

State of Arizona
Senate
Fifty-first Legislature
Second Regular Session
2014

SENATE BILL 1413

AN ACT

AMENDING SECTION 42-5063, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5159, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, FIRST SPECIAL SESSION, CHAPTER 9, SECTION 7; AMENDING SECTION 42-5159, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 255, SECTION 17; AMENDING TITLE 42, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-6012; RELATING TO TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5063, Arizona Revised Statutes, is amended to
3 read:

4 42-5063. Utilities classification; definitions

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

6 1. Producing and furnishing or furnishing to consumers natural or
7 artificial gas and water.

8 2. Providing to retail electric customers ancillary services, electric
9 distribution services, electric generation services, electric transmission
10 services and other services related to providing electricity.

11 B. The utilities classification does not include:

12 1. Sales of ancillary services, electric distribution services,
13 electric generation services, electric transmission services and other
14 services related to providing electricity, gas or water to a person who
15 resells the services.

16 2. Sales of natural gas or liquefied petroleum gas used to propel a
17 motor vehicle.

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

21 4. Sales of ancillary services, electric distribution services,
22 electric generation services, electric transmission services and other
23 services that are related to providing electricity to a retail electric
24 customer who is located outside this state for use outside this state if the
25 electricity is delivered to a point of sale outside this state.

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

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

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

42 2. Revenues received by any person or persons owning a utility system
43 in the form of reimbursement or contribution compensation for property and
44 equipment installed to provide utility access to, on or across the land of an
45 actual utility consumer if the property and equipment become the property of

1 the utility. This deduction shall not exceed the value of such property and
2 equipment.

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

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

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

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

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

22 6. GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM SALES OF
23 ELECTRICITY TO A BUSINESS THAT IS PRINCIPALLY ENGAGED IN MANUFACTURING OR
24 SMELTING OPERATIONS THAT USES AT LEAST FIFTY-ONE PER CENT OF THE ELECTRICITY
25 IN THE MANUFACTURING OR SMELTING OPERATIONS. FOR THE PURPOSES OF THIS
26 PARAGRAPH:

27 (a) "MANUFACTURING" MEANS THE PERFORMANCE AS A BUSINESS OF AN
28 INTEGRATED SERIES OF OPERATIONS THAT PLACE TANGIBLE PERSONAL PROPERTY IN A
29 FORM, COMPOSITION OR CHARACTER DIFFERENT FROM THAT IN WHICH IT WAS ACQUIRED
30 AND TRANSFORMS IT INTO A DIFFERENT PRODUCT WITH A DISTINCTIVE NAME, CHARACTER
31 OR USE. MANUFACTURING DOES NOT INCLUDE PROCESSING, FABRICATING, JOB
32 PRINTING, MINING, GENERATING ELECTRICITY OR OPERATING A RESTAURANT.

33 (b) "PRINCIPALLY ENGAGED" MEANS AT LEAST FIFTY-ONE PER CENT OF THE
34 BUSINESS IS A MANUFACTURING OR SMELTING OPERATION.

35 (c) "SMELTING" MEANS TO MELT OR FUSE A METALLIFEROUS MINERAL OFTEN
36 WITH AN ACCOMPANYING CHEMICAL CHANGE USUALLY TO SEPARATE THE METAL.

37 D. For the purposes of this section:

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

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

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

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

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

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

13 Sec. 2. Section 42-5159, Arizona Revised Statutes, as amended by Laws
14 2013, first special session, chapter 9, section 7, is amended to read:

15 42-5159. Exemptions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 13. Tangible personal property purchased by:

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

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

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

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

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

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

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

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

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

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

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

22 (i) A qualifying community health center as defined in section
23 42-5001.

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

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

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

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

45 15. Tangible personal property sold by:

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

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

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

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

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

21 18. Prescription eyeglasses and contact lenses.

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

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

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

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

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

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

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

43 26. Food, drink or condiment and accessory tangible personal property
44 that are acquired for use by or provided to a school district or charter
45 school if they are to be either served or prepared and served to persons for

1 consumption on the premises of a public school in the school district or on
2 the premises of the charter school during school hours.

3 27. Lottery tickets or shares purchased pursuant to title 5, chapter
4 5.1, article 1.

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

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

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

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

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

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

27 (b) Public educational institutions.

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

31 33. Natural gas or liquefied petroleum gas used to propel a motor
32 vehicle.

33 34. Machinery, equipment, technology or related supplies that are only
34 useful to assist a person who is physically disabled as defined in section
35 46-191, has a developmental disability as defined in section 36-551 or has a
36 head injury as defined in section 41-3201 to be more independent and
37 functional.

38 35. Liquid, solid or gaseous chemicals used in manufacturing,
39 processing, fabricating, mining, refining, metallurgical operations, research
40 and development and, beginning on January 1, 1999, printing, if using or
41 consuming the chemicals, alone or as part of an integrated system of
42 chemicals, involves direct contact with the materials from which the product
43 is produced for the purpose of causing or permitting a chemical or physical
44 change to occur in the materials as part of the production process. This
45 paragraph does not include chemicals that are used or consumed in activities

1 such as packaging, storage or transportation but does not affect any
2 exemption for such chemicals that is otherwise provided by this section. For
3 the purposes of this paragraph, "printing" means a commercial printing
4 operation and includes job printing, engraving, embossing, copying and
5 bookbinding.

6 36. Food, drink and condiment purchased for consumption within the
7 premises of any prison, jail or other institution under the jurisdiction of
8 the state department of corrections, the department of public safety, the
9 department of juvenile corrections or a county sheriff.

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

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

17 39. Overhead materials or other tangible personal property that is used
18 in performing a contract between the United States government and a
19 manufacturer, modifier, assembler or repairer, including property used in
20 performing a subcontract with a government contractor who is a manufacturer,
21 modifier, assembler or repairer, to which title passes to the government
22 under the terms of the contract or subcontract. For the purposes of this
23 paragraph:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 52. Repair parts installed in equipment used directly by a qualified
15 business under section 41-1516 in harvesting, processing or transporting
16 qualifying forest products removed from qualifying projects as defined in
17 section 41-1516.

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

25 54. Computer data center equipment purchased by the owner, operator or
26 qualified colocation tenant of the computer data center or an authorized
27 agent of the owner, operator or qualified colocation tenant during the
28 qualification period for use in a computer data center that is certified by
29 the Arizona commerce authority under section 41-1519. To qualify for this
30 deduction, at the time of purchase, the owner, operator or qualified
31 colocation tenant must present to the retailer its certificate that is issued
32 pursuant to section 41-1519 and that establishes its qualification for the
33 deduction. For the purposes of this paragraph, "computer data center",
34 "computer data center equipment", "qualification period" and "qualified
35 colocation tenant" have the same meanings prescribed in section 41-1519.

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

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

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

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

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

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

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

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

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

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

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

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

41 10. Machinery or equipment used directly to drill for oil or gas or
42 used directly in the process of extracting oil or gas from the earth for
43 commercial purposes.

44 11. Buses or other urban mass transit vehicles which are used directly
45 to transport persons or property for hire or pursuant to a governmentally

1 adopted and controlled urban mass transportation program and which are sold
2 to bus companies holding a federal certificate of convenience and necessity
3 or operated by any city, town or other governmental entity or by any person
4 contracting with such governmental entity as part of a governmentally adopted
5 and controlled program to provide urban mass transportation.

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

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

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

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

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

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

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

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

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

43 (ii) Over two-thirds of the transmissions, measured in megabytes,
44 transmitted by or on behalf of those direct broadcast television or data

1 transmission services during the test period were transmitted by the facility
2 to or on behalf of those services.

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

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

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

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

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

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

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

43 20. Machinery or equipment that enables a television station to
44 originate and broadcast or to receive and broadcast digital television
45 signals and that was purchased to facilitate compliance with the

1 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
2 Code section 336) and the federal communications commission order issued
3 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
4 not exempt any of the following:

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

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

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

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

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 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. THE TAX LEVIED BY THIS ARTICLE DOES NOT APPLY TO THE PURCHASE PRICE
19 OF ELECTRICITY BY A BUSINESS THAT IS PRINCIPALLY ENGAGED IN MANUFACTURING OR
20 SMELTING OPERATIONS THAT USES AT LEAST FIFTY-ONE PER CENT OF THE ELECTRICITY
21 IN THE MANUFACTURING OR SMELTING OPERATIONS. FOR THE PURPOSES OF THIS
22 SUBSECTION:

23 (a) "MANUFACTURING" MEANS THE PERFORMANCE AS A BUSINESS OF AN
24 INTEGRATED SERIES OF OPERATIONS THAT PLACE TANGIBLE PERSONAL PROPERTY IN A
25 FORM, COMPOSITION OR CHARACTER DIFFERENT FROM THAT IN WHICH IT WAS ACQUIRED
26 AND TRANSFORMS IT INTO A DIFFERENT PRODUCT WITH A DISTINCTIVE NAME, CHARACTER
27 OR USE. MANUFACTURING DOES NOT INCLUDE PROCESSING, FABRICATING, JOB PRINTING,
28 MINING, GENERATING ELECTRICITY OR OPERATING A RESTAURANT.

29 (b) "PRINCIPALLY ENGAGED" MEANS AT LEAST FIFTY-ONE PER CENT OF THE
30 BUSINESS IS A MANUFACTURING OR SMELTING OPERATION.

31 (c) "SMELTING" MEANS TO MELT OR FUSE A METALLIFEROUS MINERAL OFTEN
32 WITH AN ACCOMPANYING CHEMICAL CHANGE USUALLY TO SEPARATE THE METAL.

33 ~~G.~~ H. For the purposes of subsection B of this section:

34 1. "Aircraft" includes:

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

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

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

44 ~~H.~~ I. For the purposes of subsection D of this section, "ancillary
45 services", "electric distribution service", "electric generation service",

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

3 Sec. 3. Section 42-5159, Arizona Revised Statutes, as amended by Laws
4 2013, chapter 255, section 17, is amended to read:

5 42-5159. Exemptions

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

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

12 2. Tangible personal property the sale or use of which has already
13 been subjected to an excise tax at a rate equal to or exceeding the tax
14 imposed by this article under the laws of another state of the United States.
15 If the excise tax imposed by the other state is at a rate less than the tax
16 imposed by this article, the tax imposed by this article is reduced by the
17 amount of the tax already imposed by the other state.

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

22 4. Tangible personal property that directly enters into and becomes an
23 ingredient or component part of any manufactured, fabricated or processed
24 article, substance or commodity for sale in the regular course of business.

25 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
26 which in this state is subject to the tax imposed under title 28, chapter 16,
27 article 1, use fuel that is sold to or used by a person holding a valid
28 single trip use fuel tax permit issued under section 28-5739, aviation fuel,
29 the sales, distribution or use of which in this state is subject to the tax
30 imposed under section 28-8344, and jet fuel, the sales, distribution or use
31 of which in this state is subject to the tax imposed under article 8 of this
32 chapter.

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

38 7. Purchases of implants used as growth promotants and injectable
39 medicines, not already exempt under paragraph 16 of this subsection, for
40 livestock and poultry owned by, or in possession of, persons who are engaged
41 in producing livestock, poultry, or livestock or poultry products, or who are
42 engaged in feeding livestock or poultry commercially. For the purposes of
43 this paragraph, "poultry" includes ratites.

44 8. Livestock, poultry, supplies, feed, salts, vitamins and other
45 additives for use or consumption in the businesses of farming, ranching and

1 feeding livestock or poultry, not including fertilizers, herbicides and
2 insecticides. For the purposes of this paragraph, "poultry" includes
3 ratites.

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

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

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

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

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

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

20 13. Tangible personal property purchased by:

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

24 (b) A hospital operated by this state or a political subdivision of
25 this state.

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

31 (d) A qualifying health care organization, as defined in section
32 42-5001, if the tangible personal property is used by the organization solely
33 to provide health and medical related educational and charitable services.

34 (e) A qualifying health care organization as defined in section
35 42-5001 if the organization is dedicated to providing educational,
36 therapeutic, rehabilitative and family medical education training for blind,
37 visually impaired and multihandicapped children from the time of birth to age
38 twenty-one.

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

44 (g) A person that is subject to tax under article 1 of this chapter by
45 reason of being engaged in business classified under the prime contracting

1 classification under section 42-5075, or a subcontractor working under the
2 control of a prime contractor, if the tangible personal property is any of
3 the following:

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

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

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

12 (i) A qualifying community health center as defined in section
13 42-5001.

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

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

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

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

35 15. Tangible personal property sold by:

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

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

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

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

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

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

11 18. Prescription eyeglasses and contact lenses.

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

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

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

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

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

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

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

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

38 27. Lottery tickets or shares purchased pursuant to title 5, chapter
39 5.1, article 1.

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

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

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

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

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

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

19 (b) Public educational institutions.

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

23 33. Natural gas or liquefied petroleum gas used to propel a motor
24 vehicle.

25 34. Machinery, equipment, technology or related supplies that are only
26 useful to assist a person who is physically disabled as defined in section
27 46-191, has a developmental disability as defined in section 36-551 or has a
28 head injury as defined in section 41-3201 to be more independent and
29 functional.

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

43 36. Food, drink and condiment purchased for consumption within the
44 premises of any prison, jail or other institution under the jurisdiction of

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

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

7 38. Tangible personal property that is or directly enters into and
8 becomes an ingredient or component part of cards used as prescription plan
9 identification cards.

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

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

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

33 40. Through December 31, 1994, tangible personal property sold pursuant
34 to a personal property liquidation transaction, as defined in section
35 42-5061. From and after December 31, 1994, tangible personal property sold
36 pursuant to a personal property liquidation transaction, as defined in
37 section 42-5061, if the gross proceeds of the sales were included in the
38 measure of the tax imposed by article 1 of this chapter or if the personal
39 property liquidation was a casual activity or transaction.

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

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

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

9 44. Alternative fuel vehicles if the vehicle was manufactured as a
10 diesel fuel vehicle and converted to operate on alternative fuel and
11 equipment that is installed in a conventional diesel fuel motor vehicle to
12 convert the vehicle to operate on an alternative fuel, as defined in section
13 1-215.

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

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

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

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

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

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

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

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

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

43 (b) "Curriculum design or enhancement" means planning, implementing or
44 reporting on courses of study, lessons, assignments or other learning
45 activities.

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

5 52. Repair parts installed in equipment used directly by a qualified
6 business under section 41-1516 in harvesting, processing or transporting
7 qualifying forest products removed from qualifying projects as defined in
8 section 41-1516.

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

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

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

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

32 3. Tangible personal property sold to persons engaged in business
33 classified under the telecommunications classification under section 42-5064
34 and consisting of central office switching equipment, switchboards, private
35 branch exchange equipment, microwave radio equipment and carrier equipment
36 including optical fiber, coaxial cable and other transmission media that are
37 components of carrier systems.

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

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

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

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

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

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

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

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

22 10. Machinery or equipment used directly to drill for oil or gas or
23 used directly in the process of extracting oil or gas from the earth for
24 commercial purposes.

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

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

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

40 (a) "New machinery and equipment" means machinery or equipment that
41 has never been sold at retail except pursuant to leases or rentals that do
42 not total two years or more.

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

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

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

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

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

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

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

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

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

42 (a) Includes the integrated systems, fixtures, piping, movable
43 partitions, lighting and all property that is necessary or adapted to reduce
44 contamination or to control airflow, temperature, humidity, chemical purity
45 or other environmental conditions or manufacturing tolerances, as well as the

1 production machinery and equipment operating in conjunction with the clean
2 room environment.

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

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

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

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

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

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

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

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

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

44 C. The exemptions provided by subsection B of this section do not
45 include:

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

5 2. Janitorial equipment and hand tools.

6 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

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

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

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

1 G. THE TAX LEVIED BY THIS ARTICLE DOES NOT APPLY TO THE PURCHASE PRICE
2 OF ELECTRICITY BY A BUSINESS THAT IS PRINCIPALLY ENGAGED IN MANUFACTURING OR
3 SMELTING OPERATIONS THAT USES AT LEAST FIFTY-ONE PER CENT OF THE ELECTRICITY
4 IN THE MANUFACTURING OR SMELTING OPERATIONS. FOR THE PURPOSES OF THIS
5 SUBSECTION:

6 (a) "MANUFACTURING" MEANS THE PERFORMANCE AS A BUSINESS OF AN
7 INTEGRATED SERIES OF OPERATIONS THAT PLACE TANGIBLE PERSONAL PROPERTY IN A
8 FORM, COMPOSITION OR CHARACTER DIFFERENT FROM THAT IN WHICH IT WAS ACQUIRED
9 AND TRANSFORMS IT INTO A DIFFERENT PRODUCT WITH A DISTINCTIVE NAME, CHARACTER
10 OR USE. MANUFACTURING DOES NOT INCLUDE PROCESSING, FABRICATING, JOB
11 PRINTING, MINING, GENERATING ELECTRICITY OR OPERATING A RESTAURANT.

12 (b) "PRINCIPALLY ENGAGED" MEANS AT LEAST FIFTY-ONE PER CENT OF THE
13 BUSINESS IS A MANUFACTURING OR SMELTING OPERATION.

14 (c) "SMELTING" MEANS TO MELT OR FUSE A METALLIFEROUS MINERAL OFTEN
15 WITH AN ACCOMPANYING CHEMICAL CHANGE USUALLY TO SEPARATE THE METAL.

16 ~~G.~~ H. For the purposes of subsection B of this section:

17 1. "Aircraft" includes:

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

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

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

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

31 Sec. 4. Title 42, chapter 6, article 1, Arizona Revised Statutes, is
32 amended by adding section 42-6012, to read:

33 42-6012. Municipal transaction privilege tax: sales of
34 electricity

35 A. A CITY OR TOWN THAT LEVIES A TRANSACTION PRIVILEGE, SALES, GROSS
36 RECEIPTS, USE, FRANCHISE OR OTHER SIMILAR FEE OR TAX, HOWEVER DENOMINATED, ON
37 THE BUSINESS OF PRODUCING, PROVIDING OR FURNISHING ELECTRICITY, ELECTRIC
38 LIGHTS, CURRENT OR POWER SHALL EITHER TAX OR EXEMPT IN WHOLE THE GROSS
39 PROCEEDS OF SALES OR GROSS INCOME FROM SALES BY THOSE BUSINESSES TO
40 BUSINESSES THAT USE AT LEAST FIFTY-ONE PER CENT OF THE ELECTRICITY, ELECTRIC
41 LIGHTS, CURRENT OR POWER IN MANUFACTURING OR SMELTING OPERATION LOCATED IN
42 THAT CITY OR TOWN.

43 B. FOR THE PURPOSES OF THIS SECTION:

44 1. "MANUFACTURING" MEANS THE PERFORMANCE AS A BUSINESS OF AN
45 INTEGRATED SERIES OF OPERATIONS THAT PLACE TANGIBLE PERSONAL PROPERTY IN A

1 FORM, COMPOSITION OR CHARACTER DIFFERENT FROM THAT IN WHICH IT WAS ACQUIRED
2 AND TRANSFORMS IT INTO A DIFFERENT PRODUCT WITH A DISTINCTIVE NAME, CHARACTER
3 OR USE. MANUFACTURING DOES NOT INCLUDE PROCESSING, FABRICATING, JOB
4 PRINTING, MINING, GENERATING ELECTRICITY OR OPERATING A RESTAURANT.

5 2. "PRINCIPALLY ENGAGED" MEANS AT LEAST FIFTY-ONE PERCENT OF THE
6 BUSINESS IS A MANUFACTURING OR SMELTING OPERATION.

7 3. "SMELTING" MEANS TO MELT OR FUSE A METALLIFEROUS MINERAL OFTEN WITH
8 AN ACCOMPANYING CHEMICAL CHANGE USUALLY TO SEPARATE THE METAL.

9 Sec. 5. Effective date

10 A. Section 42-5063, Arizona Revised Statutes, as amended by this act,
11 section 42-5159, Arizona Revised Statutes, as amended by Laws 2013, first
12 special session, chapter 9, section 7 and this act, are effective from and
13 after the last day of the month of the general effective date of the
14 fifty-first legislature, second regular session.

15 B. Section 42-5159, Arizona Revised Statutes, as amended by Laws 2013,
16 chapter 255, section 17 and this act, is effective from and after December
17 31, 2014.