to consumers natural or
25 artificial gas and water.

26 2. Providing to retail electric customers ancillary services, electric
27 distribution services, electric generation services, electric transmission
28 services and other services related to providing electricity.

29 B. The utilities classification does not include:

30 1. Sales of ancillary services, electric distribution services,
31 electric generation services, electric transmission services and other
32 services related to providing electricity, gas or water to a person who
33 resells the services.

34 2. Sales of natural gas or liquefied petroleum gas used to propel a
35 motor vehicle.

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

39 4. Sales of ancillary services, electric distribution services,
40 electric generation services, electric transmission services and other
41 services that are related to providing electricity to a retail electric
42 customer who is located outside this state for use outside this state if the
43 electricity is delivered to a point of sale outside this state.

44 5. Sales or other transfers of renewable energy credits or any other
45 unit created to track energy derived from renewable energy resources. For

1 the purposes of this paragraph, "renewable energy credit" means a unit
2 created administratively by the corporation commission or governing body of a
3 public power utility to track kilowatt hours of electricity derived from a
4 renewable energy resource or the kilowatt hour equivalent of conventional
5 energy resources displaced by distributed renewable energy resources.

6 6. THE PORTION OF GROSS PROCEEDS OF SALE OR GROSS INCOME THAT IS
7 DERIVED FROM SALES TO THE OWNER, OPERATOR OR COLOCATION TENANT OF A COMPUTER
8 DATA CENTER AND THAT IS DIRECTLY USED IN A COMPUTER DATA CENTER THAT IS
9 CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY UNDER SECTION 41-1519.

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

13 1. Revenues received by a municipally owned utility in the form of
14 fees charged to persons constructing residential, commercial or industrial
15 developments or connecting residential, commercial or industrial developments
16 to a municipal utility system or systems if the fees are segregated and used
17 only for capital expansion, system enlargement or debt service of the utility
18 system or systems.

19 2. Revenues received by any person or persons owning a utility system
20 in the form of reimbursement or contribution compensation for property and
21 equipment installed to provide utility access to, on or across the land of an
22 actual utility consumer if the property and equipment become the property of
23 the utility. This deduction shall not exceed the value of such property and
24 equipment.

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

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

27 (b) A qualifying health care organization as defined in section
28 42-5001 if the tangible personal property is used by the organization solely
29 to provide health and medical related educational and charitable services.

30 4. The portion of gross proceeds of sales or gross income that is
31 derived from sales to a qualified environmental technology manufacturer,
32 producer or processor as defined in section 41-1514.02 of a utility product
33 and that is used directly in environmental technology manufacturing,
34 producing or processing. This paragraph shall apply for twenty full
35 consecutive calendar or fiscal years from the date the first paper
36 manufacturing machine is placed in service. In the case of a qualified
37 environmental technology manufacturer, producer or processor who does not
38 manufacture paper, the time period shall begin with the date the first
39 manufacturing, processing or production equipment is placed in service.

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

1 D. For the purposes of this section:

2 1. "Ancillary services" means those services so designated in federal
3 energy regulatory commission order 888 adopted in 1996 that include the
4 services necessary to support the transmission of electricity from resources
5 to loads while maintaining reliable operation of the transmission system
6 according to good utility practice.

7 2. "Electric distribution service" means distributing electricity to
8 retail electric customers through the use of electric distribution
9 facilities.

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

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

17 5. "Other services" includes metering, meter reading services, billing
18 and collecting services.

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

22 Sec. 4. Section 42-5159, Arizona Revised Statutes, is amended to read:
23 42-5159. Exemptions

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

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

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

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

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

43 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
44 which in this state is subject to the tax imposed under title 28, chapter 16,
45 article 1, use fuel which is sold to or used by a person holding a valid

1 single trip use fuel tax permit issued under section 28-5739, aviation fuel,
2 the sales, distribution or use of which in this state is subject to the tax
3 imposed under section 28-8344, and jet fuel, the sales, distribution or use
4 of which in this state is subject to the tax imposed under article 8 of this
5 chapter.

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

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

17 8. Livestock, poultry, supplies, feed, salts, vitamins and other
18 additives for use or consumption in the businesses of farming, ranching and
19 feeding livestock or poultry, not including fertilizers, herbicides and
20 insecticides. For the purposes of this paragraph, "poultry" includes
21 ratites.

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

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

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

32 12. Materials that are purchased by or for publicly funded libraries
33 including school district libraries, charter school libraries, community
34 college libraries, state university libraries or federal, state, county or
35 municipal libraries for use by the public as follows:

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

38 13. Tangible personal property purchased by:
39 (a) A hospital organized and operated exclusively for charitable
40 purposes, no part of the net earnings of which inures to the benefit of any
41 private shareholder or individual.

42 (b) A hospital operated by this state or a political subdivision of
43 this state.

44 (c) A licensed nursing care institution or a licensed residential care
45 institution or a residential care facility operated in conjunction with a

1 licensed nursing care institution or a licensed kidney dialysis center, which
2 provides medical services, nursing services or health related services and is
3 not used or held for profit.

4 (d) A qualifying health care organization, as defined in section
5 42-5001, if the tangible personal property is used by the organization solely
6 to provide health and medical related educational and charitable services.

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

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

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

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

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

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

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

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

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

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

1 low income persons over sixty-two years of age in a facility that qualifies
2 for a federal housing subsidy.

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

8 15. Tangible personal property sold by:

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

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

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

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

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

29 18. Prescription eyeglasses and contact lenses.

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

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

32 21. Durable medical equipment which has a centers for medicare and
33 medicaid services common procedure code, is designated reimbursable by
34 medicare, is prescribed by a person who is licensed under title 32, chapter
35 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
36 used to serve a medical purpose, is generally not useful to a person in the
37 absence of illness or injury and is appropriate for use in the home.

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

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

1 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.

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

40 33. Natural gas or liquefied petroleum gas used to propel a motor
41 vehicle.

42 34. Machinery, equipment, technology or related supplies that are only
43 useful to assist a person who is physically disabled as defined in section
44 46-191, has a developmental disability as defined in section 36-551 or has a

1 head injury as defined in section 41-3201 to be more independent and
2 functional.

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

16 36. Food, drink and condiment purchased for consumption within the
17 premises of any prison, jail or other institution under the jurisdiction of
18 the state department of corrections, the department of public safety, the
19 department of juvenile corrections or a county sheriff.

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

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

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

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

41 (b) "Subcontract" means an agreement between a contractor and any
42 person who is not an employee of the contractor for furnishing of supplies or
43 services that, in whole or in part, are necessary to the performance of one
44 or more government contracts, or under which any portion of the contractor's
45 obligation under one or more government contracts is performed, undertaken or

1 assumed, and that includes provisions causing title to overhead materials or
2 other tangible personal property used in the performance of the subcontract
3 to pass to the government or that includes provisions incorporating such
4 title passing clauses in a government contract into the subcontract.

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

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

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

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

26 44. Alternative fuel vehicles if the vehicle was manufactured as a
27 diesel fuel vehicle and converted to operate on alternative fuel and
28 equipment that is installed in a conventional diesel fuel motor vehicle to
29 convert the vehicle to operate on an alternative fuel, as defined in section
30 1-215.

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

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

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

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

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

44 48. Tangible personal property sold by a nonprofit organization that is
45 exempt from taxation under section 501(c)(6) of the internal revenue code if

1 the organization produces, organizes or promotes cultural or civic related
2 festivals or events and no part of the organization's net earnings inures to
3 the benefit of any private shareholder or individual.

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

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

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

15 (b) "Curriculum design or enhancement" means planning, implementing or
16 reporting on courses of study, lessons, assignments or other learning
17 activities.

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

22 52. Repair parts installed in equipment used directly by a qualified
23 business under section 41-1516 in harvesting, processing or transporting
24 qualifying forest products removed from qualifying projects as defined in
25 section 41-1516.

26 53. Renewable energy credits or any other unit created to track energy
27 derived from renewable energy resources. For the purposes of this paragraph,
28 "renewable energy credit" means a unit created administratively by the
29 corporation commission or governing body of a public power entity to track
30 kilowatt hours of electricity derived from a renewable energy resource or the
31 kilowatt hour equivalent of conventional energy resources displaced by
32 distributed renewable energy resources.

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

36 1. Machinery, or equipment, used directly in manufacturing,
37 processing, fabricating, job printing, refining or metallurgical operations.
38 The terms "manufacturing", "processing", "fabricating", "job printing",
39 "refining" and "metallurgical" as used in this paragraph refer to and include
40 those operations commonly understood within their ordinary meaning.
41 "Metallurgical operations" includes leaching, milling, precipitating,
42 smelting and refining.

43 2. Machinery, or equipment, used directly in the process of extracting
44 ores or minerals from the earth for commercial purposes, including equipment
45 required to prepare the materials for extraction and handling, loading or

1 transporting such extracted material to the surface. "Mining" includes
2 underground, surface and open pit operations for extracting ores and
3 minerals.

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

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

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

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

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

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

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

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

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

38 10. Machinery or equipment used directly to drill for oil or gas or
39 used directly in the process of extracting oil or gas from the earth for
40 commercial purposes.

41 11. Buses or other urban mass transit vehicles which are used directly
42 to transport persons or property for hire or pursuant to a governmentally
43 adopted and controlled urban mass transportation program and which are sold
44 to bus companies holding a federal certificate of convenience and necessity
45 or operated by any city, town or other governmental entity or by any person

1 contracting with such governmental entity as part of a governmentally adopted
2 and controlled program to provide urban mass transportation.

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

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

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

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

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

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

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

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

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

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

44 For the purposes of subdivision (b) of this paragraph, "test period" means
45 the three hundred sixty-five day period beginning on the later of the date on

1 which the tangible personal property is purchased or the date on which the
2 direct broadcast satellite television or data transmission service first
3 transmits information to its customers.

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

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

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

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

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

34 19. Machinery and equipment that are used in the commercial production
35 of livestock, livestock products or agricultural, horticultural, viticultural
36 or floricultural crops or products in this state and that are used directly
37 and primarily to prevent, monitor, control or reduce air, water or land
38 pollution.

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

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

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

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

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

14 22. DATA CENTER EQUIPMENT THAT IS PURCHASED FOR USE IN A COMPUTER DATA
15 CENTER THAT IS CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY UNDER SECTION
16 41-1519 BY OR ON BEHALF OF THE OWNER, OPERATOR OR QUALIFIED COLOCATION TENANT
17 OF THE COMPUTER DATA CENTER.

18 C. The exemptions provided by subsection B of this section do not
19 include:

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

24 2. Janitorial equipment and hand tools.

25 3. Office equipment, furniture and supplies.

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

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

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

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

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

38 1. Revenues received from sales of ancillary services, electric
39 distribution services, electric generation services, electric transmission
40 services and other services related to providing electricity to a retail
41 electric customer who is located outside this state for use outside this
42 state if the electricity is delivered to a point of sale outside this state.

43 2. Revenues received from providing electricity, including ancillary
44 services, electric distribution services, electric generation services,
45 electric transmission services and other services related to providing

1 electricity with respect to which the transaction privilege tax imposed under
2 section 42-5063 has been paid.

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

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

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

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

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

19 1. "Aircraft" includes:

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

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

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

29 H. For the purposes of subsection D of this section, "ancillary
30 services", "electric distribution service", "electric generation service",
31 "electric transmission service" and "other services" have the same meanings
32 prescribed in section 42-5063.