

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

CHAPTER 321
HOUSE BILL 2871

AN ACT

AMENDING SECTION 28-8335, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-1009; REPEALING SECTION 42-1009, ARIZONA REVISED STATUTES; AMENDING SECTIONS 42-5029.02 AND 42-5032.02, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5041; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 266, SECTION 3, CHAPTER 412, SECTION 7, CHAPTER 417, SECTION 4 AND CHAPTER 443, SECTION 2; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 266, SECTION 4, CHAPTER 412, SECTION 8, CHAPTER 417, SECTION 5 AND CHAPTER 443, SECTION 3; AMENDING SECTIONS 42-5071, 42-5075 AND 42-5159, ARIZONA REVISED STATUTES; AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 417, SECTION 10; AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 417, SECTION 11; AMENDING TITLE 43, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-212; AMENDING SECTION 43-1014, ARIZONA REVISED STATUTES; AMENDING LAWS 2021, CHAPTER 412, SECTION 26; AMENDING LAWS 2021, CHAPTER 412, SECTION 30; APPROPRIATING MONIES; RELATING TO TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-8335, Arizona Revised Statutes, is amended to
3 read:

4 28-8335. License tax; tax rate

5 A. An annual license tax is imposed on all aircraft based in this
6 state and required to be registered pursuant to this article, unless an
7 exemption for the aircraft is established pursuant to this article. The
8 license tax is payable to the department on initial registration and
9 annually on or before the last day of February.

10 B. Except as provided in sections 28-8336, ~~through 28-8337,~~
11 ~~28-8338, 28-8339, 28-8340 AND~~ 28-8341, the department shall determine and
12 assess the license tax prescribed by subsection A of this section on the
13 basis of one-half ~~per cent~~ PERCENT of the average fair market value of the
14 particular make, model and year of aircraft. ~~THE AVERAGE FAIR MARKET~~
15 ~~VALUE:~~

16 1. MAY NOT HAVE AN ANNUAL PERCENTAGE CHANGE THAT IS MORE THAN THE
17 ANNUAL PERCENTAGE CHANGE IN THE AVERAGE CONSUMER PRICE INDEX AS PUBLISHED
18 BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS.

19 2. IN FISCAL YEAR 2021-2022, SHALL BE BENCHMARKED TO WHAT THE
20 AVERAGE FAIR MARKET VALUE OF THE AIRCRAFT WAS IN 2019.

21 C. The tax assessed under this ~~subsection~~ SECTION shall ~~not~~ be ~~less~~
22 ~~than twenty dollars~~ AT LEAST \$20 for a full year of registration.

23 Sec. 2. Title 42, chapter 1, article 1, Arizona Revised Statutes,
24 is amended by adding section 42-1009, to read:

25 42-1009. Department of revenue tax system modernization
26 project advisory committee; membership

27 THE DEPARTMENT OF REVENUE TAX SYSTEM MODERNIZATION PROJECT ADVISORY
28 COMMITTEE IS ESTABLISHED AND SHALL SERVE AS THE LIAISON BETWEEN THE
29 DEPARTMENT AND THE USERS OF THE TAX SYSTEM. THE COMMITTEE SHALL CONSIST
30 OF THE FOLLOWING MEMBERS:

31 1. THE DIRECTOR OF THE DEPARTMENT OF REVENUE OR THE DIRECTOR'S
32 DESIGNEE WHO SHALL SERVE AS THE CHAIRPERSON OF THE COMMITTEE.

33 2. THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION OR THE
34 DIRECTOR'S DESIGNEE.

35 3. THE AUDITOR GENERAL OR THE AUDITOR GENERAL'S DESIGNEE AS A
36 NONVOTING MEMBER.

37 4. THE DIRECTOR OF THE JOINT LEGISLATIVE BUDGET COMMITTEE OR THE
38 DIRECTOR'S DESIGNEE AS A NONVOTING MEMBER.

39 5. THE DIRECTOR OF THE GOVERNOR'S OFFICE OF STRATEGIC PLANNING AND
40 BUDGETING OR THE DIRECTOR'S DESIGNEE.

41 6. ONE MEMBER WHO REPRESENTS A CITY OR TOWN IN THIS STATE. THE
42 DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL APPOINT THIS MEMBER.

43 7. ONE MEMBER WHO REPRESENTS A COUNTY IN THIS STATE. THE DIRECTOR
44 OF THE DEPARTMENT OF REVENUE SHALL APPOINT THIS MEMBER.

1 8. ONE MEMBER WHO REPRESENTS THE BUSINESS COMMUNITY IN THIS STATE.
2 THE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL APPOINT THIS MEMBER.

3 9. ONE MEMBER WHO IS APPOINTED BY THE PRESIDENT OF THE SENATE.

4 10. ONE MEMBER WHO IS APPOINTED BY THE SPEAKER OF THE HOUSE OF
5 REPRESENTATIVES.

6 Sec. 3. Repeal

7 Section 42-1009, Arizona Revised Statutes, as added by this act, is
8 repealed from and after December 31, 2029.

9 Sec. 4. Section 42-5029.02, Arizona Revised Statutes, is amended to
10 read:

11 42-5029.02. Distribution of revenues for education;
12 definitions

13 A. All monies collected pursuant to section 42-5010.01 and section
14 42-5155, subsection E shall be distributed each fiscal year pursuant to
15 this subsection. The monies distributed pursuant to this subsection are
16 in addition to any other appropriation, transfer or other allocation of
17 public or private monies from any other source and may not supplant,
18 replace or cause a reduction in other school district, charter school,
19 university or community college funding sources. The monies shall be
20 distributed as follows:

21 1. \$64,100,000 is appropriated each fiscal year, to be paid in
22 monthly installments, to the superintendent of public instruction for
23 basic state aid.

24 2. After any transfer of monies pursuant to paragraph 1 of this
25 subsection, twelve percent of the remaining monies collected during the
26 preceding month shall be transferred to the technology and research
27 initiative fund established by section 15-1648 to be distributed among the
28 universities under the jurisdiction of the Arizona board of regents for
29 the purpose of investment in technology and research-based initiatives.

30 3. After the transfer of monies pursuant to paragraph 1 of this
31 subsection, three percent of the remaining monies collected during the
32 preceding month shall be transferred to the workforce development account
33 established in each community college district pursuant to section 15-1472
34 for the purpose of investment in workforce development programs.

35 4. After the transfer of monies pursuant to paragraphs 1, 2 and 3
36 of this subsection, one-twelfth of the amount a community college that is
37 owned, operated or chartered by a qualifying Indian tribe on its own
38 Indian reservation would receive pursuant to section 15-1472,
39 subsection D, paragraph 2 if it were a community college district shall be
40 distributed each month to the treasurer or other designated depository of
41 the qualifying Indian tribe. Monies distributed pursuant to this
42 paragraph are for the exclusive purpose of providing support to one or
43 more community colleges that are owned, operated or chartered by a
44 qualifying Indian tribe and shall be used in a manner consistent with
45 section 15-1472, subsection B.

1 5. After the transfer of monies pursuant to paragraphs 1, 2 and 3
2 of this subsection, one-twelfth of \$86,280,500 shall be transferred each
3 month to the department of education for the increased cost of basic state
4 aid under section 15-971 due to added school days and associated teacher
5 salary increases that were enacted in 2000.

6 6. After the transfer of monies pursuant to paragraphs 1, 2 and 3
7 of this subsection, \$7,800,000 is appropriated each fiscal year, to be
8 paid in monthly installments, to the department of education to be used
9 for school safety as provided in section 15-154 and \$200,000 is
10 appropriated each fiscal year, to be paid in monthly installments, to the
11 department of education to be used for the character education matching
12 grant program as provided in section 15-154.01.

13 7. After the transfer of monies pursuant to paragraphs 1, 2 and 3
14 of this subsection, the legislature may not appropriate more than
15 \$7,000,000 each fiscal year to the department of education to be used for
16 accountability purposes as described in section 15-241.02 and title 15,
17 chapter 9, article 8.

18 8. After the transfer of monies pursuant to paragraphs 1, 2 and 3
19 of this subsection, \$1,500,000 is appropriated each fiscal year, to be
20 paid in monthly installments, to the failing schools tutoring fund
21 established by section 15-241.

22 9. After the transfer of monies pursuant to paragraphs 1, 2 and 3
23 of this subsection, \$25,000,000 shall be transferred each fiscal year to
24 the state general fund to reimburse the state general fund for the cost of
25 the income tax credit allowed by section 43-1072.02.

26 10. FROM AND AFTER JUNE 30, 2022 THROUGH JUNE 30, 2028, AFTER THE
27 TRANSFER OF MONIES PURSUANT TO PARAGRAPHS 1 THROUGH 9 OF THIS SUBSECTION,
28 AN AMOUNT DETERMINED BY THE DIRECTOR PURSUANT TO SECTION 42-5041 TO THE
29 DEPARTMENT OF REVENUE INTEGRATED TAX SYSTEM PROJECT FUND ESTABLISHED BY
30 SECTION 42-5041.

31 ~~10.~~ 11. After the transfer of monies pursuant to paragraphs 1
32 through ~~9~~ 10 of this subsection, the remaining monies collected during
33 the preceding month shall be transferred to the classroom site fund
34 established by section 15-977. The monies shall be allocated in the
35 manner prescribed by section 15-977.

36 B. For the purposes of this section:

37 1. "Community college district" means a community college district
38 that is established pursuant to sections 15-1402 and 15-1403 and that is a
39 political subdivision of this state and, unless otherwise specified,
40 includes a community college tuition financing district established
41 pursuant to section 15-1409.

42 2. "Qualifying Indian tribe" has the same meaning as defined in
43 section 42-5031.01.

1 Sec. 5. Section 42-5032.02, Arizona Revised Statutes, is amended to
2 read:

3 42-5032.02. Distribution of revenues for city, town or county
4 infrastructure improvements related to
5 manufacturing facilities; definitions

6 A. Subject to subsection B of this section, from and after
7 September 30, 2013 through September 30, 2033, each month the state
8 treasurer shall pay a city, town or county the amount determined under
9 subsection C of this section for the purpose of funding up to eighty
10 percent of the cost of public infrastructure improvements for the benefit
11 of a manufacturing facility.

12 B. The state treasurer shall not make any payments under subsection
13 C of this section until both of the following apply:

14 1. Ten percent of the qualifying capital investment that is
15 certified under subsection D of this section and that constitutes
16 construction phase services, as defined in section 42-5075, has been made
17 by the manufacturing facility.

18 2. From and after June 30, 2014.

19 C. The amount to be paid to a city, town or county under subsection
20 A of this section is the total amount of state transaction privilege tax
21 revenues collected under section 42-5010, subsection A from persons
22 conducting business under section 42-5075 derived from contracts to
23 construct buildings and associated improvements for the benefit of a
24 manufacturing facility. The total amount paid to all cities, towns and
25 counties under this subsection shall not exceed a maximum of ~~\$50,000,000~~
26 \$100,000,000.

27 D. Within one hundred eighty days after the commencement of the
28 construction of buildings and associated improvements for the benefit of a
29 manufacturing facility that will require a city, town or county to make
30 infrastructure improvements, the manufacturing facility shall file a sworn
31 certification with the Arizona commerce authority and submit a copy of
32 this sworn certification to the applicable city, town or county that the
33 manufacturing facility agrees to either:

34 1. Make at least \$500,000,000 in capital investment if the
35 manufacturing facility is located in a county that has a population of
36 eight hundred thousand persons or more.

37 2. Make at least \$50,000,000 in capital investment if the
38 manufacturing facility is located in a county that has a population of
39 less than eight hundred thousand persons.

40 E. The certification under subsection D of this section shall
41 contain a sworn statement or certification, signed by an officer of the
42 manufacturing facility under penalty of perjury, that the information
43 contained is true and correct according to the best belief and knowledge
44 of the person submitting the information after a reasonable investigation
45 of the facts.

1 F. Before submitting the certification to the Arizona commerce
2 authority, the manufacturing facility and the city, town or county must
3 enter into a written agreement that:

4 1. Identifies and states the cost of the public infrastructure
5 improvements that will be constructed.

6 2. Identifies the sources of monies, including monies received
7 pursuant to this section, that will be used to pay for the public
8 infrastructure improvements.

9 G. On receipt of the sworn certification from a manufacturing
10 facility pursuant to subsection D of this section, the city, town or
11 county shall enter into a written agreement with the department. This
12 agreement and any amendments or changes to the agreement shall:

13 1. State the cost of the public infrastructure improvements and
14 separately identify the particular improvements that will be made.

15 2. State that the monies received under this section will be used
16 exclusively to pay for public infrastructure improvements that are
17 necessary to support the activities of the manufacturing facility.

18 3. State that the city, town or county will commit all of its
19 portion of the revenue received pursuant to section 42-5029, subsection D
20 derived from contracts subject to section 42-5075 to construct buildings
21 and associated improvements for the benefit of the manufacturing facility
22 for public infrastructure improvements that benefit the manufacturing
23 facility.

24 4. State that the city, town or county will immediately notify the
25 department when monies received under this section exceed eighty percent
26 of the cost of the infrastructure improvements and will return the amount
27 of the excess to the state treasurer for deposit in the state general
28 fund.

29 5. Stipulate the actual amount of the construction funding that
30 will be derived from sources other than this state.

31 6. Identify the persons who will be prime contractors on the
32 construction of buildings and associated improvements for the benefit of a
33 manufacturing facility and state that each prime contractor has been
34 notified as to which portion of the contractor's income shall be
35 separately identified to the department pursuant to section 42-5075,
36 subsection H.

37 7. State that the city, town or county agrees that any amounts paid
38 by the department to a prime contractor as identified under paragraph 6 of
39 this subsection resulting from an audit adjustment or claim for credit or
40 refund of taxes described in subsection C of this section shall be
41 recovered by the department from the city, town or county by reducing the
42 amount paid to the city, town or county under section 42-5029 from monies
43 designated as distribution base in the month next succeeding the month in
44 which the adjustment or claim is paid.

1 8. State that the city, town or county agrees that the department
2 will use the amounts subject to any distribution required under subsection
3 A of this section in calculating the maximum amount set by subsection C of
4 this section.

5 9. State that the city, town or county agrees that if, on
6 notification by the department, the state treasurer ceases payments
7 because of the condition described in subsection H of this section, the
8 city, town or county has no claim to additional payments if the department
9 subsequently pays amounts to a prime contractor identified in an agreement
10 with any city, town or county, as described in paragraph 6 of this
11 subsection, due to an audit adjustment or claim for credit or refund of
12 taxes described in subsection C of this section.

13 10. Provide any other information deemed necessary by the
14 department.

15 H. On notification by the department, the state treasurer shall
16 cease payments under subsection A of this section if either of the
17 following occurs:

18 1. The city, town or county has received monies that meet or exceed
19 eighty percent of the cost of the public infrastructure improvements that
20 are necessary to support the activities related to the manufacturing
21 facility as described in the written agreement pursuant to subsection G of
22 this section.

23 2. The total amount subject to any distribution required under
24 subsection A of this section has met the maximum amount set by subsection
25 C of this section.

26 I. For the purposes of this section:

27 1. "Associated improvement" includes any public infrastructure
28 improvement that is made for the benefit of the manufacturing facility
29 outside of the parcel or parcels of real property where the manufacturing
30 facility is located.

31 2. "Capital investment" means an expenditure to acquire, lease or
32 improve property that is used for the benefit of a manufacturing facility,
33 including land, buildings, machinery and fixtures.

34 3. "Manufacturing facility":

35 (a) Means an establishment that is engaged in the mechanical,
36 physical or chemical transformation or fabrication of materials,
37 substances or components into new products in this state, that is
38 classified within sections 31 through 33 inclusive of the 2007 edition of
39 the North American industry classification system as published by the
40 national technical information service of the United States department of
41 commerce and that agrees to either:

42 (i) Make at least \$500,000,000 in capital investment if the
43 manufacturing facility is located in a county that has a population of
44 eight hundred thousand persons or more.

1 (ii) Make at least \$50,000,000 in capital investment if the
2 manufacturing facility is located in a county that has a population of
3 less than eight hundred thousand persons.

4 (b) Does not include mining, milling or smelting mineral ore or
5 generating electricity.

6 4. "Population" means the population determined in the most recent
7 United States decennial census or the most recent special census as
8 provided in section 28-6532.

9 5. "Public infrastructure" means water production, delivery and
10 disposal facilities, wastewater production, delivery and disposal
11 facilities and roads that are necessary to support the activities of the
12 manufacturing facility.

13 Sec. 6. Title 42, chapter 5, article 1, Arizona Revised Statutes,
14 is amended by adding section 42-5041, to read:

15 42-5041. Assessment of fees; integrated tax system
16 modernization project; fund

17 A. FROM AND AFTER JUNE 30, 2022 THROUGH JUNE 30, 2028, THE
18 DEPARTMENT SHALL ASSESS AND COLLECT FEES FROM COUNTIES, CITIES, TOWNS,
19 COUNCILS OF GOVERNMENTS AND REGIONAL TRANSPORTATION AUTHORITIES AS
20 DETERMINED BY THE DIRECTOR AND AS PROVIDED BY THIS SECTION TO IMPLEMENT AN
21 INTEGRATED TAX SYSTEM MODERNIZATION PROJECT AT THE DEPARTMENT.

22 B. FROM AND AFTER JUNE 30, 2022 THROUGH JUNE 30, 2028, A FEE IS
23 ASSESSED TO EACH COUNTY, CITY AND TOWN THAT RECEIVES STATE SHARED REVENUES
24 PURSUANT TO SECTION 42-5029 OR 43-206, TO EACH COUNCIL OF GOVERNMENTS THAT
25 RECEIVES REVENUES PURSUANT TO SECTION 42-6105 AND TO EACH REGIONAL
26 TRANSPORTATION AUTHORITY LOCATED IN A COUNTY WITH A POPULATION OF MORE
27 THAN EIGHT HUNDRED THOUSAND PERSONS THAT RECEIVES REVENUES PURSUANT TO
28 SECTION 42-6106.

29 C. THE DEPARTMENT SHALL ASSESS THE FEES UNDER SUBSECTION A AND B OF
30 THIS SECTION NOT LATER THAN OCTOBER 31 EACH YEAR, AND THE FEES ARE PAYABLE
31 IMMEDIATELY ON ASSESSMENT. IF A COUNTY, CITY, TOWN, COUNCIL OF
32 GOVERNMENTS OR REGIONAL TRANSPORTATION AUTHORITY FAILS TO PAY THE FEES IN
33 FULL ON OR BEFORE DECEMBER 31, THE DEPARTMENT SHALL NOTIFY THE STATE
34 TREASURER WHO SHALL WITHHOLD THE DELINQUENT AMOUNT FROM THE DISTRIBUTION
35 OF MONIES TO THE AFFECTED COUNTY, CITY OR TOWN PURSUANT TO SECTIONS
36 42-5029 AND 43-206, FROM THE DISTRIBUTION OF MONIES TO THE AFFECTED
37 COUNCIL OF GOVERNMENTS PURSUANT TO SECTION 42-6105 AND FROM THE
38 DISTRIBUTION OF MONIES TO THE AFFECTED REGIONAL TRANSPORTATION AUTHORITY
39 PURSUANT TO SECTION 42-6106, AND WHO SHALL CONTINUE TO WITHHOLD MONIES
40 UNTIL THE ENTIRE AMOUNT OF THE ASSESSMENT HAS BEEN SATISFIED.

41 D. COUNTIES, CITIES AND TOWNS MAY MEET THEIR COST SHARING
42 OBLIGATION FROM ANY SOURCE OF COUNTY, CITY OR TOWN REVENUE DESIGNATED BY
43 THE APPROPRIATE COUNTY, CITY OR TOWN. THE COUNTY SOURCES MAY INCLUDE
44 MONIES OF ANY COUNTYWIDE SPECIAL TAXING JURISDICTION IN WHICH THE BOARD OF
45 SUPERVISORS SERVES AS THE BOARD OF DIRECTORS.

1 E. FROM AND AFTER JUNE 30, 2022 THROUGH JUNE 30, 2028, PURSUANT TO
2 SECTION 42-5029.02, THE DEPARTMENT SHALL TRANSFER AN AMOUNT FROM MONIES
3 COLLECTED PURSUANT TO SECTION 42-5010.01 AND SECTION 42-5155, SUBSECTION E
4 AS DETERMINED BY THE DIRECTOR TO IMPLEMENT THE INTEGRATED TAX SYSTEM
5 MODERNIZATION PROJECT AT THE DEPARTMENT. THE AMOUNT TRANSFERRED PURSUANT
6 TO THIS SUBSECTION SHALL BE THE ACTUAL REASONABLE COSTS INCURRED BY THE
7 DEPARTMENT FOR INTEGRATED TAX SYSTEM MODERNIZATION UPGRADES RELATED TO THE
8 TAXES AUTHORIZED AND LEVIED PURSUANT TO SECTION 42-5010.01 AND SECTION
9 42-5155, SUBSECTION E.

10 F. FROM AND AFTER JUNE 30, 2022 THROUGH JUNE 30, 2028, PURSUANT TO
11 SECTION 36-2856, SUBSECTION B, PARAGRAPH 2, THE STATE TREASURER SHALL
12 TRANSFER AN AMOUNT FROM MONIES COLLECTED PURSUANT TO SECTION 42-5452 AS
13 DETERMINED BY THE DIRECTOR TO IMPLEMENT THE INTEGRATED TAX SYSTEM
14 MODERNIZATION PROJECT AT THE DEPARTMENT. THE AMOUNT TRANSFERRED PURSUANT
15 TO THIS SUBSECTION SHALL BE THE ACTUAL REASONABLE COSTS INCURRED BY THE
16 DEPARTMENT FOR INTEGRATED TAX SYSTEM MODERNIZATION UPGRADES RELATED TO THE
17 TAX AUTHORIZED AND LEVIED BY SECTION 42-5452.

18 G. ALL MONIES PAID TO THE DEPARTMENT OR WITHHELD BY THE STATE
19 TREASURER FOR THE FEES ASSESSED PURSUANT TO SUBSECTION B OF THIS SECTION
20 OR TRANSFERRED PURSUANT TO SUBSECTIONS E AND F OF THIS SECTION SHALL BE
21 CREDITED TO THE DEPARTMENT OF REVENUE INTEGRATED TAX SYSTEM PROJECT FUND
22 ESTABLISHED BY SUBSECTION H OF THIS SECTION.

23 H. THE DEPARTMENT OF REVENUE INTEGRATED TAX SYSTEM PROJECT FUND IS
24 ESTABLISHED CONSISTING OF MONIES DEPOSITED OR TRANSFERRED TO THE FUND
25 PURSUANT TO THIS SECTION. THE DIRECTOR SHALL ADMINISTER THE FUND. MONIES
26 IN THE FUND ARE SUBJECT TO LEGISLATIVE APPROPRIATION. THE DIRECTOR SHALL
27 USE MONIES IN THE FUND SOLELY FOR THE ADMINISTRATIVE, DEVELOPMENT AND
28 OTHER OPERATING COSTS INCURRED IN IMPLEMENTING THE INTEGRATED TAX SYSTEM
29 MODERNIZATION PROJECT AT THE DEPARTMENT.

30 Sec. 7. Section 42-5061, Arizona Revised Statutes, as amended by
31 Laws 2021, chapter 266, section 3, chapter 412, section 7, chapter 417,
32 section 4 and chapter 443, section 2, is amended to read:

33 42-5061. Retail classification; definitions

34 A. The retail classification is comprised of the business of
35 selling tangible personal property at retail. The tax base for the retail
36 classification is the gross proceeds of sales or gross income derived from
37 the business. The tax imposed on the retail classification does not apply
38 to the gross proceeds of sales or gross income from:

39 1. Professional or personal service occupations or businesses that
40 involve sales or transfers of tangible personal property only as
41 inconsequential elements.

42 2. Services rendered in addition to selling tangible personal
43 property at retail.

- 1 3. Sales of warranty or service contracts. The storage, use or
2 consumption of tangible personal property provided under the conditions of
3 such contracts is subject to tax under section 42-5156.
- 4 4. Sales of tangible personal property by any nonprofit
5 organization organized and operated exclusively for charitable purposes
6 and recognized by the United States internal revenue service under section
7 501(c)(3) of the internal revenue code.
- 8 5. Sales to persons engaged in business classified under the
9 restaurant classification of articles used by human beings for food, drink
10 or condiment, whether simple, mixed or compounded.
- 11 6. Business activity that is properly included in any other
12 business classification that is taxable under this article.
- 13 7. The sale of stocks and bonds.
- 14 8. Drugs and medical oxygen, including delivery hose, mask or tent,
15 regulator and tank, if prescribed by a member of the medical, dental or
16 veterinarian profession who is licensed by law to administer such
17 substances.
- 18 9. Prosthetic appliances as defined in section 23-501 and as
19 prescribed or recommended by a health professional who is licensed
20 pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 21 10. Insulin, insulin syringes and glucose test strips.
- 22 11. Prescription eyeglasses or contact lenses.
- 23 12. Hearing aids as defined in section 36-1901.
- 24 13. Durable medical equipment that 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,
27 chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is
28 primarily and customarily used to serve a medical purpose, is generally
29 not useful to a person in the absence of illness or injury and is
30 appropriate for use in the home.
- 31 14. Sales of motor vehicles to nonresidents of this state for use
32 outside this state if the motor vehicle dealer ships or delivers the motor
33 vehicle to a destination out of this state.
- 34 15. Food, as provided in and subject to the conditions of article 3
35 of this chapter and sections 42-5074 and 42-6017.
- 36 16. Items purchased with United States department of agriculture
37 coupons issued under the supplemental nutrition assistance program
38 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
39 7 United States Code sections 2011 through 2036b) by the United States
40 department of agriculture food and nutrition service or food instruments
41 issued under section 17 of the child nutrition act (P.L. 95-627; 92
42 Stat. 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
43 section 1786).
- 44 17. Textbooks by any bookstore that are required by any state
45 university or community college.

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

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

10 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
11 article 1.

12 21. The sale of cash equivalents and the sale of precious metal
13 bullion and monetized bullion to the ultimate consumer, but the sale of
14 coins or other forms of money for manufacture into jewelry or works of art
15 is subject to the tax and the gross proceeds of sales or gross income
16 derived from the redemption of any cash equivalent by the holder as a
17 means of payment for goods or services that are taxable under this article
18 is subject to the tax. For the purposes of this paragraph:

19 (a) "Cash equivalents" means items or intangibles, whether or not
20 negotiable, that are sold to one or more persons, through which a value
21 denominated in money is purchased in advance and may be redeemed in full
22 or in part for tangible personal property, intangibles or services. Cash
23 equivalents include gift cards, stored value cards, gift certificates,
24 vouchers, traveler's checks, money orders or other instruments, orders or
25 electronic mechanisms, such as an electronic code, personal identification
26 number or digital payment mechanism, or any other prepaid intangible right
27 to acquire tangible personal property, intangibles or services in the
28 future, whether from the seller of the cash equivalent or from another
29 person. Cash equivalents do not include either of the following:

30 (i) Items or intangibles that are sold to one or more persons,
31 through which a value is not denominated in money.

32 (ii) Prepaid calling cards or prepaid authorization numbers for
33 telecommunications services made taxable by subsection P of this section.

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

38 (c) "Precious metal bullion" means precious metal, including gold,
39 silver, platinum, rhodium and palladium, that has been smelted or refined
40 so that its value depends on its contents and not on its form.

41 22. Motor vehicle fuel and use fuel that are subject to a tax
42 imposed under title 28, chapter 16, article 1, sales of use fuel to a
43 holder of a valid single trip use fuel tax permit issued under section
44 28-5739, sales of aviation fuel that are subject to the tax imposed under

1 section 28-8344 and sales of jet fuel that are subject to the tax imposed
2 under article 8 of this chapter.

3 23. Tangible personal property sold to a person engaged in the
4 business of leasing or renting such property under the personal property
5 rental classification if such property is to be leased or rented by such
6 person.

7 24. Tangible personal property sold in interstate or foreign
8 commerce if prohibited from being so taxed by the constitution of the
9 United States or the constitution of this state.

10 25. Tangible personal property sold to:

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

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

16 (c) A qualifying health care organization as defined in section
17 42-5001 if the organization is dedicated to providing educational,
18 therapeutic, rehabilitative and family medical education training for
19 blind and visually impaired children and children with multiple
20 disabilities from the time of birth to age twenty-one.

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

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

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

34 (g) A qualifying health sciences educational institution as defined
35 in section 42-5001.

36 (h) Any person representing or working on behalf of another person
37 described in subdivisions (a) through (g) of this paragraph if the
38 tangible personal property is incorporated or fabricated into a project
39 described in section 42-5075, subsection 0.

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

42 27. Tangible personal property sold to:

43 (a) A person that is subject to tax under this article by reason of
44 being engaged in business classified under section 42-5075 or to a
45 subcontractor working under the control of a person engaged in business

1 classified under section 42-5075, if the property so sold is any of the
2 following:

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

6 (ii) Incorporated or fabricated by the person into any project
7 described in section 42-5075, subsection 0.

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

10 (b) A person that is not subject to tax under section 42-5075 and
11 that has been provided a copy of a certificate under section 42-5009,
12 subsection L, if the property so sold is incorporated or fabricated by the
13 person into the real property, structure, project, development or
14 improvement described in the certificate.

15 28. The sale of a motor vehicle to a nonresident of this state if
16 the purchaser's state of residence does not allow a corresponding use tax
17 exemption to the tax imposed by article 1 of this chapter and if the
18 nonresident has secured a special ninety day nonresident registration
19 permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01.

20 29. Tangible personal property purchased in this state by a
21 nonprofit charitable organization that has qualified under section
22 501(c)(3) of the United States internal revenue code and that engages in
23 and uses such property exclusively in programs for persons with mental or
24 physical disabilities if the programs are exclusively for training, job
25 placement, rehabilitation or testing.

26 30. Sales of tangible personal property by a nonprofit organization
27 that is exempt from taxation under section 501(c)(3), 501(c)(4) or
28 501(c)(6) of the internal revenue code if the organization is associated
29 with a major league baseball team or a national touring professional
30 golfing association and no part of the organization's net earnings inures
31 to the benefit of any private shareholder or individual. This paragraph
32 does not apply to an organization that is owned, managed or controlled, in
33 whole or in part, by a major league baseball team, or its owners,
34 officers, employees or agents, or by a major league baseball association
35 or professional golfing association, or its owners, officers, employees or
36 agents, unless the organization conducted or operated exhibition events in
37 this state before January 1, 2018 that were exempt from taxation under
38 section 42-5073.

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

44 32. Sales of tangible personal property by a nonprofit organization
45 that is exempt from taxation under section 501(c)(3), 501(c)(4),

1 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the
2 organization sponsors or operates a rodeo featuring primarily farm and
3 ranch animals and no part of the organization's net earnings inures to the
4 benefit of any private shareholder or individual.

5 33. Sales of propagative materials to persons who use those items
6 to commercially produce agricultural, horticultural, viticultural or
7 floricultural crops in this state. For the purposes of this paragraph,
8 "propagative materials":

9 (a) Includes seeds, seedlings, roots, bulbs, liners, transplants,
10 cuttings, soil and plant additives, agricultural minerals, auxiliary soil
11 and plant substances, micronutrients, fertilizers, insecticides,
12 herbicides, fungicides, soil fumigants, desiccants, rodenticides,
13 adjuvants, plant nutrients and plant growth regulators.

14 (b) Except for use in commercially producing industrial hemp as
15 defined in section 3-311, does not include any propagative materials used
16 in producing any part, including seeds, of any plant of the genus
17 cannabis.

18 34. Machinery, equipment, technology or related supplies that are
19 only useful to assist a person with a physical disability as defined in
20 section 46-191 or a person who has a developmental disability as defined
21 in section 36-551 or has a head injury as defined in section 41-3201 to be
22 more independent and functional.

23 35. Sales of natural gas or liquefied petroleum gas used to propel
24 a motor vehicle.

25 36. Paper machine clothing, such as forming fabrics and dryer
26 felts, sold to a paper manufacturer and directly used or consumed in paper
27 manufacturing.

28 37. Coal, petroleum, coke, natural gas, virgin fuel oil and
29 electricity sold to a qualified environmental technology manufacturer,
30 producer or processor as defined in section 41-1514.02 and directly used
31 or consumed in generating or providing on-site power or energy solely for
32 environmental technology manufacturing, producing or processing or
33 environmental protection. This paragraph applies for twenty full
34 consecutive calendar or fiscal years from the date the first paper
35 manufacturing machine is placed in service. In the case of an
36 environmental technology manufacturer, producer or processor that does not
37 manufacture paper, the time period begins with the date the first
38 manufacturing, processing or production equipment is placed in service.

39 38. Sales of liquid, solid or gaseous chemicals used in
40 manufacturing, processing, fabricating, mining, refining, metallurgical
41 operations, research and development and, beginning on January 1, 1999,
42 printing, if using or consuming the chemicals, alone or as part of an
43 integrated system of chemicals, involves direct contact with the materials
44 from which the product is produced for the purpose of causing or allowing
45 a chemical or physical change to occur in the materials as part of the

1 production process. This paragraph does not include chemicals that are
2 used or consumed in activities such as packaging, storage or
3 transportation but does not affect any deduction for such chemicals that
4 is otherwise provided by this section. For the purposes of this
5 paragraph, "printing" means a commercial printing operation and includes
6 job printing, engraving, embossing, copying and bookbinding.

7 39. Through December 31, 1994, personal property liquidation
8 transactions, conducted by a personal property liquidator. From and after
9 December 31, 1994, personal property liquidation transactions shall be
10 taxable under this section provided that nothing in this subsection shall
11 be construed to authorize the taxation of casual activities or
12 transactions under this chapter. For the purposes of this paragraph:

13 (a) "Personal property liquidation transaction" means a sale of
14 personal property made by a personal property liquidator acting solely on
15 behalf of the owner of the personal property sold at the dwelling of the
16 owner or on the death of any owner, on behalf of the surviving spouse, if
17 any, any devisee or heir or the personal representative of the estate of
18 the deceased, if one has been appointed.

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

21 40. Sales of food, drink and condiment for consumption within the
22 premises of any prison, jail or other institution under the jurisdiction
23 of the state department of corrections, the department of public safety,
24 the department of juvenile corrections or a county sheriff.

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

30 42. Sales of:

31 (a) Livestock and poultry to persons engaging in the businesses of
32 farming, ranching or producing livestock or poultry.

33 (b) Livestock and poultry feed, salts, vitamins and other additives
34 for livestock or poultry consumption that are sold to persons for use or
35 consumption by their own livestock or poultry, for use or consumption in
36 the businesses of farming, ranching and producing or feeding livestock,
37 poultry, or livestock or poultry products or for use or consumption in
38 noncommercial boarding of livestock. For the purposes of this paragraph,
39 "poultry" includes ratites.

40 43. Sales of implants used as growth promotants and injectable
41 medicines, not already exempt under paragraph 8 of this subsection, for
42 livestock or poultry owned by or in possession of persons that are engaged
43 in producing livestock, poultry, or livestock or poultry products or that
44 are engaged in feeding livestock or poultry commercially. For the
45 purposes of this paragraph, "poultry" includes ratites.

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

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

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

14 47. Sales of materials that are purchased by or for publicly funded
15 libraries, including school district libraries, charter school libraries,
16 community college libraries, state university libraries or federal, state,
17 county or 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 48. Tangible personal property sold to a commercial airline and
21 consisting of food, beverages and condiments and accessories used for
22 serving the food and beverages, if those items are to be provided without
23 additional charge to passengers for consumption in flight. For the
24 purposes of this paragraph, "commercial airline" means a person holding a
25 federal certificate of public convenience and necessity or foreign air
26 carrier permit for air transportation to transport persons, property or
27 United States mail in intrastate, interstate or foreign commerce.

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

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

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

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

44 53. Application services that are designed to assess or test
45 student learning or to promote curriculum design or enhancement purchased

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

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

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

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

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

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

24 57. Orthodontic devices dispensed by a dental professional who is
25 licensed under title 32, chapter 11 to a patient as part of the practice
26 of dentistry.

27 58. Sales of tangible personal property incorporated or fabricated
28 into a project described in section 42-5075, subsection 0, that is located
29 within the exterior boundaries of an Indian reservation for which the
30 owner, as defined in section 42-5075, of the project is an Indian tribe or
31 an affiliated Indian. For the purposes of this paragraph:

32 (a) "Affiliated Indian" means an individual Native American Indian
33 who is duly registered on the tribal rolls of the Indian tribe for whose
34 benefit the Indian reservation was established.

35 (b) "Indian reservation" means all lands that are within the limits
36 of areas set aside by the United States for the exclusive use and
37 occupancy of an Indian tribe by treaty, law or executive order and that
38 are recognized as Indian reservations by the United States department of
39 the interior.

40 (c) "Indian tribe" means any organized nation, tribe, band or
41 community that is recognized as an Indian tribe by the United States
42 department of the interior and includes any entity formed under the laws
43 of the Indian tribe.

44 59. Sales of works of fine art, as defined in section 44-1771, at
45 an art auction or gallery in this state to nonresidents of this state for

1 use outside this state if the vendor ships or delivers the work of fine
2 art to a destination outside this state.

3 60. Sales of tangible personal property by a marketplace seller
4 that are facilitated by a marketplace facilitator in which the marketplace
5 facilitator has remitted or will remit the applicable tax to the
6 department pursuant to section 42-5014.

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

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

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

24 3. Tangible personal property sold to persons engaged in business
25 classified under the telecommunications classification, including a person
26 representing or working on behalf of such a person in a manner described
27 in section 42-5075, subsection 0, and consisting of central office
28 switching equipment, switchboards, private branch exchange equipment,
29 microwave radio equipment and carrier equipment including optical fiber,
30 coaxial cable and other transmission media that are components of carrier
31 systems.

32 4. Machinery, equipment or transmission lines used directly in
33 producing or transmitting electrical power, but not including
34 distribution. Transformers and control equipment used at transmission
35 substation sites constitute equipment used in producing or transmitting
36 electrical power.

37 5. Machinery and equipment used directly for energy storage for
38 later electrical use. For the purposes of this paragraph:

39 (a) "Electric utility scale" means a person that is engaged in a
40 business activity described in section 42-5063, subsection A or such
41 person's equipment or wholesale electricity suppliers.

42 (b) "Energy storage" means commercially available technology for
43 electric utility scale that is capable of absorbing energy, storing energy
44 for a period of time and thereafter dispatching the energy and that uses
45 mechanical, chemical or thermal processes to store energy.

1 (c) "Machinery and equipment used directly" means all machinery and
2 equipment that are used for electric energy storage from the point of
3 receipt of such energy in order to facilitate storage of the electric
4 energy to the point where the electric energy is released.

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

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

13 8. Aircraft, navigational and communication instruments and other
14 accessories and related equipment sold to:

15 (a) A person:

16 (i) Holding, or exempted by federal law from obtaining, a federal
17 certificate of public convenience and necessity for use as, in conjunction
18 with or becoming part of an aircraft to be used to transport persons for
19 hire in intrastate, interstate or foreign commerce.

20 (ii) That is certificated or licensed under federal aviation
21 administration regulations (14 Code of Federal Regulations part 121 or
22 135) as a scheduled or unscheduled carrier of persons for hire for use as
23 or in conjunction with or becoming part of an aircraft to be used to
24 transport persons for hire in intrastate, interstate or foreign commerce.

25 (iii) Holding a foreign air carrier permit for air transportation
26 for use as or in conjunction with or becoming a part of aircraft to be
27 used to transport persons, property or United States mail in intrastate,
28 interstate or foreign commerce.

29 (iv) Operating an aircraft to transport persons in any manner for
30 compensation or hire, or for use in a fractional ownership program that
31 meets the requirements of federal aviation administration regulations (14
32 Code of Federal Regulations part 91, subpart K), including as an air
33 carrier, a foreign air carrier or a commercial operator or under a
34 restricted category, within the meaning of 14 Code of Federal Regulations,
35 regardless of whether the operation or aircraft is regulated or certified
36 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code
37 of Federal Regulations.

38 (v) That will lease or otherwise transfer operational control,
39 within the meaning of federal aviation administration operations
40 specification A008, or its successor, of the aircraft, instruments or
41 accessories to one or more persons described in item (i), (ii), (iii) or
42 (iv) of this subdivision, subject to section 42-5009, subsection Q.

43 (b) Any foreign government.

44 (c) Persons who are not residents of this state and who will not
45 use such property in this state other than in removing such property from

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

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

10 10. Railroad rolling stock, rails, ties and signal control
11 equipment used directly to transport persons or property.

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

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

23 13. Groundwater measuring devices required under section 45-604.

24 14. ~~New~~ Machinery and equipment consisting of agricultural
25 aircraft, tractors, **OFF-HIGHWAY VEHICLES**, tractor-drawn implements,
26 self-powered implements, machinery and equipment necessary for extracting
27 milk, and machinery and equipment necessary for cooling milk and
28 livestock, and drip irrigation lines not already exempt under paragraph 7
29 of this subsection and that are used for commercial production of
30 agricultural, horticultural, viticultural and floricultural crops and
31 products in this state. For the purposes of this paragraph:

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

35 (a) **"OFF-HIGHWAY VEHICLES" MEANS OFF-HIGHWAY VEHICLES AS DEFINED IN**
36 **SECTION 28-1171 THAT ARE MODIFIED AT THE TIME OF SALE TO FUNCTION AS A**
37 **TRACTOR OR TO TOW TRACTOR-DRAWN IMPLEMENTS AND THAT ARE NOT EQUIPPED WITH**
38 **A MODIFIED EXHAUST SYSTEM TO INCREASE HORSEPOWER OR SPEED OR AN ENGINE**
39 **THAT IS MORE THAN ONE THOUSAND CUBIC CENTIMETERS OR THAT HAVE A MAXIMUM**
40 **SPEED OF FIFTY MILES PER HOUR OR LESS.**

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

43 15. Machinery or equipment used in research and development. For
44 the purposes of this paragraph, "research and development" means basic and
45 applied research in the sciences and engineering, and designing,

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

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

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

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

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

23 (ii) Over two-thirds of the transmissions, measured in megabytes,
24 transmitted by or on behalf of those direct broadcast television or data
25 transmission services during the test period were transmitted by the
26 facility to or on behalf of those services. For the purposes of
27 subdivision (b) of this paragraph, "test period" means the three hundred
28 sixty-five day period beginning on the later of the date on which the
29 tangible personal property is purchased or the date on which the direct
30 broadcast satellite television or data transmission service first
31 transmits information to its customers.

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

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

1 tolerances, as well as the production machinery and equipment operating in
2 conjunction with the clean 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 18. Machinery and equipment used directly in feeding poultry,
6 environmentally controlling housing for poultry, moving eggs within a
7 production and packaging facility or sorting or cooling eggs. This
8 exemption does not apply to vehicles used for transporting eggs.

9 19. Machinery or equipment, including related structural components
10 and containment structures, that is employed in connection with
11 manufacturing, processing, fabricating, job printing, refining, mining,
12 natural gas pipelines, metallurgical operations, telecommunications,
13 producing or transmitting electricity or research and development and that
14 is used directly to meet or exceed rules or regulations adopted by the
15 federal energy regulatory commission, the United States environmental
16 protection agency, the United States nuclear regulatory commission, the
17 Arizona department of environmental quality or a political subdivision of
18 this state to prevent, monitor, control or reduce land, water or air
19 pollution. FOR THE PURPOSES OF THIS PARAGRAPH, "CONTAINMENT STRUCTURE"
20 MEANS A STRUCTURE THAT PREVENTS, MONITORS, CONTROLS OR REDUCES NOXIOUS OR
21 HARMFUL DISCHARGE INTO THE ENVIRONMENT.

22 20. Machinery and equipment that are sold to a person engaged in
23 commercially producing livestock, livestock products or agricultural,
24 horticultural, viticultural or floricultural crops or products in this
25 state, including a person representing or working on behalf of such a
26 person in a manner described in section 42-5075, subsection 0, if the
27 machinery and equipment are used directly and primarily to prevent,
28 monitor, control or reduce air, water or land pollution.

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

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

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

41 (c) Any machinery or equipment purchased after the television
42 station has ceased analog broadcasting, or purchased after November 1,
43 2009, whichever occurs first.

44 22. Qualifying equipment that is purchased from and after June 30,
45 2004 through June 30, 2024 by a qualified business under section 41-1516

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

5 23. Computer data center equipment sold to the owner, operator or
6 qualified colocation tenant of a computer data center that is certified by
7 the Arizona commerce authority under section 41-1519 or an authorized
8 agent of the owner, operator or qualified colocation tenant during the
9 qualification period for use in the qualified computer data center. For
10 the purposes of this paragraph, "computer data center", "computer data
11 center equipment", "qualification period" and "qualified colocation
12 tenant" have the same meanings prescribed in section 41-1519.

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

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

19 2. Janitorial equipment and hand tools.

20 3. Office equipment, furniture and supplies.

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

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

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

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

31 8. Machinery and equipment or other tangible personal property used
32 by a contractor in performing a contract.

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

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

1 F. If a person is engaged in an occupation or business to which
2 subsection A of this section applies, the person's books shall be kept so
3 as to show separately the gross proceeds of sales of tangible personal
4 property and the gross income from sales of services, and if not so kept
5 the tax shall be imposed on the total of the person's gross proceeds of
6 sales of tangible personal property and gross income from services.

7 G. If a person is engaged in the business of selling tangible
8 personal property at both wholesale and retail, the tax under this section
9 applies only to the gross proceeds of the sales made other than at
10 wholesale if the person's books are kept so as to show separately the
11 gross proceeds of sales of each class, and if the books are not so kept,
12 the tax under this section applies to the gross proceeds of every sale so
13 made.

14 H. A person who engages in manufacturing, baling, crating, boxing,
15 barreling, canning, bottling, sacking, preserving, processing or otherwise
16 preparing for sale or commercial use any livestock, agricultural or
17 horticultural product or any other product, article, substance or
18 commodity and who sells the product of such business at retail in this
19 state is deemed, as to such sales, to be engaged in business classified
20 under the retail classification. This subsection does not apply to:

21 1. Agricultural producers who are owners, proprietors or tenants of
22 agricultural lands, orchards, farms or gardens where agricultural products
23 are grown, raised or prepared for market and who are marketing their own
24 agricultural products.

25 2. Businesses classified under the:

26 (a) Transporting classification.

27 (b) Utilities classification.

28 (c) Telecommunications classification.

29 (d) Pipeline classification.

30 (e) Private car line classification.

31 (f) Publication classification.

32 (g) Job printing classification.

33 (h) Prime contracting classification.

34 (i) Restaurant classification.

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

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

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

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

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

12 J. There shall be deducted from the tax base fifty percent of the
13 gross proceeds or gross income from any sale of tangible personal property
14 made directly to the United States government or its departments or
15 agencies that is not deducted under subsection I of this section.

16 K. The department shall require every person claiming a deduction
17 provided by subsection I or J of this section to file on forms prescribed
18 by the department at such times as the department directs a sworn
19 statement disclosing the name of the purchaser and the exact amount of
20 sales on which the exclusion or deduction is claimed.

21 L. In computing the tax base, gross proceeds of sales or gross
22 income does not include:

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

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

27 M. There shall be deducted from the tax base the amount received
28 from sales of solar energy devices. The retailer shall register with the
29 department as a solar energy retailer. By registering, the retailer
30 acknowledges that it will make its books and records relating to sales of
31 solar energy devices available to the department for examination.

32 N. In computing the tax base in the case of the sale or transfer of
33 wireless telecommunications equipment as an inducement to a customer to
34 enter into or continue a contract for telecommunications services that are
35 taxable under section 42-5064, gross proceeds of sales or gross income
36 does not include any sales commissions or other compensation received by
37 the retailer as a result of the customer entering into or continuing a
38 contract for the telecommunications services.

39 O. For the purposes of this section, a sale of wireless
40 telecommunications equipment to a person who holds the equipment for sale
41 or transfer to a customer as an inducement to enter into or continue a
42 contract for telecommunications services that are taxable under section
43 42-5064 is considered to be a sale for resale in the regular course of
44 business.

1 P. Retail sales of prepaid calling cards or prepaid authorization
2 numbers for telecommunications services, including sales of
3 reauthorization of a prepaid card or authorization number, are subject to
4 tax under this section.

5 Q. For the purposes of this section, the diversion of gas from a
6 pipeline by a person engaged in the business of:

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

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

13 R. For the purposes of this section, the transfer of title or
14 possession of coal from an owner or operator of a power plant to a person
15 in the business of refining coal is not a sale of coal if both of the
16 following apply:

17 1. The transfer of title or possession of the coal is for the
18 purpose of refining the coal.

19 2. The title or possession of the coal is transferred back to the
20 owner or operator of the power plant after completion of the coal refining
21 process. For the purposes of this paragraph, "coal refining process"
22 means the application of a coal additive system that aids in the reduction
23 of power plant emissions during the combustion of coal and the treatment
24 of flue gas.

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

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

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

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

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

17 V. For the purposes of this section:

18 1. "Agricultural aircraft" means an aircraft that is built for
19 agricultural use for the aerial application of pesticides or fertilizer or
20 for aerial seeding.

21 2. "Aircraft" includes:

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

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

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

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

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

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

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

1 3. "Modifier" means a person who reworks, changes or adds to
2 products, 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
6 performing a contract, the cost of which is charged to an overhead expense
7 account and allocated to various contracts based on generally accepted
8 accounting principles and consistent with government contract accounting
9 standards.

10 5. "Repairer" means a person who restores or renews products, wares
11 or 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 supplies
14 or services that, in whole or in part, are necessary to perform one or
15 more government contracts, or under which any portion of the contractor's
16 obligation under one or more government contracts is performed, undertaken
17 or assumed and that includes provisions causing title to overhead
18 materials or other tangible personal property used in performing the
19 subcontract to pass to the government or that includes provisions
20 incorporating such title passing clauses in a government contract into the
21 subcontract.

22 Sec. 8. Section 42-5061, Arizona Revised Statutes, as amended by
23 Laws 2021, chapter 266, section 4, chapter 412, section 8, chapter 417,
24 section 5 and chapter 443, section 3, is amended to read:

25 42-5061. Retail classification; definitions

26 A. The retail classification is comprised of the business of
27 selling tangible personal property at retail. The tax base for the retail
28 classification is the gross proceeds of sales or gross income derived from
29 the business. The tax imposed on the retail classification does not apply
30 to the gross proceeds of sales or gross income from:

31 1. Professional or personal service occupations or businesses that
32 involve sales or transfers of tangible personal property only as
33 inconsequential elements.

34 2. Services rendered in addition to selling tangible personal
35 property at retail.

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

39 4. Sales of tangible personal property by any nonprofit
40 organization organized and operated exclusively for charitable purposes
41 and recognized by the United States internal revenue service under section
42 501(c)(3) of the internal revenue code.

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

- 1 6. Business activity that is properly included in any other
2 business classification that is taxable under this article.
- 3 7. The sale of stocks and bonds.
- 4 8. Drugs and medical oxygen, including delivery hose, mask or tent,
5 regulator and tank, if prescribed by a member of the medical, dental or
6 veterinarian profession who is licensed by law to administer such
7 substances.
- 8 9. Prosthetic appliances as defined in section 23-501 and as
9 prescribed or recommended by a health professional who is licensed
10 pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 11 10. Insulin, insulin syringes and glucose test strips.
- 12 11. Prescription eyeglasses or contact lenses.
- 13 12. Hearing aids as defined in section 36-1901.
- 14 13. 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,
17 chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is
18 primarily and customarily used to serve a medical purpose, is generally
19 not useful to a person in the absence of illness or injury and is
20 appropriate for use in the home.
- 21 14. Sales of motor vehicles to nonresidents of this state for use
22 outside this state if the motor vehicle dealer ships or delivers the motor
23 vehicle to a destination out of this state.
- 24 15. Food, as provided in and subject to the conditions of article 3
25 of this chapter and sections 42-5074 and 42-6017.
- 26 16. Items purchased with United States department of agriculture
27 coupons issued under the supplemental nutrition assistance program
28 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
29 7 United States Code sections 2011 through 2036b) by the United States
30 department of agriculture food and nutrition service or food instruments
31 issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat.
32 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
33 section 1786).
- 34 17. Textbooks by any bookstore that are required by any state
35 university or community college.
- 36 18. Food and drink to a person that is engaged in a business that
37 is classified under the restaurant classification and that provides such
38 food and drink without monetary charge to its employees for their own
39 consumption on the premises during the employees' hours of employment.
- 40 19. Articles of food, drink or condiment and accessory tangible
41 personal property to a school district or charter school if such articles
42 and accessory tangible personal property are to be prepared and served to
43 persons for consumption on the premises of a public school within the
44 district or on the premises of the charter school during school hours.

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

3 21. The sale of cash equivalents and the sale of precious metal
4 bullion and monetized bullion to the ultimate consumer, but the sale of
5 coins or other forms of money for manufacture into jewelry or works of art
6 is subject to the tax and the gross proceeds of sales or gross income
7 derived from the redemption of any cash equivalent by the holder as a
8 means of payment for goods or services that are taxable under this article
9 is subject to the tax. For the purposes of this paragraph:

10 (a) "Cash equivalents" means items or intangibles, whether or not
11 negotiable, that are sold to one or more persons, through which a value
12 denominated in money is purchased in advance and may be redeemed in full
13 or in part for tangible personal property, intangibles or services. Cash
14 equivalents include gift cards, stored value cards, gift certificates,
15 vouchers, traveler's checks, money orders or other instruments, orders or
16 electronic mechanisms, such as an electronic code, personal identification
17 number or digital payment mechanism, or any other prepaid intangible right
18 to acquire tangible personal property, intangibles or services in the
19 future, whether from the seller of the cash equivalent or from another
20 person. Cash equivalents do not include either of the following:

21 (i) Items or intangibles that are sold to one or more persons,
22 through which a value is not denominated in money.

23 (ii) Prepaid calling cards or prepaid authorization numbers for
24 telecommunications services made taxable by subsection P of this section.

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

29 (c) "Precious metal bullion" means precious metal, including gold,
30 silver, platinum, rhodium and palladium, that has been smelted or refined
31 so that its value depends on its contents and not on its form.

32 22. Motor vehicle fuel and use fuel that are subject to a tax
33 imposed under title 28, chapter 16, article 1, sales of use fuel to a
34 holder of a valid single trip use fuel tax permit issued under section
35 28-5739, sales of aviation fuel that are subject to the tax imposed under
36 section 28-8344 and sales of jet fuel that are subject to the tax imposed
37 under article 8 of this chapter.

38 23. Tangible personal property sold to a person engaged in the
39 business of leasing or renting such property under the personal property
40 rental classification if such property is to be leased or rented by such
41 person.

42 24. Tangible personal property sold in interstate or foreign
43 commerce if prohibited from being so taxed by the constitution of the
44 United States or the constitution of this state.

1 25. Tangible personal property sold to:

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

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

7 (c) 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
10 blind and visually impaired children and children with multiple
11 disabilities from the time of birth to age twenty-one.

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

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

25 (g) A qualifying health sciences educational institution as defined
26 in section 42-5001.

27 (h) Any person representing or working on behalf of another person
28 described in subdivisions (a) through (g) of this paragraph if the
29 tangible personal property is incorporated or fabricated into a project
30 described in section 42-5075, subsection 0.

31 26. Magazines or other periodicals or other publications by this
32 state to encourage tourist travel.

33 27. Tangible personal property sold to:

34 (a) A person that is subject to tax under this article by reason of
35 being engaged in business classified under section 42-5075 or to a
36 subcontractor working under the control of a person engaged in business
37 classified under section 42-5075, if the property so sold is any of the
38 following:

39 (i) Incorporated or fabricated by the person into any real
40 property, structure, project, development or improvement as part of the
41 business.

42 (ii) Incorporated or fabricated by the person into any project
43 described in section 42-5075, subsection 0.

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

3 (b) A person that is not subject to tax under section 42-5075 and
4 that has been provided a copy of a certificate under section 42-5009,
5 subsection L, if the property so sold is incorporated or fabricated by the
6 person into the real property, structure, project, development or
7 improvement described in the certificate.

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

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

19 30. Sales of tangible personal property by a nonprofit organization
20 that is exempt from taxation under section 501(c)(3), 501(c)(4) or
21 501(c)(6) of the internal revenue code if the organization is associated
22 with a major league baseball team or a national touring professional
23 golfing association and no part of the organization's net earnings inures
24 to the benefit of any private shareholder or individual. This paragraph
25 does not apply to an organization that is owned, managed or controlled, in
26 whole or in part, by a major league baseball team, or its owners,
27 officers, employees or agents, or by a major league baseball association
28 or professional golfing association, or its owners, officers, employees or
29 agents, unless the organization conducted or operated exhibition events in
30 this state before January 1, 2018 that were exempt from taxation under
31 section 42-5073.

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

37 32. Sales of tangible personal property by a nonprofit organization
38 that is exempt from taxation under section 501(c)(3), 501(c)(4),
39 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the
40 organization sponsors or operates a rodeo featuring primarily farm and
41 ranch animals and no part of the organization's net earnings inures to the
42 benefit of any private shareholder or individual.

1 33. Sales of propagative materials to persons who use those items
2 to commercially produce agricultural, horticultural, viticultural or
3 floricultural crops in this state. For the purposes of this paragraph,
4 "propagative materials":

5 (a) Includes seeds, seedlings, roots, bulbs, liners, transplants,
6 cuttings, soil and plant additives, agricultural minerals, auxiliary soil
7 and plant substances, micronutrients, fertilizers, insecticides,
8 herbicides, fungicides, soil fumigants, desiccants, rodenticides,
9 adjuvants, plant nutrients and plant growth regulators.

10 (b) Except for use in commercially producing industrial hemp as
11 defined in section 3-311, does not include any propagative materials used
12 in producing any part, including seeds, of any plant of the genus
13 cannabis.

14 34. Machinery, equipment, technology or related supplies that are
15 only useful to assist a person with a physical disability as defined in
16 section 46-191 or a person who has a developmental disability as defined
17 in section 36-551 or has a head injury as defined in section 41-3201 to be
18 more independent and functional.

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

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

24 37. Petroleum, coke, natural gas, virgin fuel oil and electricity
25 sold to a qualified environmental technology manufacturer, producer or
26 processor as defined in section 41-1514.02 and directly used or consumed
27 in generating or providing on-site power or energy solely for
28 environmental technology manufacturing, producing or processing or
29 environmental protection. This paragraph applies for twenty full
30 consecutive calendar or fiscal years from the date the first paper
31 manufacturing machine is placed in service. In the case of an
32 environmental technology manufacturer, producer or processor that does not
33 manufacture paper, the time period begins with the date the first
34 manufacturing, processing or production equipment is placed in service.

35 38. Sales of liquid, solid or gaseous chemicals used in
36 manufacturing, processing, fabricating, mining, refining, metallurgical
37 operations, research and development and, beginning on January 1, 1999,
38 printing, if using or consuming the chemicals, alone or as part of an
39 integrated system of chemicals, involves direct contact with the materials
40 from which the product is produced for the purpose of causing or allowing
41 a chemical or physical change to occur in the materials as part of the
42 production process. This paragraph does not include chemicals that are
43 used or consumed in activities such as packaging, storage or
44 transportation but does not affect any deduction for such chemicals that
45 is otherwise provided by this section. For the purposes of this

1 paragraph, "printing" means a commercial printing operation and includes
2 job printing, engraving, embossing, copying and bookbinding.

3 39. Through December 31, 1994, personal property liquidation
4 transactions, conducted by a personal property liquidator. From and after
5 December 31, 1994, personal property liquidation transactions shall be
6 taxable under this section provided that nothing in this subsection shall
7 be construed to authorize the taxation of casual activities or
8 transactions under this chapter. For the purposes of this paragraph:

9 (a) "Personal property liquidation transaction" means a sale of
10 personal property made by a personal property liquidator acting solely on
11 behalf of the owner of the personal property sold at the dwelling of the
12 owner or on the death of any owner, on behalf of the surviving spouse, if
13 any, any devisee or heir or the personal representative of the estate of
14 the deceased, if one has been appointed.

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

17 40. Sales of food, drink and condiment for consumption within the
18 premises of any prison, jail or other institution under the jurisdiction
19 of the state department of corrections, the department of public safety,
20 the department of juvenile corrections or a county sheriff.

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

26 42. Sales of:

27 (a) Livestock and poultry to persons engaging in the businesses of
28 farming, ranching or producing livestock or poultry.

29 (b) Livestock and poultry feed, salts, vitamins and other additives
30 for livestock or poultry consumption that are sold to persons for use or
31 consumption by their own livestock or poultry, for use or consumption in
32 the businesses of farming, ranching and producing or feeding livestock,
33 poultry, or livestock or poultry products or for use or consumption in
34 noncommercial boarding of livestock. For the purposes of this paragraph,
35 "poultry" includes ratites.

36 43. Sales of implants used as growth promotants and injectable
37 medicines, not already exempt under paragraph 8 of this subsection, for
38 livestock or poultry owned by or in possession of persons that are engaged
39 in producing livestock, poultry, or livestock or poultry products or that
40 are engaged in feeding livestock or poultry commercially. For the
41 purposes of this paragraph, "poultry" includes ratites.

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

1 45. Tangible personal property sold to a person engaged in business
2 and subject to tax under the transient lodging classification if the
3 tangible personal property is a personal hygiene item or articles used by
4 human beings for food, drink or condiment, except alcoholic beverages,
5 that are furnished without additional charge to and intended to be
6 consumed by the transient during the transient's occupancy.

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

10 47. Sales of materials that are purchased by or for publicly funded
11 libraries, including school district libraries, charter school libraries,
12 community college libraries, state university libraries or federal, state,
13 county or municipal libraries, for use by the public as follows:

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

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

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

24 49. Sales of alternative fuel vehicles if the vehicle was
25 manufactured as a diesel fuel vehicle and converted to operate on
26 alternative fuel and equipment that is installed in a conventional diesel
27 fuel motor vehicle to convert the vehicle to operate on an alternative
28 fuel, as defined in section 1-215.

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

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

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

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

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

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

4 54. Sales of motor vehicle fuel and use fuel to a qualified
5 business under section 41-1516 for off-road use in harvesting, processing
6 or transporting qualifying forest products removed from qualifying
7 projects as defined in section 41-1516.

8 55. Sales of repair parts installed in equipment used directly by a
9 qualified business under section 41-1516 in harvesting, processing or
10 transporting qualifying forest products removed from qualifying projects
11 as defined in section 41-1516.

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

20 57. Orthodontic devices dispensed by a dental professional who is
21 licensed under title 32, chapter 11 to a patient as part of the practice
22 of dentistry.

23 58. Sales of tangible personal property incorporated or fabricated
24 into a project described in section 42-5075, subsection 0, that is located
25 within the exterior boundaries of an Indian reservation for which the
26 owner, as defined in section 42-5075, of the project is an Indian tribe or
27 an affiliated Indian. For the purposes of this paragraph:

28 (a) "Affiliated Indian" means an individual Native American Indian
29 who is duly registered on the tribal rolls of the Indian tribe for whose
30 benefit the Indian reservation was established.

31 (b) "Indian reservation" means all lands that are within the limits
32 of areas set aside by the United States for the exclusive use and
33 occupancy of an Indian tribe by treaty, law or executive order and that
34 are recognized as Indian reservations by the United States department of
35 the interior.

36 (c) "Indian tribe" means any organized nation, tribe, band or
37 community that is recognized as an Indian tribe by the United States
38 department of the interior and includes any entity formed under the laws
39 of the Indian tribe.

40 59. Sales of works of fine art, as defined in section 44-1771, at
41 an art auction or gallery in this state to nonresidents of this state for
42 use outside this state if the vendor ships or delivers the work of fine
43 art to a destination outside this state.

44 60. Sales of coal.

1 61. Sales of tangible personal property by a marketplace seller
2 that are facilitated by a marketplace facilitator in which the marketplace
3 facilitator has remitted or will remit the applicable tax to the
4 department pursuant to section 42-5014.

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

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

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

22 3. Tangible personal property sold to persons engaged in business
23 classified under the telecommunications classification, including a person
24 representing or working on behalf of such a person in a manner described
25 in section 42-5075, subsection 0, and consisting of central office
26 switching equipment, switchboards, private branch exchange equipment,
27 microwave radio equipment and carrier equipment including optical fiber,
28 coaxial cable and other transmission media that are components of carrier
29 systems.

30 4. Machinery, equipment or transmission lines used directly in
31 producing or transmitting electrical power, but not including
32 distribution. Transformers and control equipment used at transmission
33 substation sites constitute equipment used in producing or transmitting
34 electrical power.

35 5. Machinery and equipment used directly for energy storage for
36 later electrical use. For the purposes of this paragraph:

37 (a) "Electric utility scale" means a person that is engaged in a
38 business activity described in section 42-5063, subsection A or such
39 person's equipment or wholesale electricity suppliers.

40 (b) "Energy storage" means commercially available technology for
41 electric utility scale that is capable of absorbing energy, storing energy
42 for a period of time and thereafter dispatching the energy and that uses
43 mechanical, chemical or thermal processes to store energy.

1 (c) "Machinery and equipment used directly" means all machinery and
2 equipment that are used for electric energy storage from the point of
3 receipt of such energy in order to facilitate storage of the electric
4 energy to the point where the electric energy is released.

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

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

13 8. Aircraft, navigational and communication instruments and other
14 accessories and related equipment sold to:

15 (a) A person:

16 (i) Holding, or exempted by federal law from obtaining, a federal
17 certificate of public convenience and necessity for use as, in conjunction
18 with or becoming part of an aircraft to be used to transport persons for
19 hire in intrastate, interstate or foreign commerce.

20 (ii) That is certificated or licensed under federal aviation
21 administration regulations (14 Code of Federal Regulations part 121 or
22 135) as a scheduled or unscheduled carrier of persons for hire for use as
23 or in conjunction with or becoming part of an aircraft to be used to
24 transport persons for hire in intrastate, interstate or foreign commerce.

25 (iii) Holding a foreign air carrier permit for air transportation
26 for use as or in conjunction with or becoming a part of aircraft to be
27 used to transport persons, property or United States mail in intrastate,
28 interstate or foreign commerce.

29 (iv) Operating an aircraft to transport persons in any manner for
30 compensation or hire, or for use in a fractional ownership program that
31 meets the requirements of federal aviation administration regulations
32 (14 Code of Federal Regulations part 91, subpart K), including as an air
33 carrier, a foreign air carrier or a commercial operator or under a
34 restricted category, within the meaning of 14 Code of Federal Regulations,
35 regardless of whether the operation or aircraft is regulated or certified
36 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code
37 of Federal Regulations.

38 (v) That will lease or otherwise transfer operational control,
39 within the meaning of federal aviation administration operations
40 specification A008, or its successor, of the aircraft, instruments or
41 accessories to one or more persons described in item (i), (ii), (iii) or
42 (iv) of this subdivision, subject to section 42-5009, subsection Q.

43 (b) Any foreign government.

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

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

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

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

25 13. Groundwater measuring devices required under section 45-604.

26 14. ~~New~~ Machinery and equipment consisting of agricultural
27 aircraft, tractors, **OFF-HIGHWAY VEHICLES**, tractor-drawn implements,
28 self-powered implements, machinery and equipment necessary for extracting
29 milk, and machinery and equipment necessary for cooling milk and
30 livestock, and drip irrigation lines not already exempt under paragraph 7
31 of this subsection and that are used for commercial production of
32 agricultural, horticultural, viticultural and floricultural crops and
33 products in this state. For the purposes of this paragraph:

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

37 (a) **"OFF-HIGHWAY VEHICLES" MEANS OFF-HIGHWAY VEHICLES AS DEFINED IN**
38 **SECTION 28-1171 THAT ARE MODIFIED AT THE TIME OF SALE TO FUNCTION AS A**
39 **TRACTOR OR TO TOW TRACTOR-DRAWN IMPLEMENTS AND THAT ARE NOT EQUIPPED WITH**
40 **A MODIFIED EXHAUST SYSTEM TO INCREASE HORSEPOWER OR SPEED OR AN ENGINE**
41 **THAT IS MORE THAN ONE THOUSAND CUBIC CENTIMETERS OR THAT HAVE A MAXIMUM**
42 **SPEED OF FIFTY MILES PER HOUR OR LESS.**

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

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

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

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

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

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

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

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

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

44 (a) Includes the integrated systems, fixtures, piping, movable
45 partitions, lighting and all property that is necessary or adapted to

1 reduce contamination or to control airflow, temperature, humidity,
2 chemical purity or other environmental conditions or manufacturing
3 tolerances, as well as the production machinery and equipment operating in
4 conjunction with the clean room environment.

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

7 18. Machinery and equipment used directly in feeding poultry,
8 environmentally controlling housing for poultry, moving eggs within a
9 production and packaging facility or sorting or cooling eggs. This
10 exemption does not apply to vehicles used for transporting eggs.

11 19. Machinery or equipment, including related structural components
12 and containment structures, that is employed in connection with
13 manufacturing, processing, fabricating, job printing, refining, mining,
14 natural gas pipelines, metallurgical operations, telecommunications,
15 producing or transmitting electricity or research and development and that
16 is used directly to meet or exceed rules or regulations adopted by the
17 federal energy regulatory commission, the United States environmental
18 protection agency, the United States nuclear regulatory commission, the
19 Arizona department of environmental quality or a political subdivision of
20 this state to prevent, monitor, control or reduce land, water or air
21 pollution. FOR THE PURPOSES OF THIS PARAGRAPH, "CONTAINMENT STRUCTURE"
22 MEANS A STRUCTURE THAT PREVENTS, MONITORS, CONTROLS OR REDUCES NOXIOUS OR
23 HARMFUL DISCHARGE INTO THE ENVIRONMENT.

24 20. Machinery and equipment that are sold to a person engaged in
25 commercially producing livestock, livestock products or agricultural,
26 horticultural, viticultural or floricultural crops or products in this
27 state, including a person representing or working on behalf of such a
28 person in a manner described in section 42-5075, subsection 0, if the
29 machinery and equipment are used directly and primarily to prevent,
30 monitor, control or reduce air, water or land pollution.

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

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

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

43 (c) Any machinery or equipment purchased after the television
44 station has ceased analog broadcasting, or purchased after November 1,
45 2009, whichever occurs first.

1 22. Qualifying equipment that is purchased from and after June 30,
2 2004 through June 30, 2024 by a qualified business under section 41-1516
3 for harvesting or processing qualifying forest products removed from
4 qualifying projects as defined in section 41-1516. To qualify for this
5 deduction, the qualified business at the time of purchase must present its
6 certification approved by the department.

7 23. Computer data center equipment sold to the owner, operator or
8 qualified colocation tenant of a computer data center that is certified by
9 the Arizona commerce authority under section 41-1519 or an authorized
10 agent of the owner, operator or qualified colocation tenant during the
11 qualification period for use in the qualified computer data center. For
12 the purposes of this paragraph, "computer data center", "computer data
13 center equipment", "qualification period" and "qualified colocation
14 tenant" have the same meanings prescribed in section 41-1519.

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

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

21 2. Janitorial equipment and hand tools.

22 3. Office equipment, furniture and supplies.

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

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

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

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

33 8. Machinery and equipment or other tangible personal property used
34 by a contractor in performing a contract.

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

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

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

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

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

25 1. Agricultural producers who are owners, proprietors or tenants of
26 agricultural lands, orchards, farms or gardens where agricultural products
27 are grown, raised or prepared for market and who are marketing their own
28 agricultural products.

- 29 2. Businesses classified under the:
- 30 (a) Transporting classification.
 - 31 (b) Utilities classification.
 - 32 (c) Telecommunications classification.
 - 33 (d) Pipeline classification.
 - 34 (e) Private car line classification.
 - 35 (f) Publication classification.
 - 36 (g) Job printing classification.
 - 37 (h) Prime contracting classification.
 - 38 (i) Restaurant classification.

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

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

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

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

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

16 J. There shall be deducted from the tax base fifty percent of the
17 gross proceeds or gross income from any sale of tangible personal property
18 made directly to the United States government or its departments or
19 agencies that is not deducted under subsection I of this section.

20 K. The department shall require every person claiming a deduction
21 provided by subsection I or J of this section to file on forms prescribed
22 by the department at such times as the department directs a sworn
23 statement disclosing the name of the purchaser and the exact amount of
24 sales on which the exclusion or deduction is claimed.

25 L. In computing the tax base, gross proceeds of sales or gross
26 income does not include:

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

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

31 M. There shall be deducted from the tax base the amount received
32 from sales of solar energy devices. The retailer shall register with the
33 department as a solar energy retailer. By registering, the retailer
34 acknowledges that it will make its books and records relating to sales of
35 solar energy devices available to the department for examination.

36 N. In computing the tax base in the case of the sale or transfer of
37 wireless telecommunications equipment as an inducement to a customer to
38 enter into or continue a contract for telecommunications services that are
39 taxable under section 42-5064, gross proceeds of sales or gross income
40 does not include any sales commissions or other compensation received by
41 the retailer as a result of the customer entering into or continuing a
42 contract for the telecommunications services.

43 O. For the purposes of this section, a sale of wireless
44 telecommunications equipment to a person who holds the equipment for sale
45 or transfer to a customer as an inducement to enter into or continue a

1 contract for telecommunications services that are taxable under section
2 42-5064 is considered to be a sale for resale in the regular course of
3 business.

4 P. Retail sales of prepaid calling cards or prepaid authorization
5 numbers for telecommunications services, including sales of
6 reauthorization of a prepaid card or authorization number, are subject to
7 tax under this section.

8 Q. For the purposes of this section, the diversion of gas from a
9 pipeline by a person engaged in the business of:

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

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

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

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

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

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

40 T. In computing the tax base for the sale of a motor vehicle to a
41 nonresident of this state, if the purchaser's state of residence allows a
42 corresponding use tax exemption to the tax imposed by article 1 of this
43 chapter and the rate of the tax in the purchaser's state of residence is
44 lower than the rate prescribed in article 1 of this chapter or if the
45 purchaser's state of residence does not impose an excise tax, and the

1 nonresident has secured a special ninety day nonresident registration
2 permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01,
3 there shall be deducted from the tax base a portion of the gross proceeds
4 or gross income from the sale so that the amount of transaction privilege
5 tax that is paid in this state is equal to the excise tax that is imposed
6 by the purchaser's state of residence on the nonexempt sale or use of the
7 motor vehicle.

8 U. For the purposes of this section:

9 1. "Agricultural aircraft" means an aircraft that is built for
10 agricultural use for the aerial application of pesticides or fertilizer or
11 for aerial seeding.

12 2. "Aircraft" includes:

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

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

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

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

28 V. For the purposes of subsection I of this section:

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

32 2. "Manufacturer" means a person who is principally engaged in
33 fabricating, producing or manufacturing products, wares or articles for
34 use from raw or prepared materials, imparting to those materials new
35 forms, qualities, properties and combinations.

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

38 4. "Overhead materials" means tangible personal property, the gross
39 proceeds of sales or gross income derived from that would otherwise be
40 included in the retail classification, and that are used or consumed in
41 performing a contract, the cost of which is charged to an overhead expense
42 account and allocated to various contracts based on generally accepted
43 accounting principles and consistent with government contract accounting
44 standards.

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

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

13 Sec. 9. Section 42-5071, Arizona Revised Statutes, is amended to
14 read:

15 42-5071. Personal property rental classification; definitions

16 A. The personal property rental classification is comprised of the
17 business of leasing or renting tangible personal property for a
18 consideration and includes peer-to-peer car sharing. The tax does not
19 apply to:

20 1. Leasing or renting films, tapes or slides used by theaters or
21 movies, which are engaged in business under the amusement classification,
22 or used by television stations or radio stations.

23 2. Activities engaged in by the Arizona exposition and state fair
24 board or county fair commissions in connection with events sponsored by
25 such entities.

26 3. Leasing or renting tangible personal property by a parent
27 business entity to a subsidiary business entity or by a subsidiary
28 business entity to another subsidiary of the same parent business entity
29 if taxes were paid under this chapter on the gross proceeds or gross
30 income accruing from the initial sale of the tangible personal property.
31 For the purposes of this paragraph, "subsidiary" means a business entity
32 of which at least eighty percent of the voting shares are owned by the
33 parent business entity.

34 4. Operating coin-operated washing, drying and dry cleaning
35 machines or coin-operated car washing machines at establishments for the
36 use of such machines.

37 5. Leasing or renting tangible personal property for incorporation
38 into or comprising any part of a qualified environmental technology
39 facility as described in section 41-1514.02. This paragraph shall apply
40 for ten full consecutive calendar or fiscal years following the initial
41 lease or rental by each qualified environmental technology manufacturer,
42 producer or processor.

43 6. Leasing or renting aircraft, flight simulators or similar
44 training equipment to students or staff by nonprofit, accredited

1 educational institutions that offer associate or baccalaureate degrees in
2 aviation or aerospace related fields.

3 7. Leasing or renting photographs, transparencies or other creative
4 works used by this state on internet websites, in magazines or in other
5 publications that encourage tourism.

6 8. Leasing or renting certified ignition interlock devices
7 installed pursuant to the requirements prescribed by section 28-1461. For
8 the purposes of this paragraph, "certified ignition interlock device" has
9 the same meaning prescribed in section 28-1301.

10 9. The leasing or renting of space to make attachments to utility
11 poles, as follows:

12 (a) By a person that is engaged in business under section 42-5063
13 or 42-5064 or that is a cable operator.

14 (b) To a person that is engaged in business under section 42-5063
15 or 42-5064 or that is a cable operator.

16 10. Leasing or renting billboards that are designed, intended or
17 used to advertise or inform and that are visible from any street, road or
18 other highway.

19 B. The tax base for the personal property rental classification is
20 the gross proceeds of sales or gross income derived from the business, but
21 the gross proceeds of sales or gross income derived from the following
22 shall be deducted from the tax base:

23 1. Reimbursements by the lessee to the lessor of a motor vehicle
24 for payments by the lessor of the applicable fees and taxes imposed by
25 sections 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter
26 15, article 2 and article IX, section 11, Constitution of Arizona, to the
27 extent such amounts are separately identified as such fees and taxes and
28 are billed to the lessee.

29 2. Leases or rentals of tangible personal property that, if it had
30 been purchased instead of leased or rented by the lessee, would have been
31 exempt under:

32 (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29,
33 49 or 53.

34 (b) Section 42-5061, subsection B, ~~except that a lease or rental of~~
35 ~~new machinery or equipment is not exempt pursuant to section 42-5061,~~
36 ~~subsection B, paragraph 14 if the lease is for less than two years.~~

37 (c) Section 42-5061, subsection I, paragraph 1.

38 (d) Section 42-5061, subsection M.

39 3. Motor vehicle fuel and use fuel that are subject to a tax
40 imposed under title 28, chapter 16, article 1, sales of use fuel to a
41 holder of a valid single trip use fuel tax permit issued under section
42 28-5739 and sales of aviation fuel that are subject to the tax imposed
43 under section 28-8344.

1 4. Leasing or renting a motor vehicle subject to and on which the
2 fee has been paid under title 28, chapter 16, article 4.

3 5. Amounts received by a motor vehicle dealer for the first month
4 of a lease payment if the lease and the lease payment for the first month
5 of the lease are transferred to a third-party leasing company.

6 C. Sales of tangible personal property to be leased or rented to a
7 person engaged in a business classified under the personal property rental
8 classification are deemed to be resale sales.

9 D. In computing the tax base, the gross proceeds of sales or gross
10 income from the lease or rental of a motor vehicle does not include any
11 amount attributable to the car rental surcharge under section 5-839,
12 28-5810 or 48-4234.

13 E. Until December 31, 1988, leasing or renting animals for
14 recreational purposes is exempt from the tax imposed by this section.
15 Beginning January 1, 1989, the gross proceeds or gross income from leasing
16 or renting animals for recreational purposes is subject to taxation under
17 this section. Tax liabilities, penalties and interest paid for taxable
18 periods before January 1, 1989 shall not be refunded unless the taxpayer
19 requesting the refund provides proof satisfactory to the department that
20 the monies paid as taxes will be returned to the customer.

21 F. The tax base of the personal property rental classification does
22 not include the gross proceeds or gross income received by a shared
23 vehicle owner from a peer-to-peer car sharing program pursuant to section
24 42-5009, subsection R.

25 G. For the purposes of this section:

26 1. "Cable operator" has the same meaning prescribed in section
27 9-505 and includes a video service provider.

28 2. "Peer-to-peer car sharing" has the same meaning prescribed in
29 section 28-9601.

30 3. "Peer-to-peer car sharing program" has the same meaning
31 prescribed in section 28-9601.

32 4. "Shared vehicle owner" has the same meaning prescribed in
33 section 28-9601.

34 5. "Utility pole" means any wooden, metal or other pole used for
35 utility purposes and the pole's appurtenances that are attached or
36 authorized for attachment by the person controlling the pole.

37 Sec. 10. Section 42-5075, Arizona Revised Statutes, is amended to
38 read:

39 42-5075. Prime contracting classification; exemptions;
40 definitions

41 A. The prime contracting classification is comprised of the
42 business of prime contracting and the business of manufactured building
43 dealer. Sales for resale to another manufactured building dealer are not
44 subject to tax. Sales for resale do not include sales to a lessor of
45 manufactured buildings. The sale of a used manufactured building is not

1 taxable under this chapter. The prime contracting classification does not
2 include any work or operation performed by a person that is not required
3 to be licensed by the registrar of contractors pursuant to section
4 32-1121.

5 B. The tax base for the prime contracting classification is
6 sixty-five percent of the gross proceeds of sales or gross income derived
7 from the business. The following amounts shall be deducted from the gross
8 proceeds of sales or gross income before computing the tax base:

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

11 2. Sales and installation of groundwater measuring devices required
12 under section 45-604 and groundwater monitoring wells required by law,
13 including monitoring wells installed for acquiring information for a
14 permit required by law.

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

20 4. The gross proceeds of sales or gross income received from a
21 contract entered into for the modification of any building, highway, road,
22 railroad, excavation, manufactured building or other structure, project,
23 development or improvement located in a military reuse zone for providing
24 aviation or aerospace services or for a manufacturer, assembler or
25 fabricator of aviation or aerospace products within an active military
26 reuse zone after the zone is initially established or renewed under
27 section 41-1531. To be eligible to qualify for this deduction, before
28 beginning work under the contract, the prime contractor must have applied
29 for a letter of qualification from the department of revenue.

30 5. The gross proceeds of sales or gross income derived from a
31 contract to construct a qualified environmental technology manufacturing,
32 producing or processing facility, as described in section 41-1514.02, and
33 from subsequent construction and installation contracts that begin within
34 ten years after the start of initial construction. To qualify for this
35 deduction, before beginning work under the contract, the prime contractor
36 must obtain a letter of qualification from the department of revenue. This
37 paragraph shall apply for ten full consecutive calendar or fiscal years
38 after the start of initial construction.

39 6. The gross proceeds of sales or gross income from a contract to
40 provide for one or more of the following actions, or a contract for site
41 preparation, constructing, furnishing or installing machinery, equipment
42 or other tangible personal property, including structures necessary to
43 protect exempt incorporated materials or installed machinery or equipment,
44 and tangible personal property incorporated into the project, to perform
45 one or more of the following actions in response to a release or suspected

1 release of a hazardous substance, pollutant or contaminant from a facility
2 to the environment, unless the release was authorized by a permit issued
3 by a governmental authority:

4 (a) Actions to monitor, assess and evaluate such a release or a
5 suspected release.

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

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

11 (d) Pumping and treatment or in situ treatment of contaminated
12 groundwater or surface water to reduce the concentration or toxicity of a
13 contaminant.

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

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

23 7. The gross proceeds of sales or gross income that is derived from
24 a contract for the installation, assembly, repair or maintenance of
25 machinery, equipment or other tangible personal property that is either
26 deducted from the tax base of the retail classification under section
27 42-5061, subsection B or that is exempt from use tax under section
28 42-5159, subsection B and that has independent functional utility,
29 pursuant to the following provisions:

30 (a) The deduction provided in this paragraph includes the gross
31 proceeds of sales or gross income derived from all of the following:

32 (i) Any activity performed on machinery, equipment or other
33 tangible personal property with independent functional utility.

34 (ii) Any activity performed on any tangible personal property
35 relating to machinery, equipment or other tangible personal property with
36 independent functional utility in furtherance of any of the purposes
37 provided for under subdivision (d) of this paragraph.

38 (iii) Any activity that is related to the activities described in
39 items (i) and (ii) of this subdivision, including inspecting the
40 installation of or testing the machinery, equipment or other tangible
41 personal property.

42 (b) The deduction provided in this paragraph does not include gross
43 proceeds of sales or gross income from the portion of any contracting
44 activity that consists of the development of, or modification to, real
45 property in order to facilitate the installation, assembly, repair,

1 maintenance or removal of machinery, equipment or other tangible personal
2 property that is either deducted from the tax base of the retail
3 classification under section 42-5061, subsection B or exempt from use tax
4 under section 42-5159, subsection B.

5 (c) The deduction provided in this paragraph shall be determined
6 without regard to the size or useful life of the machinery, equipment or
7 other tangible personal property.

8 (d) For the purposes of this paragraph, "independent functional
9 utility" means that the machinery, equipment or other tangible personal
10 property can independently perform its function without attachment to real
11 property, other than attachment for any of the following purposes:

12 (i) Assembling the machinery, equipment or other tangible personal
13 property.

14 (ii) Connecting items of machinery, equipment or other tangible
15 personal property to each other.

16 (iii) Connecting the machinery, equipment or other tangible
17 personal property, whether as an individual item or as a system of items,
18 to water, power, gas, communication or other services.

19 (iv) Stabilizing or protecting the machinery, equipment or other
20 tangible personal property during operation by bolting, burying or
21 performing other similar nonpermanent connections to either real property
22 or real property improvements.

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

26 (a) Section 42-5061, subsection A, paragraph 25, 29 or 58.

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

28 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a),
29 (b), (c), (d), (e), (f), (j), (k), (m) or (n) or paragraph 55.

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

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

35 10. The gross proceeds of sales or gross income that is derived
36 from a contract entered into with a person who is engaged in the
37 commercial production of livestock, livestock products or agricultural,
38 horticultural, viticultural or floricultural crops or products in this
39 state for the modification of any building, highway, road, excavation,
40 manufactured building or other structure, project, development or
41 improvement used directly and primarily to prevent, monitor, control or
42 reduce air, water or land pollution.

1 11. The gross proceeds of sales or gross income that is derived
2 from the installation, assembly, repair or maintenance of clean rooms that
3 are deducted from the tax base of the retail classification pursuant to
4 section 42-5061, subsection B, paragraph 17.

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

12 13. For taxable periods beginning from and after December 31, 1996
13 and ending before January 1, 2017, the gross proceeds of sales or gross
14 income derived from a contract to provide and install a solar energy
15 device. The contractor shall register with the department as a solar
16 energy contractor. By registering, the contractor acknowledges that it
17 will make its books and records relating to sales of solar energy devices
18 available to the department for examination.

19 14. The gross proceeds of sales or gross income derived from a
20 contract entered into for the construction of a launch site, as defined in
21 14 Code of Federal Regulations section 401.5.

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

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

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

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

1 19. Any amount of the gross proceeds of sales or gross income
2 attributable to development fees that are incurred in relation to a
3 contract for construction, development or improvement of real property and
4 that are paid by a prime contractor or subcontractor. For the purposes of
5 this paragraph:

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

8 (b) The attributable amount is equal to the total amount of
9 development fees paid by the prime contractor or subcontractor, and the
10 total development fees credited in exchange for the construction of,
11 contribution to or dedication of real property for providing public
12 infrastructure, public safety or other public services necessary to the
13 development. The real property must be the subject of the development
14 fees.

15 (c) "Development fees" means fees imposed to offset capital costs
16 of providing public infrastructure, public safety or other public services
17 to a development and authorized pursuant to section 9-463.05, section
18 11-1102 or title 48 regardless of the jurisdiction to which the fees are
19 paid.

20 20. The gross proceeds of sales or gross income derived from a
21 contract entered into for the construction of a mixed waste processing
22 facility that is located on a municipal solid waste landfill and that is
23 constructed for the purpose of recycling solid waste or producing
24 renewable energy from landfill waste. For the purposes of this paragraph:

25 (a) "Mixed waste processing facility" means a solid waste facility
26 that is owned, operated or used for the treatment, processing or disposal
27 of solid waste, recyclable solid waste, conditionally exempt small
28 quantity generator waste or household hazardous waste. For the purposes
29 of this subdivision, "conditionally exempt small quantity generator
30 waste", "household hazardous waste" and "solid waste facility" have the
31 same meanings prescribed in section 49-701, except that solid waste
32 facility does include a site that stores, treats or processes paper,
33 glass, wood, cardboard, household textiles, scrap metal, plastic,
34 vegetative waste, aluminum, steel or other recyclable material.

35 (b) "Municipal solid waste landfill" has the same meaning
36 prescribed in section 49-701.

37 (c) "Recycling" means collecting, separating, cleansing, treating
38 and reconstituting recyclable solid waste that would otherwise become
39 solid waste, but does not include incineration or other similar processes.

40 (d) "Renewable energy" has the same meaning prescribed in section
41 41-1511.

42 21. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A
43 CONTRACT TO INSTALL CONTAINMENT STRUCTURES. FOR THE PURPOSES OF THIS
44 PARAGRAPH, "CONTAINMENT STRUCTURE" MEANS A STRUCTURE THAT PREVENTS,

1 MONITORS, CONTROLS OR REDUCES NOXIOUS OR HARMFUL DISCHARGE INTO THE
2 ENVIRONMENT.

3 C. Entitlement to the deduction pursuant to subsection B, paragraph
4 7 of this section is subject to the following provisions:

5 1. A prime contractor may establish entitlement to the deduction by
6 both:

7 (a) Marking the invoice for the transaction to indicate that the
8 gross proceeds of sales or gross income derived from the transaction was
9 deducted from the base.

10 (b) Obtaining a certificate executed by the purchaser indicating
11 the name and address of the purchaser, the precise nature of the business
12 of the purchaser, the purpose for which the purchase was made, the
13 necessary facts to establish the deductibility of the property under
14 section 42-5061, subsection B, and a certification that the person
15 executing the certificate is authorized to do so on behalf of the
16 purchaser. The certificate may be disregarded if the prime contractor has
17 reason to believe that the information contained in the certificate is not
18 accurate or complete.

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

22 3. The department may prescribe a form for the certificate
23 described in paragraph 1, subdivision (b) of this subsection. The
24 department may also adopt rules that describe the transactions with
25 respect to which a person is not entitled to rely solely on the
26 information contained in the certificate provided in paragraph 1,
27 subdivision (b) of this subsection but must instead obtain such additional
28 information as required in order to be entitled to the deduction.

29 4. If a prime contractor is entitled to a deduction by complying
30 with paragraph 1 of this subsection, the department may require the
31 purchaser who caused the execution of the certificate to establish the
32 accuracy and completeness of the information required to be contained in
33 the certificate that would entitle the prime contractor to the deduction.
34 If the purchaser cannot establish the accuracy and completeness of the
35 information, the purchaser is liable in an amount equal to any tax,
36 penalty and interest that the prime contractor would have been required to
37 pay under article 1 of this chapter if the prime contractor had not
38 complied with paragraph 1 of this subsection. Payment of the amount under
39 this paragraph exempts the purchaser from liability for any tax imposed
40 under article 4 of this chapter. The amount shall be treated as a
41 transaction privilege tax to the purchaser and as tax revenues collected
42 from the prime contractor in order to designate the distribution base for
43 purposes of section 42-5029.

1 D. Subcontractors or others who perform modification activities are
2 not subject to tax if they can demonstrate that the job was within the
3 control of a prime contractor or contractors or a dealership of
4 manufactured buildings and that the prime contractor or dealership is
5 liable for the tax on the gross income, gross proceeds of sales or gross
6 receipts attributable to the job and from which the subcontractors or
7 others were paid.

8 E. Amounts received by a contractor for a project are excluded from
9 the contractor's gross proceeds of sales or gross income derived from the
10 business if the person who hired the contractor executes and provides a
11 certificate to the contractor stating that the person providing the
12 certificate is a prime contractor and is liable for the tax under article
13 1 of this chapter. The department shall prescribe the form of the
14 certificate. If the contractor has reason to believe that the information
15 contained on the certificate is erroneous or incomplete, the department
16 may disregard the certificate. If the person who provides the certificate
17 is not liable for the tax as a prime contractor, that person is
18 nevertheless deemed to be the prime contractor in lieu of the contractor
19 and is subject to the tax under this section on the gross receipts or
20 gross proceeds received by the contractor.

21 F. Every person engaging or continuing in this state in the
22 business of prime contracting or dealership of manufactured buildings
23 shall present to the purchaser of such prime contracting or manufactured
24 building a written receipt of the gross income or gross proceeds of sales
25 from such activity and shall separately state the taxes to be paid
26 pursuant to this section.

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

33 H. For the purposes of section 42-5032.02, from and after
34 September 30, 2013, the department shall separately account for revenues
35 reported and collected under the prime contracting classification from any
36 prime contractor engaged in the construction of any buildings and
37 associated improvements that are for the benefit of a manufacturing
38 facility. For the purposes of this subsection, "associated improvements"
39 and "manufacturing facility" have the same meanings prescribed in section
40 42-5032.02.

41 I. The gross proceeds of sales or gross income derived from a
42 contract for lawn maintenance services is not subject to tax under this
43 section if the contract does not include landscaping activities. Lawn
44 maintenance service is a service pursuant to section 42-5061, subsection
45 A, paragraph 1, and includes lawn mowing and edging, weeding, repairing

1 sprinkler heads or drip irrigation heads, seasonal replacement of flowers,
2 refreshing gravel, lawn dethatching, seeding winter lawns, leaf and debris
3 collection and removal, tree or shrub pruning or clipping, garden and
4 gravel raking and applying pesticides, as defined in section 3-361, and
5 fertilizer materials, as defined in section 3-262.

6 J. Except as provided in subsection 0 of this section, the gross
7 proceeds of sales or gross income derived from landscaping activities is
8 subject to tax under this section. Landscaping includes installing lawns,
9 grading or leveling ground, installing gravel or boulders, planting trees
10 and other plants, felling trees, removing or mulching tree stumps,
11 removing other imbedded plants, building irrigation berms, installing
12 railroad ties and installing underground sprinkler or watering systems.

13 K. The portion of gross proceeds of sales or gross income
14 attributable to the actual direct costs of providing architectural or
15 engineering services that are incorporated in a contract is not subject to
16 tax under this section. For the purposes of this subsection, "direct
17 costs" means the portion of the actual costs that are directly expended in
18 providing architectural or engineering services.

19 L. Operating a landfill or a solid waste disposal facility is not
20 subject to taxation under this section, including filling, compacting and
21 creating vehicle access to and from cell sites within the landfill.
22 Constructing roads to a landfill or solid waste disposal facility and
23 constructing cells within a landfill or solid waste disposal facility may
24 be deemed prime contracting under this section.

25 M. The following apply in determining the taxable situs of sales of
26 manufactured buildings:

27 1. For sales in this state where the manufactured building dealer
28 contracts to deliver the building to a setup site or to perform the setup
29 in this state, the taxable situs is the setup site.

30 2. For sales in this state where the manufactured building dealer
31 does not contract to deliver the building to a setup site or does not
32 perform the setup, the taxable situs is the location of the dealership
33 where the building is delivered to the buyer.

34 3. For sales in this state where the manufactured building dealer
35 contracts to deliver the building to a setup site that is outside this
36 state, the situs is outside this state and the transaction is excluded
37 from tax.

38 N. The gross proceeds of sales or gross income attributable to a
39 written contract for design phase services or professional services,
40 executed before modification begins and with terms, conditions and pricing
41 of all of these services separately stated in the contract from those for
42 construction phase services, is not subject to tax under this section,
43 regardless of whether the services are provided sequential to or
44 concurrent with prime contracting activities that are subject to tax under
45 this section. This subsection does not include the gross proceeds of

1 sales or gross income attributable to construction phase services. For
2 the purposes of this subsection:

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

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

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

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

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

19 (ii) The amount of an adjustment, if any, to the guaranteed maximum
20 price as set in the contract for modification work. For the purposes of
21 this item, "guaranteed maximum price" means the amount guaranteed to be
22 the maximum amount due to a prime contractor for the performance of all
23 modification work for the project.

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

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

31 (e) Inspection to determine the dates of substantial completion or
32 final completion.

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

39 (g) Preparation of status reports after modification work has begun
40 detailing the progress of work performed, including preparation of any of
41 the following:

42 (i) Master schedule updates.

43 (ii) Modification work cash flow projection updates.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (vi) Any bond and insurance premiums.

4 (vii) Any applicable taxes.

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

7 (f) Reviewing and evaluating cost estimates and project documents
8 to prepare recommendations on site use, site improvements, selection of
9 materials, building systems and equipment, modification feasibility,
10 availability of materials and labor, local modification activity as
11 related to schedules and time requirements for modification work.

12 (g) Preparing the plan and procedures for selection of
13 subcontractors, including any prequalification of subcontractor
14 candidates.

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

20 0. The gross proceeds of sales or gross income derived from a
21 contract with the owner of real property or improvements to real property
22 for the maintenance, repair, replacement or alteration of existing
23 property is not subject to tax under this section if the contract does not
24 include modification activities, except as specified in this subsection.
25 The gross proceeds of sales or gross income derived from a de minimis
26 amount of modification activity does not subject the contract or any part
27 of the contract to tax under this section. For the purposes of this
28 subsection:

29 1. Tangible personal property that is incorporated or fabricated
30 into a project described in this subsection may be subject to the amount
31 prescribed in section 42-5008.01.

32 2. Each contract is independent of any other contract, except that
33 any change order that directly relates to the scope of work of the
34 original contract shall be treated the same as the original contract under
35 this chapter, regardless of the amount of modification activities included
36 in the change order. If a change order does not directly relate to the
37 scope of work of the original contract, the change order shall be treated
38 as a new contract, with the tax treatment of any subsequent change order
39 to follow the tax treatment of the contract to which the scope of work of
40 the subsequent change order directly relates.

41 P. Notwithstanding subsection 0 of this section, a contract that
42 primarily involves surface or subsurface improvements to land and that is
43 subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 is
44 taxable under this section, even if the contract also includes vertical
45 improvements. Agencies that are subject to procurement processes under

1 those provisions shall include in the request for proposals a notice to
2 bidders when those projects are subject to this section. This subsection
3 does not apply to contracts with:

4 1. Community facilities districts, fire districts, county
5 television improvement districts, community park maintenance districts,
6 cotton pest control districts, hospital districts, pest abatement
7 districts, health service districts, agricultural improvement districts,
8 county free library districts, county jail districts, county stadium
9 districts, special health care districts, public health services
10 districts, theme park districts or revitalization districts.

11 2. Any special taxing district not specified in paragraph 1 of this
12 subsection if the district does not substantially engage in the
13 modification, maintenance, repair, replacement or alteration of surface or
14 subsurface improvements to land.

15 Q. Notwithstanding subsection R, paragraph 10 of this section, a
16 person owning real property who enters into a contract for sale of the
17 real property, who is responsible to the new owner of the property for
18 modifications made to the property in the period subsequent to the
19 transfer of title and who receives a consideration for the modifications
20 is considered a prime contractor solely for purposes of taxing the gross
21 proceeds of sale or gross income received for the modifications made
22 subsequent to the transfer of title. The original owner's gross proceeds
23 of sale or gross income received for the modifications shall be determined
24 according to the following methodology:

25 1. If any part of the contract for sale of the property specifies
26 amounts to be paid to the original owner for the modifications to be made
27 in the period subsequent to the transfer of title, the amounts are
28 included in the original owner's gross proceeds of sale or gross income
29 under this section. Proceeds from the sale of the property that are
30 received after transfer of title and that are unrelated to the
31 modifications made subsequent to the transfer of title are not considered
32 gross proceeds of sale or gross income from the modifications.

33 2. If the original owner enters into an agreement separate from the
34 contract for sale of the real property providing for amounts to be paid to
35 the original owner for the modifications to be made in the period
36 subsequent to the transfer of title to the property, the amounts are
37 included in the original owner's gross proceeds of sale or gross income
38 received for the modifications made subsequent to the transfer of title.

39 3. If the original owner is responsible to the new owner for
40 modifications made to the property in the period subsequent to the
41 transfer of title and derives any gross proceeds of sale or gross income
42 from the project subsequent to the transfer of title other than a delayed
43 disbursement from escrow unrelated to the modifications, it is presumed
44 that the amounts are received for the modifications made subsequent to the

1 transfer of title unless the contrary is established by the owner through
2 its books, records and papers kept in the regular course of business.

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

5 R. For the purposes of this section:

6 1. "Alteration" means an activity or action that causes a direct
7 physical change to existing property. For the purposes of this paragraph:

8 (a) For existing property that is properly classified as class two
9 property under section 42-12002, paragraph 1, subdivision (c) or paragraph
10 2, subdivision (c) and that is used for residential purposes, class three
11 property under section 42-12003 or class four property under section
12 42-12004, this paragraph does not apply if the contract amount is more
13 than twenty-five percent of the most recent full cash value established
14 under chapter 13, article 2 of this title as of the date of any bid for
15 the work or the date of the contract, whichever value is higher.

16 (b) For all existing property other than existing property
17 described in subdivision (a) of this paragraph, this paragraph does not
18 apply if the contract amount is more than \$750,000.

19 (c) Project elements may not be artificially separated from a
20 contract to cause a project to qualify as an alteration. The department
21 has the burden of proof that project elements have been artificially
22 separated from a contract.

23 (d) If a project for which the owner and the person performing the
24 work reasonably believed, at the inception of the contract, would be
25 treated as an alteration under this paragraph and, on completion of the
26 project, the project exceeded the applicable threshold described in either
27 subdivision (a) or (b) of this paragraph by no more than twenty-five
28 percent of the applicable threshold for any reason, the work performed
29 under the contract qualifies as an alteration.

30 (e) A change order that directly relates to the scope of work of
31 the original contract shall be treated as part of the original contract,
32 and the contract amount shall include any amount attributable to a change
33 order that directly relates to the scope of work of the original contract.

34 (f) Alteration does not include maintenance, repair or replacement.

35 2. "Contracting" means engaging in business as a contractor.

36 3. "Contractor" is synonymous with the term "builder" and means any
37 person or organization that undertakes to or offers to undertake to, or
38 purports to have the capacity to undertake to, or submits a bid to, or
39 does personally or by or through others, modify any building, highway,
40 road, railroad, excavation, manufactured building or other structure,
41 project, development or improvement, or to do any part of such a project,
42 including the erection of scaffolding or other structure or works in
43 connection with such a project, and includes subcontractors and specialty
44 contractors. For all purposes of taxation or deduction, this definition

1 shall govern without regard to whether or not such a contractor is acting
2 in fulfillment of a contract.

3 4. "Manufactured building" means a manufactured home, mobile home
4 or factory-built building, as defined in section 41-4001.

5 5. "Manufactured building dealer" means a dealer who either:

6 (a) Is licensed pursuant to title 41, chapter 37, article 4 and who
7 sells manufactured buildings to the final consumer.

8 (b) Supervises, performs or coordinates the excavation and
9 completion of site improvements or the setup of a manufactured building,
10 including the contracting, if any, with any subcontractor or specialty
11 contractor for the completion of the contract.

12 6. "Modification" means construction, grading and leveling ground,
13 wreckage or demolition. Modification does not include:

14 (a) Any project described in subsection 0 of this section.

15 (b) Any wreckage or demolition of existing property, or any other
16 activity that is a necessary component of a project described in
17 subsection 0 of this section.

18 (c) Any mobilization or demobilization related to a project
19 described in subsection 0 of this section, such as the erection or removal
20 of temporary facilities to be used by those persons working on the
21 project.

22 7. "Modify" means to make a modification or cause a modification to
23 be made.

24 8. "Owner" means the person that holds title to the real property
25 or improvements to real property that is the subject of the work, as well
26 as an agent of the title holder and any person with the authority to
27 perform or authorize work on the real property or improvements, including
28 a tenant and a property manager. For the purposes of subsection 0 of this
29 section, a person who is hired by a general contractor that is hired by an
30 owner, or a subcontractor of a general contractor that is hired by an
31 owner, is considered to be hired by the owner.

32 9. "Prime contracting" means engaging in business as a prime
33 contractor.

34 10. "Prime contractor" means a contractor who supervises, performs
35 or coordinates the modification of any building, highway, road, railroad,
36 excavation, manufactured building or other structure, project, development
37 or improvement, including the contracting, if any, with any subcontractors
38 or specialty contractors and who is responsible for the completion of the
39 contract. Except as provided in subsections E and Q of this section, a
40 person who owns real property, who engages one or more contractors to
41 modify that real property and who does not itself modify that real
42 property is not a prime contractor within the meaning of this paragraph
43 regardless of the existence of a contract for sale or the subsequent sale
44 of that real property.

1 11. "Replacement" means the removal from service of one component
2 or system of existing property or tangible personal property installed in
3 existing property, including machinery or equipment, and the installation
4 of a new component or system or new tangible personal property, including
5 machinery or equipment, that provides the same, a similar or an upgraded
6 design or functionality, regardless of the contract amount and regardless
7 of whether the existing component or system or existing tangible personal
8 property is physically removed from the existing property.

9 12. "Sale of a used manufactured building" does not include a lease
10 of a used manufactured building.

11 Sec. 11. Section 42-5159, Arizona Revised Statutes, is amended to
12 read:

13 42-5159. Exemptions

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

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

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

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

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

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

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

1 or consumption of the property was outside this state, unless the property
2 is used in 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
6 engaged in producing livestock, poultry, or livestock or poultry products,
7 or who are engaged in feeding livestock or poultry commercially. For the
8 purposes of this paragraph, "poultry" includes ratites.

9 8. Purchases of:

10 (a) Livestock and poultry to persons engaging in the businesses of
11 farming, ranching or producing livestock or poultry.

12 (b) Livestock and poultry feed, salts, vitamins and other additives
13 sold to persons for use or consumption in the businesses of farming,
14 ranching and producing or feeding livestock or poultry or for use or
15 consumption in noncommercial boarding of livestock. For the purposes of
16 this paragraph, "poultry" includes ratites.

17 9. Propagative materials for use in commercially producing
18 agricultural, horticultural, viticultural or floricultural crops in this
19 state. For the purposes of this paragraph, "propagative materials":

20 (a) Includes seeds, seedlings, roots, bulbs, liners, transplants,
21 cuttings, soil and plant additives, agricultural minerals, auxiliary soil
22 and plant substances, micronutrients, fertilizers, insecticides,
23 herbicides, fungicides, soil fumigants, desiccants, rodenticides,
24 adjuvants, plant nutrients and plant growth regulators.

25 (b) Except for use in commercially producing industrial hemp as
26 defined in section 3-311, does not include any propagative materials used
27 in producing any part, including seeds, of any plant of the genus
28 cannabis.

29 10. Tangible personal property not exceeding \$200 in any one month
30 purchased by an individual at retail outside the continental limits of the
31 United States for the individual's own personal use and enjoyment.

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

36 12. Materials that are purchased by or for publicly funded
37 libraries, including school district libraries, charter school libraries,
38 community college libraries, state university libraries or federal, state,
39 county or municipal libraries, for use by the public as follows:

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

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

42 13. Tangible personal property purchased by:

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

1 (b) A hospital operated by this state or a political subdivision of
2 this state.

3 (c) A licensed nursing care institution or a licensed residential
4 care institution or a residential care facility operated in conjunction
5 with a licensed nursing care institution or a licensed kidney dialysis
6 center, which provides medical services, nursing services or health
7 related services and is not used or held for profit.

8 (d) A qualifying health care organization, as defined in section
9 42-5001, if the tangible personal property is used by the organization
10 solely to provide health and medical related educational and charitable
11 services.

12 (e) A qualifying health care organization as defined in section
13 42-5001 if the organization is dedicated to providing educational,
14 therapeutic, rehabilitative and family medical education training for
15 blind and visually impaired children and children with multiple
16 disabilities from the time of birth to age twenty-one.

17 (f) A nonprofit charitable organization that has qualified under
18 section 501(c)(3) of the United States internal revenue code and that
19 engages in and uses such property exclusively in programs for persons with
20 mental or physical disabilities if the programs are exclusively for
21 training, job placement, rehabilitation or testing.

22 (g) A person that is subject to tax under this chapter by reason of
23 being engaged in business classified under section 42-5075, or a
24 subcontractor working under the control of a person that is engaged in
25 business classified under section 42-5075, if the tangible personal
26 property is any of the following:

27 (i) Incorporated or fabricated by the person into a structure,
28 project, development or improvement in fulfillment of a contract.

29 (ii) Incorporated or fabricated by the person into any project
30 described in section 42-5075, subsection 0.

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

33 (h) A person that is not subject to tax under section 42-5075 and
34 that has been provided a copy of a certificate described in section
35 42-5009, subsection L, if the property purchased is incorporated or
36 fabricated by the person into the real property, structure, project,
37 development or improvement described in the certificate.

38 (i) A nonprofit charitable organization that has qualified under
39 section 501(c)(3) of the internal revenue code if the property is
40 purchased from the parent or an affiliate organization that is located
41 outside this state.

42 (j) A qualifying community health center as defined in section
43 42-5001.

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

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

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

17 (n) A qualifying health sciences educational institution as defined
18 in section 42-5001.

19 (o) A person representing or working on behalf of any person
20 described in subdivision (a), (b), (c), (d), (e), (f), (i), (j), (k), (m)
21 or (n) of this paragraph, if the tangible personal property is
22 incorporated or fabricated into a project described in section 42-5075,
23 subsection 0.

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

29 15. Tangible personal property sold by:

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

33 (b) A nonprofit organization that is exempt from taxation under
34 section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if
35 the organization is associated with a major league baseball team or a
36 national touring professional golfing association and no part of the
37 organization's net earnings inures to the benefit of any private
38 shareholder or individual. This subdivision does not apply to an
39 organization that is owned, managed or controlled, in whole or in part, by
40 a major league baseball team, or its owners, officers, employees or
41 agents, or by a major league baseball association or professional golfing
42 association, or its owners, officers, employees or agents, unless the
43 organization conducted or operated exhibition events in this state before
44 January 1, 2018 that were exempt from transaction privilege tax under
45 section 42-5073.

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

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

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

15 18. Prescription eyeglasses and contact lenses.

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

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

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

25 22. Food, as provided in and subject to the conditions of article 3
26 of this chapter and sections 42-5074 and 42-6017.

27 23. Items purchased with United States department of agriculture
28 coupons issued under the supplemental nutrition assistance program
29 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
30 7 United States Code sections 2011 through 2036b) by the United States
31 department of agriculture food and nutrition service or food instruments
32 issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat.
33 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
34 section 1786).

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

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

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

- 1 27. Lottery tickets or shares purchased pursuant to title 5,
2 chapter 5.1, article 1.
- 3 28. Textbooks, sold by a bookstore, that are required by any state
4 university or community college.
- 5 29. Magazines, other periodicals or other publications produced by
6 this state to encourage tourist travel.
- 7 30. Paper machine clothing, such as forming fabrics and dryer
8 felts, purchased by a paper manufacturer and directly used or consumed in
9 paper manufacturing.
- 10 31. Coal, petroleum, coke, natural gas, virgin fuel oil and
11 electricity purchased by a qualified environmental technology
12 manufacturer, producer or processor as defined in section 41-1514.02 and
13 directly used or consumed in generating or providing on-site power or
14 energy solely for environmental technology manufacturing, producing or
15 processing or environmental protection. This paragraph applies for twenty
16 full consecutive calendar or fiscal years from the date the first paper
17 manufacturing machine is placed in service. In the case of an
18 environmental technology manufacturer, producer or processor that does not
19 manufacture paper, the time period begins with the date the first
20 manufacturing, processing or production equipment is placed in service.
- 21 32. Motor vehicles that are removed from inventory by a motor
22 vehicle dealer as defined in section 28-4301 and that are provided to:
- 23 (a) Charitable or educational institutions that are exempt from
24 taxation under section 501(c)(3) of the internal revenue code.
- 25 (b) Public educational institutions.
- 26 (c) State universities or affiliated organizations of a state
27 university if no part of the organization's net earnings inures to the
28 benefit of any private shareholder or individual.
- 29 33. Natural gas or liquefied petroleum gas used to propel a motor
30 vehicle.
- 31 34. Machinery, equipment, technology or related supplies that are
32 only useful to assist a person with a physical disability as defined in
33 section 46-191 or a person who has a developmental disability as defined
34 in section 36-551 or has a head injury as defined in section 41-3201 to be
35 more independent and functional.
- 36 35. Liquid, solid or gaseous chemicals used in manufacturing,
37 processing, fabricating, mining, refining, metallurgical operations,
38 research and development and, beginning on January 1, 1999, printing, if
39 using or consuming the chemicals, alone or as part of an integrated system
40 of chemicals, involves direct contact with the materials from which the
41 product is produced for the purpose of causing or allowing a chemical or
42 physical change to occur in the materials as part of the production
43 process. This paragraph does not include chemicals that are used or
44 consumed in activities such as packaging, storage or transportation but
45 does not affect any exemption for such chemicals that is otherwise

1 provided by this section. For the purposes of this paragraph, "printing"
2 means a commercial printing operation and includes job printing,
3 engraving, embossing, copying and bookbinding.

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

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

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

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

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

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

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

1 included in the measure of the tax imposed by article 1 of this chapter or
2 if the personal 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
5 contract for telecommunications services that are taxable under section
6 42-5064.

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

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

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

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

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

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

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

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

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

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

1 50. Application services that are designed to assess or test
2 student learning or to promote curriculum design or enhancement purchased
3 by or for any school district, charter school, community college or state
4 university. 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
8 or 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
15 qualified business under section 41-1516 in harvesting, processing or
16 transporting qualifying forest products removed from qualifying projects
17 as defined in section 41-1516.

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

25 54. Coal acquired from an owner or operator of a power plant by a
26 person that is responsible for refining coal if both of the following
27 apply:

28 (a) The transfer of title or possession of the coal is for the
29 purpose of refining the coal.

30 (b) The title or possession of the coal is transferred back to the
31 owner or operator of the power plant after completion of the coal refining
32 process. For the purposes of this subdivision, "coal refining process"
33 means the application of a coal additive system that aids the reduction of
34 power plant emissions during the combustion of coal and the treatment of
35 flue gas.

36 55. Tangible personal property incorporated or fabricated into a
37 project described in section 42-5075, subsection 0, that is located within
38 the exterior boundaries of an Indian reservation for which the owner, as
39 defined in section 42-5075, of the project is an Indian tribe or an
40 affiliated Indian. For the purposes of this paragraph:

41 (a) "Affiliated Indian" means an individual Native American Indian
42 who is duly registered on the tribal rolls of the Indian tribe for whose
43 benefit the Indian reservation was established.

1 (b) "Indian reservation" means all lands that are within the limits
2 of areas set aside by the United States for the exclusive use and
3 occupancy of an Indian tribe by treaty, law or executive order and that
4 are recognized as Indian reservations by the United States department of
5 the interior.

6 (c) "Indian tribe" means any organized nation, tribe, band or
7 community that is recognized as an Indian tribe by the United States
8 department of the interior and includes any entity formed under the laws
9 of the Indian tribe.

10 56. Cash equivalents, precious metal bullion and monetized bullion
11 purchased by the ultimate consumer, but coins or other forms of money for
12 manufacture into jewelry or works of art are subject to tax, and tangible
13 personal property that is purchased through the redemption of any cash
14 equivalent by the holder as a means of payment for goods that are subject
15 to tax under this article is subject to tax. For the purposes of this
16 paragraph:

17 (a) "Cash equivalents" means items, whether or not negotiable, that
18 are sold to one or more persons, through which a value denominated in
19 money is purchased in advance and that may be redeemed in full or in part
20 for tangible personal property, intangibles or services. Cash equivalents
21 include gift cards, stored value cards, gift certificates, vouchers,
22 traveler's checks, money orders or other tangible instruments or orders.
23 Cash equivalents do not include either of the following:

24 (i) Items that are sold to one or more persons and through which a
25 value is not denominated in money.

26 (ii) Prepaid calling cards for telecommunications services.

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

31 (c) "Precious metal bullion" means precious metal, including gold,
32 silver, platinum, rhodium and palladium, that has been smelted or refined
33 so that its value depends on its contents and not on its form.

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

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

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

7 3. Tangible personal property sold to persons engaged in business
8 classified under the telecommunications classification under section
9 42-5064, including a person representing or working on behalf of such a
10 person in a manner described in section 42-5075, subsection 0, and
11 consisting of central office switching equipment, switchboards, private
12 branch exchange equipment, microwave radio equipment and carrier equipment
13 including optical fiber, coaxial cable and other transmission media that
14 are components of carrier systems.

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

20 5. Machinery and equipment used directly for energy storage for
21 later electrical use. For the purposes of this paragraph:

22 (a) "Electric utility scale" means a person that is engaged in a
23 business activity described in section 42-5063, subsection A or such
24 person's equipment or wholesale electricity suppliers.

25 (b) "Energy storage" means commercially available technology for
26 electric utility scale that is capable of absorbing energy, storing energy
27 for a period of time and thereafter dispatching the energy and that uses
28 mechanical, chemical or thermal processes to store energy.

29 (c) "Machinery and equipment used directly" means all machinery and
30 equipment that are used for electric energy storage from the point of
31 receipt of such energy in order to facilitate storage of the electric
32 energy to the point where the electric energy is released.

33 6. Neat animals, horses, asses, sheep, ratites, swine or goats used
34 or to be used as breeding or production stock, including sales of
35 breedings or ownership shares in such animals used for breeding or
36 production.

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

41 8. Aircraft, navigational and communication instruments and other
42 accessories and related equipment sold to:

43 (a) A person:

44 (i) Holding, or exempted by federal law from obtaining, a federal
45 certificate of public convenience and necessity for use as, in conjunction

1 with or becoming part of an aircraft to be used to transport persons for
2 hire in intrastate, interstate or foreign commerce.

3 (ii) That is certificated or licensed under federal aviation
4 administration regulations (14 Code of Federal Regulations part 121 or
5 135) as a scheduled or unscheduled carrier of persons for hire for use as
6 or in conjunction with or becoming part of an aircraft to be used to
7 transport persons for hire in intrastate, interstate or foreign commerce.

8 (iii) Holding a foreign air carrier permit for air transportation
9 for use as or in conjunction with or becoming a part of aircraft to be
10 used to transport persons, property or United States mail in intrastate,
11 interstate or foreign commerce.

12 (iv) Operating an aircraft to transport persons in any manner for
13 compensation or hire, or for use in a fractional ownership program that
14 meets the requirements of federal aviation administration regulations (14
15 Code of Federal Regulations part 91, subpart K), including as an air
16 carrier, a foreign air carrier or a commercial operator or under a
17 restricted category, within the meaning of 14 Code of Federal Regulations,
18 regardless of whether the operation or aircraft is regulated or certified
19 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code
20 of Federal Regulations.

21 (v) That will lease or otherwise transfer operational control,
22 within the meaning of federal aviation administration operations
23 specification A008, or its successor, of the aircraft, instruments or
24 accessories to one or more persons described in item (i), (ii), (iii) or
25 (iv) of this subdivision, subject to section 42-5009, subsection Q.

26 (b) Any foreign government.

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

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

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

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

43 12. Buses or other urban mass transit vehicles that are used
44 directly to transport persons or property for hire or pursuant to a
45 governmentally adopted and controlled urban mass transportation program

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

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

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

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

18 (a) "OFF-HIGHWAY VEHICLES" MEANS OFF-HIGHWAY VEHICLES AS DEFINED IN
19 SECTION 28-1171 THAT ARE MODIFIED AT THE TIME OF SALE TO FUNCTION AS A
20 TRACTOR OR TO TOW TRACTOR-DRAWN IMPLEMENTS AND THAT ARE NOT EQUIPPED WITH
21 A MODIFIED EXHAUST SYSTEM TO INCREASE HORSEPOWER OR SPEED OR AN ENGINE
22 THAT IS MORE THAN ONE THOUSAND CUBIC CENTIMETERS OR THAT HAVE A MAXIMUM
23 SPEED OF FIFTY MILES PER HOUR OR LESS.

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

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

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

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

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

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

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

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

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

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

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

34 18. Machinery and equipment that are used directly in feeding
35 poultry, environmentally controlling housing for poultry, moving eggs
36 within a production and packaging facility or sorting or cooling eggs.
37 This exemption does not apply to vehicles used for transporting eggs.

38 19. Machinery or equipment, including related structural components
39 and containment structures, that is employed in connection with
40 manufacturing, processing, fabricating, job printing, refining, mining,
41 natural gas pipelines, metallurgical operations, telecommunications,
42 producing or transmitting electricity or research and development and that
43 is used directly to meet or exceed rules or regulations adopted by the
44 federal energy regulatory commission, the United States environmental
45 protection agency, the United States nuclear regulatory commission, the

1 Arizona department of environmental quality or a political subdivision of
2 this state to prevent, monitor, control or reduce land, water or air
3 pollution. FOR THE PURPOSES OF THIS PARAGRAPH, "CONTAINMENT STRUCTURE"
4 MEANS A STRUCTURE THAT PREVENTS, MONITORS, CONTROLS OR REDUCES NOXIOUS OR
5 HARMFUL DISCHARGE INTO THE ENVIRONMENT.

6 20. Machinery and equipment that are used in commercially producing
7 livestock, livestock products or agricultural, horticultural, viticultural
8 or floricultural crops or products in this state, including production by
9 a person representing or working on behalf of such a person in a manner
10 described in section 42-5075, subsection 0, if the machinery and equipment
11 are used directly and primarily to prevent, monitor, control or reduce
12 air, water or land pollution.

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

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

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

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

28 22. Qualifying equipment that is purchased from and after June 30,
29 2004 through June 30, 2024 by a qualified business under section 41-1516
30 for harvesting or processing qualifying forest products removed from
31 qualifying projects as defined in section 41-1516. To qualify for this
32 exemption, the qualified business must obtain and present its
33 certification from the Arizona commerce authority at the time of purchase.

34 23. Machinery, equipment, materials and other tangible personal
35 property used directly and predominantly to construct a qualified
36 environmental technology manufacturing, producing or processing facility
37 as described in section 41-1514.02. This paragraph applies for ten full
38 consecutive calendar or fiscal years after the start of initial
39 construction.

40 24. Computer data center equipment sold to the owner, operator or
41 qualified colocation tenant of a computer data center that is certified by
42 the Arizona commerce authority under section 41-1519 or an authorized
43 agent of the owner, operator or qualified colocation tenant during the
44 qualification period for use in the qualified computer data center. For
45 the purposes of this paragraph, "computer data center", "computer data

1 center equipment", "qualification period" and "qualified colocation
2 tenant" have the same meanings prescribed in section 41-1519.

3 C. The exemptions provided by subsection B of this section do not
4 include:

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

9 2. Janitorial equipment and hand tools.

10 3. Office equipment, furniture and supplies.

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

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

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

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

21 8. Machinery and equipment or tangible personal property used by a
22 contractor in performing a contract.

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

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

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

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

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

41 1. Fees charged by a municipally owned utility to persons
42 constructing residential, commercial or industrial developments or
43 connecting residential, commercial or industrial developments to a
44 municipal utility system or systems if the fees are segregated and used

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

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

8 G. The tax levied by this article does not apply to the purchase
9 price of electricity, natural gas or liquefied petroleum gas by:

10 1. A qualified manufacturing or smelting business. A utility that
11 claims this deduction shall report each month, on a form prescribed by the
12 department, the name and address of each qualified manufacturing or
13 smelting business for which this deduction is taken. This paragraph
14 applies to gas transportation services. For the purposes of this
15 paragraph:

16 (a) "Gas transportation services" means the services of
17 transporting natural gas to a natural gas customer or to a natural gas
18 distribution facility if the natural gas was purchased from a supplier
19 other than the utility.

20 (b) "Manufacturing" means the performance as a business of an
21 integrated series of operations that places tangible personal property in
22 a form, composition or character different from that in which it was
23 acquired and transforms it into a different product with a distinctive
24 name, character or use. Manufacturing does not include job printing,
25 publishing, packaging, mining, generating electricity or operating a
26 restaurant.

27 (c) "Qualified manufacturing or smelting business" means one of the
28 following:

29 (i) A business that manufactures or smelts tangible products in
30 this state, of which at least fifty-one percent of the manufactured or
31 smelted products will be exported out of state for incorporation into
32 another product or sold out of state for a final sale.

33 (ii) A business that derives at least fifty-one percent of its
34 gross income from the sale of manufactured or smelted products
35 manufactured or smelted by the business.

36 (iii) A business that uses at least fifty-one percent of its square
37 footage in this state for manufacturing or smelting and business
38 activities directly related to manufacturing or smelting.

39 (iv) A business that employs at least fifty-one percent of its
40 workforce in this state in manufacturing or smelting and business
41 activities directly related to manufacturing or smelting.

42 (v) A business that uses at least fifty-one percent of the value of
43 its capitalized assets in this state, as reflected on the business's books
44 and records, for manufacturing or smelting and business activities
45 directly related to manufacturing or smelting.

1 (d) "Smelting" means to melt or fuse a metalliferous mineral, often
2 with an accompanying chemical change, usually to separate the metal.

3 2. A business that operates an international operations center in
4 this state and that is certified by the Arizona commerce authority
5 pursuant to section 41-1520.

6 H. A city or town may exempt proceeds from sales of paintings,
7 sculptures or similar works of fine art if such works of fine art are sold
8 by the original artist. For the purposes of this subsection, fine art
9 does not include an art creation such as jewelry, macrame, glasswork,
10 pottery, woodwork, metalwork, furniture or clothing if the art creation
11 has a dual purpose, both aesthetic and utilitarian, whether sold by the
12 artist or by another person.

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

14 1. "Agricultural aircraft" means an aircraft that is built for
15 agricultural use for the aerial application of pesticides or fertilizer or
16 for aerial seeding.

17 2. "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
22 attached as a component part of an aircraft that is owned or operated by a
23 certificated or licensed carrier of persons or property.

24 3. "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 J. 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
30 meanings prescribed in section 42-5063.

31 Sec. 12. Section 42-6004, Arizona Revised Statutes, as amended by
32 Laws 2021, chapter 417, section 10, is amended to read:

33 42-6004. Exemption from municipal tax; definitions

34 A. A city, town or special taxing district shall not levy a
35 transaction privilege, sales, use or other similar tax on:

36 1. Exhibition events in this state sponsored, conducted or operated
37 by a nonprofit organization that is exempt from taxation under section
38 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
39 organization is associated with a major league baseball team or a national
40 touring professional golfing association and no part of the organization's
41 net earnings inures to the benefit of any private shareholder or
42 individual. This paragraph does not apply to an organization that is
43 owned, managed or controlled, in whole or in part, by a major league
44 baseball team, or its owners, officers, employees or agents, or by a major
45 league baseball association or professional golfing association, or its

1 owners, officers, employees or agents, unless the organization conducted
2 or operated exhibition events in this state before January 1, 2018 that
3 were exempt from state transaction privilege tax under section 42-5073.

4 2. Interstate telecommunications services, which include that
5 portion of telecommunications services, such as subscriber line service,
6 allocable by federal law to interstate telecommunications service.

7 3. Sales of warranty or service contracts.

8 4. Sales of motor vehicles to nonresidents of this state for use
9 outside this state if the motor vehicle dealer ships or delivers the motor
10 vehicle to a destination outside this state.

11 5. Interest on finance contracts.

12 6. Dealer documentation fees on the sales of motor vehicles.

13 7. Orthodontic devices dispensed by a dental professional who is
14 licensed under title 32, chapter 11 to a patient as part of the practice
15 of dentistry.

16 8. Sales of internet access services to the person's subscribers
17 and customers. For the purposes of this paragraph:

18 (a) "Internet" means the computer and telecommunications facilities
19 that comprise the interconnected worldwide network of networks that employ
20 the transmission control protocol or internet protocol, or any predecessor
21 or successor protocol, to communicate information of all kinds by wire or
22 radio.

23 (b) "Internet access" means a service that enables users to access
24 content, information, electronic mail or other services over the internet.
25 Internet access does not include telecommunication services provided by a
26 common carrier.

27 9. The gross proceeds of sales or gross income retained by the
28 Arizona exposition and state fair board from ride ticket sales at the
29 annual Arizona state fair.

30 10. Leasing real property between affiliated companies, businesses,
31 persons or reciprocal insurers. For the purposes of this paragraph:

32 (a) "Affiliated companies, businesses, persons or reciprocal
33 insurers" means the lessor holds a controlling interest in the lessee, the
34 lessee holds a controlling interest in the lessor, affiliated persons hold
35 a controlling interest in both the lessor and the lessee, or an unrelated
36 person holds a controlling interest in both the lessor and lessee.

37 (b) "Affiliated persons" means members of the individual's family
38 or persons who have ownership or control of a business entity.

39 (c) "Controlling interest" means direct or indirect ownership of at
40 least eighty percent of the voting shares of a corporation or of the
41 interests in a company, business or person other than a corporation.

42 (d) "Members of the individual's family" means the individual's
43 spouse and brothers and sisters, whether by whole or half blood, including
44 adopted persons, ancestors and lineal descendants.

1 (e) "Reciprocal insurer" has the same meaning prescribed in section
2 20-762.

3 11. The gross proceeds of sales or gross income derived from a
4 contract for the installation, assembly, repair or maintenance of
5 machinery, equipment or other tangible personal property that is described
6 in section 42-5061, subsection B and that has independent functional
7 utility, pursuant to the following provisions:

8 (a) The deduction provided in this paragraph includes the gross
9 proceeds of sales or gross income derived from all of the following:

10 (i) Any activity performed on machinery, equipment or other
11 tangible personal property with independent functional utility.

12 (ii) Any activity performed on any tangible personal property
13 relating to machinery, equipment or other tangible personal property with
14 independent functional utility in furtherance of any of the purposes
15 provided for under subdivision (d) of this paragraph.

16 (iii) Any activity that is related to the activities described in
17 items (i) and (ii) of this subdivision, including inspecting the
18 installation of or testing the machinery, equipment or other tangible
19 personal property.

20 (b) The deduction provided in this paragraph does not include gross
21 proceeds of sales or gross income from the portion of any contracting
22 activity that consists of the development of, or modification to, real
23 property in order to facilitate the installation, assembly, repair,
24 maintenance or removal of machinery, equipment or other tangible personal
25 property described in section 42-5061, subsection B.

26 (c) The deduction provided in this paragraph shall be determined
27 without regard to the size or useful life of the machinery, equipment or
28 other tangible personal property.

29 (d) For the purposes of this paragraph, "independent functional
30 utility" means that the machinery, equipment or other tangible personal
31 property can independently perform its function without attachment to real
32 property, other than attachment for any of the following purposes:

33 (i) Assembling the machinery, equipment or other tangible personal
34 property.

35 (ii) Connecting items of machinery, equipment or other tangible
36 personal property to each other.

37 (iii) Connecting the machinery, equipment or other tangible
38 personal property, whether as an individual item or as a system of items,
39 to water, power, gas, communication or other services.

40 (iv) Stabilizing or protecting the machinery, equipment or other
41 tangible personal property during operation by bolting, burying or
42 performing other dissimilar nonpermanent connections to either real
43 property or real property improvements.

44 12. The leasing or renting of certified ignition interlock devices
45 installed pursuant to the requirements prescribed by section 28-1461. For

1 the purposes of this paragraph, "certified ignition interlock device" has
2 the same meaning prescribed in section 28-1301.

3 13. Computer data center equipment sold to the owner, operator or
4 qualified colocation tenant of a computer data center that is certified by
5 the Arizona commerce authority under section 41-1519 or an authorized
6 agent of the owner, operator or qualified colocation tenant during the
7 qualification period for use in the qualified computer data center. For
8 the purposes of this paragraph, "computer data center", "computer data
9 center equipment", "qualification period" and "qualified colocation
10 tenant" have the same meanings prescribed in section 41-1519.

11 14. The gross proceeds of sales or gross income derived from a
12 contract with the owner of real property or improvements to real property
13 for the maintenance, repair, replacement or alteration of existing
14 property, except as specified in this paragraph. The gross proceeds of
15 sales or gross income derived from a de minimis amount of modification
16 activity does not subject the contract or any part of the contract to tax.
17 For the purposes of this paragraph:

18 (a) Each contract is independent of another contract, except that
19 any change order that directly relates to the scope of work of the
20 original contract shall be treated the same as the original contract under
21 this paragraph, regardless of the amount of modification activities
22 included in the change order. If a change order does not directly relate
23 to the scope of work of the original contract, the change order shall be
24 treated as a new contract, with the tax treatment of any subsequent change
25 order to follow the tax treatment of the contract to which the scope of
26 work of the subsequent change order directly relates.

27 (b) Any term not defined in this paragraph that is defined in
28 section 42-5075 has the same meaning prescribed in section 42-5075.

29 (c) This paragraph does not apply to a contract that primarily
30 involves surface or subsurface improvements to land and that is subject to
31 title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the
32 contract also includes vertical improvements. If a city or town imposes a
33 tax on contracts that are subject to procurement processes under those
34 provisions, the city or town shall include in the request for proposals a
35 notice to bidders when those projects are subject to the tax. This
36 subdivision does not apply to contracts with:

37 (i) Community facilities districts, fire districts, county
38 television improvement districts, community park maintenance districts,
39 cotton pest control districts, hospital districts, pest abatement
40 districts, health service districts, agricultural improvement districts,
41 county free library districts, county jail districts, county stadium
42 districts, special health care districts, public health services
43 districts, theme park districts or revitalization districts.

44 (ii) Any special taxing district not specified in item (i) of this
45 subdivision if the district does not substantially engage in the

1 modification, maintenance, repair, replacement or alteration of surface or
2 subsurface improvements to land.

3 15. Monitoring services relating to an alarm system as defined in
4 section 32-101.

5 16. Tangible personal property, job printing or publications sold
6 to or purchased by, or tangible personal property leased, rented or
7 licensed for use to or by, a qualifying health sciences educational
8 institution as defined in section 42-5001.

9 17. The transfer of title or possession of coal back and forth
10 between an owner or operator of a power plant and a person who is
11 responsible for refining coal if both of the following apply:

12 (a) The transfer of title or possession of the coal is for the
13 purpose of refining the coal.

14 (b) The title or possession of the coal is transferred back to the
15 owner or operator of the power plant after completion of the coal refining
16 process. For the purposes of this subdivision, "coal refining process"
17 means the application of a coal additive system that aids the reduction of
18 power plant emissions during the combustion of coal and the treatment of
19 flue gas.

20 18. Tangible personal property incorporated or fabricated into a
21 project described in paragraph 14 of this subsection, that is located
22 within the exterior boundaries of an Indian reservation for which the
23 owner, as defined in section 42-5075, of the project is an Indian tribe or
24 an affiliated Indian. For the purposes of this paragraph:

25 (a) "Affiliated Indian" means an individual Native American Indian
26 who is duly registered on the tribal rolls of the Indian tribe for whose
27 benefit the Indian reservation was established.

28 (b) "Indian reservation" means all lands that are within the limits
29 of areas set aside by the United States for the exclusive use and
30 occupancy of an Indian tribe by treaty, law or executive order and that
31 are recognized as Indian reservations by the United States department of
32 the interior.

33 (c) "Indian tribe" means any organized nation, tribe, band or
34 community that is recognized as an Indian tribe by the United States
35 department of the interior and includes any entity formed under the laws
36 of that Indian tribe.

37 19. The charges for the leasing or renting of space to make
38 attachments to utility poles as follows:

39 (a) By a person that is engaged in the business of providing or
40 furnishing electrical services or telecommunication services or that is a
41 cable operator.

42 (b) To a person that is engaged in the business of providing or
43 furnishing electrical services or telecommunication services or that is a
44 cable operator.

1 20. Until March 1, 2017, the gross proceeds of sales or gross
2 income derived from entry fees paid by participants for events that
3 consist of a run, walk, swim or bicycle ride or a similar event, or any
4 combination of these events.

5 21. The gross proceeds of sales or gross income derived from entry
6 fees paid by participants for events that are operated or conducted by
7 nonprofit organizations that are exempt from taxation under section
8 501(c)(3) of the internal revenue code and of which no part of the
9 organization's net earnings inures to the benefit of any private
10 shareholder or individual, if the event consists of a run, walk, swim or
11 bicycle ride or a similar event, or any combination of these events.

12 22. The gross proceeds of sales or gross income derived from sales
13 of machinery and equipment used directly for energy storage for later
14 electrical use. For the purposes of this paragraph:

15 (a) "Electric utility scale" means a person that is engaged in a
16 business activity described in section 42-5063, subsection A or such
17 person's equipment or wholesale electricity suppliers.

18 (b) "Energy storage" means commercially available technology for
19 electric utility scale that is capable of absorbing energy, storing energy
20 for a period of time and thereafter dispatching the energy and that uses
21 mechanical, chemical or thermal processes to store energy.

22 (c) "Machinery and equipment used directly" means all machinery and
23 equipment that are used for electric energy storage from the point of
24 receipt of such energy in order to facilitate storage of the electric
25 energy to the point where the electric energy is released.

26 23. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A
27 CONTRACT TO INSTALL CONTAINMENT STRUCTURES. FOR THE PURPOSES OF THIS
28 PARAGRAPH, "CONTAINMENT STRUCTURE" MEANS A STRUCTURE THAT PREVENTS,
29 MONITORS, CONTROLS OR REDUCES NOXIOUS OR HARMFUL DISCHARGE INTO THE
30 ENVIRONMENT.

31 B. A city, town or other taxing jurisdiction shall not levy a
32 transaction privilege, sales, use, franchise or other similar tax or fee,
33 however denominated, on natural gas or liquefied petroleum gas used to
34 propel a motor vehicle.

35 C. A city, town or other taxing jurisdiction shall not levy a
36 transaction privilege, sales, gross receipts, use, franchise or other
37 similar tax or fee, however denominated, on gross proceeds of sales or
38 gross income derived from any of the following:

39 1. A motor carrier's use on the public highways in this state if
40 the motor carrier is subject to a fee prescribed in title 28, chapter 16,
41 article 4.

42 2. Leasing, renting or licensing a motor vehicle subject to and on
43 which the fee has been paid under title 28, chapter 16, article 4.

44 3. The sale of a motor vehicle and any repair and replacement parts
45 and tangible personal property becoming a part of such motor vehicle to a

1 motor carrier who is subject to a fee prescribed in title 28, chapter 16,
2 article 4 and who is engaged in the business of leasing, renting or
3 licensing such property.

4 4. Incarcerating or detaining in a privately operated prison, jail
5 or detention facility prisoners who are under the jurisdiction of the
6 United States, this state or any other state or a political subdivision of
7 this state or of any other state.

8 5. Transporting for hire persons, freight or property by light
9 motor vehicles subject to a fee under title 28, chapter 15, article 4.

10 6. Any amount attributable to development fees that are incurred in
11 relation to the construction, development or improvement of real property
12 and paid by the taxpayer as defined in the model city tax code or by a
13 contractor providing services to the taxpayer. For the purposes of this
14 paragraph:

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

17 (b) The attributable amount is equal to the total amount of
18 development fees paid by the taxpayer or by a contractor providing
19 services to the taxpayer and the total development fees credited in
20 exchange for the construction of, contribution to or dedication of real
21 property for providing public infrastructure, public safety or other
22 public services necessary to the development. The real property must be
23 the subject of the development fees.

24 (c) "Development fees" means fees imposed to offset capital costs
25 of providing public infrastructure, public safety or other public services
26 to a development and authorized pursuant to section 9-463.05, section
27 11-1102 or title 48 regardless of the jurisdiction to which the fees are
28 paid.

29 7. Any amount attributable to fees collected by transportation
30 network companies issued a permit pursuant to section 28-9552.

31 8. Transporting for hire persons by transportation network company
32 drivers on transactions involving transportation network services as
33 defined in section 28-9551.

34 9. Transporting for hire persons by vehicle for hire companies that
35 are issued permits pursuant to section 28-9503.

36 10. Transporting for hire persons by vehicle for hire drivers on
37 transactions involving vehicle for hire services as defined in section
38 28-9501.

39 D. A city, town or other taxing jurisdiction shall not levy a
40 transaction privilege, sales, use, franchise or other similar tax or fee,
41 however denominated, in excess of one-tenth of one percent of the value of
42 the entire product mined, smelted, extracted, refined, produced or
43 prepared for sale, profit or commercial use, on persons engaged in the
44 business of mineral processing, except to the extent that the tax is
45 computed on the gross proceeds or gross income from sales at retail.

1 E. In computing the tax base, any city, town or other taxing
2 jurisdiction shall not include in the gross proceeds of sales or gross
3 income:

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

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

8 F. A city or town shall not levy a use tax on the storage, use or
9 consumption of tangible personal property in the city or town by a school
10 district or charter school.

11 G. A city, town or taxing jurisdiction shall not levy a transaction
12 privilege, sales, gross receipts, use, franchise or other similar tax or
13 fee, however denominated, on gross proceeds of sales or gross income
14 derived from over-the-top services. For the purposes of this subsection,
15 "over-the-top services" means audio or video programming services that are
16 received by the purchaser by means of an internet connection, regardless
17 of the technology used, that include linear or live programming and that
18 are generally considered comparable to programming provided by a radio or
19 television broadcast station and includes related on-demand programming
20 that is provided at no additional charge, regardless of whether the
21 services are provided independently or packaged with other audio or video
22 programming.

23 H. For the purposes of this section:

24 1. "Cable operator" has the same meaning prescribed in section
25 9-505 and includes a video service provider.

26 2. "Electrical services" means transmitting or distributing
27 electricity, electric lights, current or power over lines, wires or
28 cables.

29 3. "Telecommunication services" means transmitting or relaying
30 sound, visual image, data, information, images or material over lines,
31 wires or cables by radio signal, light beam, telephone, telegraph or other
32 electromagnetic means.

33 4. "Utility pole" means any wooden, metal or other pole used for
34 utility purposes and the pole's appurtenances that are attached or
35 authorized for attachment by the person controlling the pole.

36 Sec. 13. Section 42-6004, Arizona Revised Statutes, as amended by
37 Laws 2021, chapter 417, section 11, is amended to read:

38 42-6004. Exemption from municipal tax; definitions

39 A. A city, town or special taxing district shall not levy a
40 transaction privilege, sales, use or other similar tax on:

41 1. Exhibition events in this state sponsored, conducted or operated
42 by a nonprofit organization that is exempt from taxation under section
43 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
44 organization is associated with a major league baseball team or a national
45 touring professional golfing association and no part of the organization's

1 net earnings inures to the benefit of any private shareholder or
2 individual. This paragraph does not apply to an organization that is
3 owned, managed or controlled, in whole or in part, by a major league
4 baseball team, or its owners, officers, employees or agents, or by a major
5 league baseball association or professional golfing association, or its
6 owners, officers, employees or agents, unless the organization conducted
7 or operated exhibition events in this state before January 1, 2018 that
8 were exempt from state transaction privilege tax under section 42-5073.

9 2. Interstate telecommunications services, which include that
10 portion of telecommunications services, such as subscriber line service,
11 allocable by federal law to interstate telecommunications service.

12 3. Sales of warranty or service contracts.

13 4. Sales of motor vehicles to nonresidents of this state for use
14 outside this state if the motor vehicle dealer ships or delivers the motor
15 vehicle to a destination outside this state.

16 5. Interest on finance contracts.

17 6. Dealer documentation fees on the sales of motor vehicles.

18 7. Orthodontic devices dispensed by a dental professional who is
19 licensed under title 32, chapter 11 to a patient as part of the practice
20 of dentistry.

21 8. Sales of internet access services to the person's subscribers
22 and customers. For the purposes of this paragraph:

23 (a) "Internet" means the computer and telecommunications facilities
24 that comprise the interconnected worldwide network of networks that employ
25 the transmission control protocol or internet protocol, or any predecessor
26 or successor protocol, to communicate information of all kinds by wire or
27 radio.

28 (b) "Internet access" means a service that enables users to access
29 content, information, electronic mail or other services over the internet.
30 Internet access does not include telecommunication services provided by a
31 common carrier.

32 9. The gross proceeds of sales or gross income retained by the
33 Arizona exposition and state fair board from ride ticket sales at the
34 annual Arizona state fair.

35 10. Leasing real property between affiliated companies, businesses,
36 persons or reciprocal insurers. For the purposes of this paragraph:

37 (a) "Affiliated companies, businesses, persons or reciprocal
38 insurers" means the lessor holds a controlling interest in the lessee, the
39 lessee holds a controlling interest in the lessor, affiliated persons hold
40 a controlling interest in both the lessor and the lessee, or an unrelated
41 person holds a controlling interest in both the lessor and lessee.

42 (b) "Affiliated persons" means members of the individual's family
43 or persons who have ownership or control of a business entity.

1 (c) "Controlling interest" means direct or indirect ownership of at
2 least eighty percent of the voting shares of a corporation or of the
3 interests in a company, business or person other than a corporation.

4 (d) "Members of the individual's family" means the individual's
5 spouse and brothers and sisters, whether by whole or half blood, including
6 adopted persons, ancestors and lineal descendants.

7 (e) "Reciprocal insurer" has the same meaning prescribed in section
8 20-762.

9 11. The gross proceeds of sales or gross income derived from a
10 contract for the installation, assembly, repair or maintenance of
11 machinery, equipment or other tangible personal property that is described
12 in section 42-5061, subsection B and that has independent functional
13 utility, pursuant to the following provisions:

14 (a) The deduction provided in this paragraph includes the gross
15 proceeds of sales or gross income derived from all of the following:

16 (i) Any activity performed on machinery, equipment or other
17 tangible personal property with independent functional utility.

18 (ii) Any activity performed on any tangible personal property
19 relating to machinery, equipment or other tangible personal property with
20 independent functional utility in furtherance of any of the purposes
21 provided for under subdivision (d) of this paragraph.

22 (iii) Any activity that is related to the activities described in
23 items (i) and (ii) of this subdivision, including inspecting the
24 installation of or testing the machinery, equipment or other tangible
25 personal property.

26 (b) The deduction provided in this paragraph does not include gross
27 proceeds of sales or gross income from the portion of any contracting
28 activity that consists of the development of, or modification to, real
29 property in order to facilitate the installation, assembly, repair,
30 maintenance or removal of machinery, equipment or other tangible personal
31 property described in section 42-5061, subsection B.

32 (c) The deduction provided in this paragraph shall be determined
33 without regard to the size or useful life of the machinery, equipment or
34 other tangible personal property.

35 (d) For the purposes of this paragraph, "independent functional
36 utility" means that the machinery, equipment or other tangible personal
37 property can independently perform its function without attachment to real
38 property, other than attachment for any of the following purposes:

39 (i) Assembling the machinery, equipment or other tangible personal
40 property.

41 (ii) Connecting items of machinery, equipment or other tangible
42 personal property to each other.

43 (iii) Connecting the machinery, equipment or other tangible
44 personal property, whether as an individual item or as a system of items,
45 to water, power, gas, communication or other services.

1 (iv) Stabilizing or protecting the machinery, equipment or other
2 tangible personal property during operation by bolting, burying or
3 performing other dissimilar nonpermanent connections to either real
4 property or real property improvements.

5 12. The leasing or renting of certified ignition interlock devices
6 installed pursuant to the requirements prescribed by section 28-1461. For
7 the purposes of this paragraph, "certified ignition interlock device" has
8 the same meaning prescribed in section 28-1301.

9 13. Computer data center equipment sold to the owner, operator or
10 qualified colocation tenant of a computer data center that is certified by
11 the Arizona commerce authority under section 41-1519 or an authorized
12 agent of the owner, operator or qualified colocation tenant during the
13 qualification period for use in the qualified computer data center. For
14 the purposes of this paragraph, "computer data center", "computer data
15 center equipment", "qualification period" and "qualified colocation
16 tenant" have the same meanings prescribed in section 41-1519.

17 14. The gross proceeds of sales or gross income derived from a
18 contract with the owner of real property or improvements to real property
19 for the maintenance, repair, replacement or alteration of existing
20 property, except as specified in this paragraph. The gross proceeds of
21 sales or gross income derived from a de minimis amount of modification
22 activity does not subject the contract or any part of the contract to tax.
23 For the purposes of this paragraph:

24 (a) Each contract is independent of another contract, except that
25 any change order that directly relates to the scope of work of the
26 original contract shall be treated the same as the original contract under
27 this paragraph, regardless of the amount of modification activities
28 included in the change order. If a change order does not directly relate
29 to the scope of work of the original contract, the change order shall be
30 treated as a new contract, with the tax treatment of any subsequent change
31 order to follow the tax treatment of the contract to which the scope of
32 work of the subsequent change order directly relates.

33 (b) Any term not defined in this paragraph that is defined in
34 section 42-5075 has the same meaning prescribed in section 42-5075.

35 (c) This paragraph does not apply to a contract that primarily
36 involves surface or subsurface improvements to land and that is subject to
37 title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the
38 contract also includes vertical improvements. If a city or town imposes a
39 tax on contracts that are subject to procurement processes under those
40 provisions, the city or town shall include in the request for proposals a
41 notice to bidders when those projects are subject to the tax. This
42 subdivision does not apply to contracts with:

43 (i) Community facilities districts, fire districts, county
44 television improvement districts, community park maintenance districts,
45 cotton pest control districts, hospital districts, pest abatement

1 districts, health service districts, agricultural improvement districts,
2 county free library districts, county jail districts, county stadium
3 districts, special health care districts, public health services
4 districts, theme park districts or revitalization districts.

5 (ii) Any special taxing district not specified in item (i) of this
6 subdivision if the district does not substantially engage in the
7 modification, maintenance, repair, replacement or alteration of surface or
8 subsurface improvements to land.

9 15. Monitoring services relating to an alarm system as defined in
10 section 32-101.

11 16. Tangible personal property, job printing or publications sold
12 to or purchased by, or tangible personal property leased, rented or
13 licensed for use to or by, a qualifying health sciences educational
14 institution as defined in section 42-5001.

15 17. The sale of coal.

16 18. Tangible personal property incorporated or fabricated into a
17 project described in paragraph 14 of this subsection, that is located
18 within the exterior boundaries of an Indian reservation for which the
19 owner, as defined in section 42-5075, of the project is an Indian tribe or
20 an affiliated Indian. For the purposes of this paragraph:

21 (a) "Affiliated Indian" means an individual Native American Indian
22 who is duly registered on the tribal rolls of the Indian tribe for whose
23 benefit the Indian reservation was established.

24 (b) "Indian reservation" means all lands that are within the limits
25 of areas set aside by the United States for the exclusive use and
26 occupancy of an Indian tribe by treaty, law or executive order and that
27 are recognized as Indian reservations by the United States department of
28 the interior.

29 (c) "Indian tribe" means any organized nation, tribe, band or
30 community that is recognized as an Indian tribe by the United States
31 department of the interior and includes any entity formed under the laws
32 of that Indian tribe.

33 19. The charges for the leasing or renting of space to make
34 attachments to utility poles as follows:

35 (a) By a person that is engaged in the business of providing or
36 furnishing electrical services or telecommunication services or that is a
37 cable operator.

38 (b) To a person that is engaged in the business of providing or
39 furnishing electrical services or telecommunication services or that is a
40 cable operator.

41 20. Until March 1, 2017, the gross proceeds of sales or gross
42 income derived from entry fees paid by participants for events that
43 consist of a run, walk, swim or bicycle ride or a similar event, or any
44 combination of these events.

1 21. The gross proceeds of sales or gross income derived from entry
2 fees paid by participants for events that are operated or conducted by
3 nonprofit organizations that are exempt from taxation under section
4 501(c)(3) of the internal revenue code and of which no part of the
5 organization's net earnings inures to the benefit of any private
6 shareholder or individual, if the event consists of a run, walk, swim or
7 bicycle ride or a similar event, or any combination of these events.

8 22. The gross proceeds of sales or gross income derived from sales
9 of machinery and equipment used directly for energy storage for later
10 electrical use. For the purposes of this paragraph:

11 (a) "Electric utility scale" means a person that is engaged in a
12 business activity described in section 42-5063, subsection A or such
13 person's equipment or wholesale electricity suppliers.

14 (b) "Energy storage" means commercially available technology for
15 electric utility scale that is capable of absorbing energy, storing energy
16 for a period of time and thereafter dispatching the energy and that uses
17 mechanical, chemical or thermal processes to store energy.

18 (c) "Machinery and equipment used directly" means all machinery and
19 equipment that are used for electric energy storage from the point of
20 receipt of such energy in order to facilitate storage of the electric
21 energy to the point where the electric energy is released.

22 23. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A
23 CONTRACT TO INSTALL CONTAINMENT STRUCTURES. FOR THE PURPOSES OF THIS
24 PARAGRAPH, "CONTAINMENT STRUCTURE" MEANS A STRUCTURE THAT PREVENTS,
25 MONITORS, CONTROLS OR REDUCES NOXIOUS OR HARMFUL DISCHARGE INTO THE
26 ENVIRONMENT.

27 B. A city, town or other taxing jurisdiction shall not levy a
28 transaction privilege, sales, use, franchise or other similar tax or fee,
29 however denominated, on natural gas or liquefied petroleum gas used to
30 propel a motor vehicle.

31 C. A city, town or other taxing jurisdiction shall not levy a
32 transaction privilege, sales, gross receipts, use, franchise or other
33 similar tax or fee, however denominated, on gross proceeds of sales or
34 gross income derived from any of the following:

35 1. A motor carrier's use on the public highways in this state if
36 the motor carrier is subject to a fee prescribed in title 28, chapter 16,
37 article 4.

38 2. Leasing, renting or licensing a motor vehicle subject to and on
39 which the fee has been paid under title 28, chapter 16, article 4.

40 3. The sale of a motor vehicle and any repair and replacement parts
41 and tangible personal property becoming a part of such motor vehicle to a
42 motor carrier who is subject to a fee prescribed in title 28, chapter 16,
43 article 4 and who is engaged in the business of leasing, renting or
44 licensing such property.

1 4. Incarcerating or detaining in a privately operated prison, jail
2 or detention facility prisoners who are under the jurisdiction of the
3 United States, this state or any other state or a political subdivision of
4 this state or of any other state.

5 5. Transporting for hire persons, freight or property by light
6 motor vehicles subject to a fee under title 28, chapter 15, article 4.

7 6. Any amount attributable to development fees that are incurred in
8 relation to the construction, development or improvement of real property
9 and paid by the taxpayer as defined in the model city tax code or by a
10 contractor providing services to the taxpayer. For the purposes of this
11 paragraph:

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

14 (b) The attributable amount is equal to the total amount of
15 development fees paid by the taxpayer or by a contractor providing
16 services to the taxpayer and the total development fees credited in
17 exchange for the construction of, contribution to or dedication of real
18 property for providing public infrastructure, public safety or other
19 public services necessary to the development. The real property must be
20 the subject of the development fees.

21 (c) "Development fees" means fees imposed to offset capital costs
22 of providing public infrastructure, public safety or other public services
23 to a development and authorized pursuant to section 9-463.05, section
24 11-1102 or title 48 regardless of the jurisdiction to which the fees are
25 paid.

26 7. Any amount attributable to fees collected by transportation
27 network companies issued a permit pursuant to section 28-9552.

28 8. Transporting for hire persons by transportation network company
29 drivers on transactions involving transportation network services as
30 defined in section 28-9551.

31 9. Transporting for hire persons by vehicle for hire companies that
32 are issued permits pursuant to section 28-9503.

33 10. Transporting for hire persons by vehicle for hire drivers on
34 transactions involving vehicle for hire services as defined in section
35 28-9501.

36 D. A city, town or other taxing jurisdiction shall not levy a
37 transaction privilege, sales, use, franchise or other similar tax or fee,
38 however denominated, in excess of one-tenth of one percent of the value of
39 the entire product mined, smelted, extracted, refined, produced or
40 prepared for sale, profit or commercial use, on persons engaged in the
41 business of mineral processing, except to the extent that the tax is
42 computed on the gross proceeds or gross income from sales at retail.

1 E. In computing the tax base, any city, town or other taxing
2 jurisdiction shall not include in the gross proceeds of sales or gross
3 income:

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

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

8 F. A city or town shall not levy a use tax on the storage, use or
9 consumption of tangible personal property in the city or town by a school
10 district or charter school.

11 G. A city, town or taxing jurisdiction shall not levy a transaction
12 privilege, sales, gross receipts, use, franchise or other similar tax or
13 fee, however denominated, on gross proceeds of sales or gross income
14 derived from over-the-top services. For the purposes of this subsection,
15 "over-the-top services" means audio or video programming services that are
16 received by the purchaser by means of an internet connection, regardless
17 of the technology used, that include linear or live programming and that
18 are generally considered comparable to programming provided by a radio or
19 television broadcast station and includes related on-demand programming
20 that is provided at no additional charge, regardless of whether the
21 services are provided independently or packaged with other audio or video
22 programming.

23 H. For the purposes of this section:

24 1. "Cable operator" has the same meaning prescribed in section
25 9-505 and includes a video service provider.

26 2. "Electrical services" means transmitting or distributing
27 electricity, electric lights, current or power over lines, wires or
28 cables.

29 3. "Telecommunication services" means transmitting or relaying
30 sound, visual image, data, information, images or material over lines,
31 wires or cables by radio signal, light beam, telephone, telegraph or other
32 electromagnetic means.

33 4. "Utility pole" means any wooden, metal or other pole used for
34 utility purposes and the pole's appurtenances that are attached or
35 authorized for attachment by the person controlling the pole.

36 Sec. 14. Title 43, chapter 2, article 1, Arizona Revised Statutes,
37 is amended by adding section 43-212, to read:

38 43-212. Individual income tax model; fiscal impact requests;
39 staff access

40 A. THE DEPARTMENT SHALL MAINTAIN AN INDIVIDUAL INCOME TAX MODEL
41 THAT ESTIMATES THE FISCAL IMPACT OF PROPOSED INDIVIDUAL INCOME TAX
42 LEGISLATION.

1 B. THE INDIVIDUAL INCOME TAX MODEL SHALL:
2 1. AT A MINIMUM, ALLOW FOR THE ADJUSTMENT OF INDIVIDUAL INCOME TAX
3 LAW PARAMETERS AGAINST AN ANONYMIZED REPRESENTATIVE SAMPLE OF INDIVIDUAL
4 INCOME TAX RETURNS.
5 2. INCLUDE PROCEDURES TO PROTECT TAXPAYER CONFIDENTIALITY UNDER
6 APPLICABLE STATE AND FEDERAL LAW.
7 C. THE DEPARTMENT SHALL ACCEPT REQUESTS FROM THE JOINT LEGISLATIVE
8 BUDGET COMMITTEE STAFF AND LEGISLATIVE STAFF FOR ESTIMATES OF THE FISCAL
9 IMPACT OF PROPOSED INDIVIDUAL INCOME TAX LEGISLATION USING THE INDIVIDUAL
10 INCOME TAX MODEL. THE DEPARTMENT SHALL FULFILL ANY REQUEST UNDER THIS
11 SUBSECTION IN A PROMPT AND TIMELY MANNER.
12 D. ON COMPLETION OF THE INTEGRATED TAX SYSTEM MODERNIZATION PROJECT
13 DEVELOPED PURSUANT TO SECTION 42-5041, THE INDIVIDUAL INCOME TAX MODEL
14 REQUIRED BY THIS SECTION SHALL PROVIDE DEPARTMENT STAFF, JOINT LEGISLATIVE
15 BUDGET COMMITTEE STAFF AND THE GOVERNOR'S OFFICE OF STRATEGIC PLANNING AND
16 BUDGETING STAFF DIRECT ACCESS TO THE INDIVIDUAL INCOME TAX MODEL SO THAT
17 INDIVIDUAL INCOME TAX LAW PARAMETERS MAY BE INTERACTIVELY ADJUSTED TO
18 DEVELOP IMMEDIATE FISCAL IMPACT ESTIMATES WITHOUT ANY ADDITIONAL
19 PROGRAMMING REQUIRED FOR EACH ESTIMATE.
20 Sec. 15. Section 43-1014, Arizona Revised Statutes, is amended to
21 read:
22 43-1014. Entity-level tax election; partnerships;
23 S corporations; rules
24 A. For taxable years beginning from and after December 31, 2021,
25 the partners or shareholders of a business that is treated as a
26 partnership or S corporation for federal income tax purposes may consent
27 to be taxed at the entity level at a TAX rate ~~of four and one-half percent~~
28 ~~of~~ THAT IS THE SAME AS THE TAX RATE PRESCRIBED BY SECTION 43-1011
29 APPLICABLE TO the entire portion of its taxable income that is
30 attributable to its resident partners or shareholders and the portion of
31 its taxable income derived from sources within this state that is
32 attributable to its nonresident partners or shareholders for that taxable
33 year. The election under this subsection must be made on or before the
34 due date or extended due date of the business's return under this title.
35 B. If the election is made under subsection A of this section, all
36 of the following apply:
37 1. The taxable income of the partnership or S corporation shall be
38 computed under this chapter or chapter 14 of this title, as applicable.
39 2. If the partnership or S corporation does not pay the amount owed
40 to the department as a result of the election under this section, the
41 department may collect the amount from the partners or shareholders based
42 on the proportionate share of income that is attributable to each partner
43 or shareholder for Arizona tax purposes.
44 3. The partnership or S corporation shall pay estimated tax
45 pursuant to section 43-581 as necessary.

1 C. The election under subsection A of this section does not apply
2 to the following:

3 1. Partners or shareholders that are not individuals, estates or
4 trusts. The portion of the taxable income attributable to a partner or
5 shareholder that is not an individual, estate or trust is not included in
6 the entity-level tax under subsection A of this section.

7 2. Partners or shareholders who are individuals, estates or trusts
8 and who opt out ~~or waive the right to opt out~~ of the election pursuant to
9 subsection D of this section. The portion of the taxable income
10 attributable to a partner or shareholder who is an individual, estate or
11 trust and who opts out ~~or waives the right to opt out~~ of the election
12 pursuant to subsection D of this section is not included in the
13 entity-level tax under subsection A of this section.

14 D. A partnership or S corporation that intends to make the election
15 under subsection A of this section shall notify all partners or
16 shareholders who are individuals, estates or trusts of the intent to make
17 the election and that each partner or shareholder who is an individual,
18 estate or trust has the right to opt out of the election. The notice shall
19 allow each partner or shareholder who is an individual, estate or trust at
20 least sixty days after receiving the notice to notify the partnership or S
21 corporation that the partner or shareholder who is an individual, estate
22 or trust is exercising the partner's or shareholder's right to opt out of
23 the election. If the partner or shareholder who is an individual, estate
24 or trust does not respond within the sixty-day period or waives the right
25 to opt out, the partner or shareholder will be included in the election.

26 E. The department shall adopt rules and prescribe forms and
27 procedures as necessary to administer this section.

28 Sec. 16. Laws 2021, chapter 412, section 26 is amended to read:

29 Sec. 26. Refunds

30 Any claim for refund of transaction privilege or use tax based on
31 the retroactive application of section 42-5061, subsection B, paragraph
32 18, Arizona Revised Statutes, as amended by ~~this act, and~~ LAWS 2021,
33 CHAPTER 412, SECTION 42-5061, SUBSECTION B, PARAGRAPH 19, ARIZONA REVISED
34 STATUTES, AS AMENDED BY THIS ACT, SECTION 42-5075, SUBSECTION B, PARAGRAPH
35 21, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT, section 42-5159,
36 subsection B, paragraph 18, Arizona Revised Statutes, as amended by ~~this~~
37 ~~act~~ LAWS 2021, CHAPTER 412, SECTION 42-5159, SUBSECTION B, PARAGRAPH 19,
38 ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT, AND SECTION 42-6004,
39 SUBSECTION A, PARAGRAPH 23, ARIZONA REVISED STATUTES, AS ADDED BY THIS
40 ACT, shall be submitted to the department of revenue on or before December
41 31, ~~2021~~ 2022, pursuant to section 42-1118, Arizona Revised Statutes, and
42 is subject to the following:

43 1. A failure to file such a claim on or before December 31,
44 ~~2021~~ 2022 constitutes a waiver of the claim for refund.

1 2. The aggregate refund amount may not exceed \$10,000 for such
2 claims filed from and after December 31, ~~2020~~ 2021 through December 31,
3 ~~2021~~ 2022.

4 3. If the aggregate refund amount of such claims ultimately
5 determined to be correct is more than \$10,000, the department of revenue
6 shall reduce each claim proportionally so that the aggregate refund amount
7 equals \$10,000.

8 4. Interest is not allowed and may not be compounded on any
9 refundable amount of such claims if paid before July 1, ~~2022~~ 2023, but if
10 the amount cannot be determined or paid until after June 30, ~~2022~~ 2023,
11 interest accrues after that date pursuant to section 42-1123, Arizona
12 Revised Statutes.

13 5. Any refund claim that is filed before January 1, ~~2021~~ 2022 or
14 that is not related to the changes under this act is not subject to the
15 \$10,000 aggregate refund amount.

16 Sec. 17. Laws 2021, chapter 412, section 30 is amended to read:

17 Sec. 30. Retroactivity

18 A. SECTION 42-5075, ARIZONA REVISED STATUTES, AS AMENDED BY THIS
19 ACT, section 42-5159, SUBSECTION B, PARAGRAPH 18, Arizona Revised
20 Statutes, AS AMENDED BY LAWS 2021, CHAPTER 412, SECTION 42-5159,
21 SUBSECTION B, PARAGRAPH 19, ARIZONA REVISED STATUTES, as amended by this
22 act, section 42-5061, ~~as amended by Laws 2019, chapter 273, section 7 and~~
23 ~~chapter 288, section 1~~ SUBSECTION B, PARAGRAPH 18, ARIZONA REVISED
24 STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 412, SECTION 42-5061,
25 SUBSECTION B, PARAGRAPH 19, ARIZONA REVISED STATUTES, AS AMENDED BY THIS
26 ACT, AND SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS
27 2021, CHAPTER 417, SECTION 10 and this act, apply retroactively to taxable
28 periods beginning from and after December 31, 2015.

29 B. Section 43-1122, Arizona Revised Statutes, as amended by
30 ~~this act~~ LAWS 2021, CHAPTER 412, applies retroactively to taxable years
31 beginning from and after December 31, 2020.

32 C. Section 43-1022, Arizona Revised Statutes, as amended by
33 ~~this act~~ LAWS 2021, CHAPTER 412, sections 43-1076.01 and 43-1162, Arizona
34 Revised Statutes, as added by ~~this act~~ LAWS 2021, CHAPTER 412, and
35 sections 43-1504 and 43-1603, Arizona Revised Statutes, as amended by
36 ~~this act~~ LAWS 2021, CHAPTER 412, apply retroactively to taxable years
37 beginning from and after December 31, 2020.

38 D. Section 43-1184, Arizona Revised Statutes, as amended by
39 ~~this act~~ LAWS 2021, CHAPTER 412, applies retroactively to from and after
40 June 30, 2021.

41 Sec. 18. Legislative intent

42 The legislature intends:

43 1. That in fiscal year 2022-2023 the fee prescribed in section
44 42-5041, subsection B, Arizona Revised Statutes, as added by this act, be
45 assessed and collected pursuant to the following guidelines:

1 (a) The total amount of fees for all counties, cities, towns,
2 councils of governments and regional transportation authorities may not
3 exceed \$5,388,200 in fiscal year 2022-2023.

4 (b) The share of fees assessed to all counties pursuant to
5 subdivision (a) of this paragraph shall be in proportion to the aggregate
6 amount of monies distributed to counties for the fiscal year two years
7 preceding the current fiscal year pursuant to sections 42-5029, 42-6103,
8 42-6107, 42-6108, 42-6108.01, 42-6109, 42-6109.01, 42-6110, 42-6111,
9 42-6112 and 42-6113, Arizona Revised Statutes, as a percentage of
10 aggregate distributions to all counties, cities, towns, councils of
11 governments and regional transportation authorities located in a county
12 with a population of more than eight hundred thousand persons for the
13 fiscal year two years preceding the current fiscal year pursuant to
14 sections 42-5029, 42-6001, 42-6103, 42-6105, 42-6106, 42-6107, 42-6108,
15 42-6108.01, 42-6109, 42-6109.01, 42-6110, 42-6111, 42-6112, 42-6113 and
16 43-206, Arizona Revised Statutes.

17 (c) The share of fees assessed to all cities and towns pursuant to
18 subdivision (a) of this paragraph shall be in proportion to the aggregate
19 amount of monies distributed to cities and towns for the fiscal year two
20 years preceding the current fiscal year pursuant to sections 42-5029,
21 42-6001 and 43-206, Arizona Revised Statutes, as a percentage of aggregate
22 distributions to all counties, cities, towns, councils of governments and
23 regional transportation authorities located in a county with a population
24 of more than eight hundred thousand persons for the fiscal year two years
25 preceding the current fiscal year pursuant to sections 42-5029, 42-6001,
26 42-6103, 42-6105, 42-6106, 42-6107, 42-6108, 42-6108.01, 42-6109,
27 42-6109.01, 42-6110, 42-6111, 42-6112, 42-6113 and 43-206, Arizona Revised
28 Statutes.

29 (d) The share of fees assessed to all councils of governments
30 pursuant to subdivision (a) of this paragraph shall be in proportion to
31 the aggregate amount of monies distributed to all councils of governments
32 for the fiscal year two years preceding the current fiscal year pursuant
33 to section 42-6105, Arizona Revised Statutes, as a percentage of aggregate
34 distributions to all counties, cities, towns, councils of governments and
35 regional transportation authorities located in a county with a population
36 of more than eight hundred thousand persons for the fiscal year two years
37 preceding the current fiscal year pursuant to sections 42-5029, 42-6001,
38 42-6103, 42-6105, 42-6106, 42-6107, 42-6108, 42-6108.01, 42-6109,
39 42-6109.01, 42-6110, 42-6111, 42-6112, 42-6113 and 43-206, Arizona Revised
40 Statutes.

41 (e) The share of fees assessed to all regional transportation
42 authorities located in a county with a population of more than eight
43 hundred thousand persons pursuant to subdivision (a) of this paragraph
44 shall be in proportion to the aggregate amount of monies distributed to
45 all regional transportation authorities located in a county with a

1 population of more than eight hundred thousand persons for the fiscal year
2 two years preceding the current fiscal year pursuant to section 42-6106,
3 Arizona Revised Statutes, as a percentage of aggregate distributions to
4 all counties, cities, towns, councils of governments and regional
5 transportation authorities located in a county with a population of more
6 than four hundred thousand persons for the fiscal year two years preceding
7 the current fiscal year pursuant to sections 42-5029, 42-6001, 42-6103,
8 42-6105, 42-6106, 42-6107, 42-6108, 42-6108.01, 42-6109, 42-6109.01,
9 42-6110, 42-6111, 42-6112, 42-6113 and 43-206, Arizona Revised Statutes.

10 (f) Except as provided by sections 42-5033 and 42-5033.01, Arizona
11 Revised Statutes, the population of a county as determined by the most
12 recent United States decennial census plus any revision to the decennial
13 census certified by the United States census bureau shall be used as the
14 basis for apportioning monies pursuant to subdivision (b) of this
15 paragraph.

16 (g) Except as provided by sections 42-5033 and 42-5033.01, Arizona
17 Revised Statutes, the population of a city or town as determined by the
18 most recent United States decennial census plus any revision to the
19 decennial census certified by the United States census bureau shall be
20 used as the basis for apportioning monies pursuant to subdivision (c) of
21 this paragraph.

22 2. That in fiscal year 2022-2023 the transfer prescribed in section
23 42-5041, subsection E, Arizona Revised Statutes, as added by this act, not
24 exceed \$653,400.

25 3. That in fiscal year 2022-2023 the transfer prescribed in section
26 42-5041, subsection F, Arizona Revised Statutes, as added by this act, not
27 exceed \$145,500.

28 Sec. 19. Aircraft taxation; market value; department of
29 transportation; registration credit

30 If a person pays an aircraft's annual license tax in fiscal year
31 2021-2022 before the effective date of this act and the aircraft's average
32 fair market value has an annual percentage change that is more than the
33 annual percentage change in the average consumer price index as published
34 by the United States department of labor, bureau of labor statistics,
35 using 2019 as a benchmark to what the average fair market value of the
36 aircraft was in 2019, the department of transportation shall offer the
37 person a credit to be applied toward the aircraft's registration fees in
38 fiscal year 2022-2023. The credit shall be the difference between the
39 amount that the person paid based on the aircraft's actual average fair
40 market value and the amount that the person would have paid based on the
41 aircraft's consumer price index adjusted fair market value as described by
42 section 28-8335, subsection B, Arizona Revised Statutes, as amended by
43 this act.

1 Sec. 20. Distribution of revenues: border security fund;
2 state highway fund; state aviation fund; state
3 parks revenue fund; intent

4 A. For fiscal year 2022-2023, beginning the month following the
5 general effective date of this act, the state treasurer shall distribute
6 the following amounts proportionately for each month remaining in the
7 fiscal year from the portion of the revenues derived from the tax levied
8 by title 42, chapter 5, articles 1 and 5, Arizona Revised Statutes, that
9 is not designated as the distribution base:

10 1. \$209,205,000 to the border security fund established by section
11 26-105, Arizona Revised Statutes.

12 2. \$925,447,500 to the state highway fund established by section
13 28-6991, Arizona Revised Statutes.

14 3. \$20,600,000 to the state aviation fund established by section
15 28-8202, Arizona Revised Statutes.

16 4. \$425,000,000 to the budget stabilization fund established by
17 section 35-144, Arizona Revised Statutes.

18 5. \$38,237,100 to the state parks revenue fund established by
19 section 41-511.21, Arizona Revised Statutes.

20 B. It is the intent of the legislature that the distributions made
21 in subsection A of this section will not impact the portion of transaction
22 privilege tax revenues that cities and counties in this state receive
23 pursuant to section 42-5029, subsection D, Arizona Revised Statutes.

24 Sec. 21. Fiscal year 2022-2023 state general fund determination

25 A. For the purposes of determining whether the threshold in section
26 43-243, subsection B, paragraph 2, Arizona Revised Statutes, and section
27 43-244, subsection B, paragraph 2, Arizona Revised Statutes, is met for
28 fiscal year 2022-2023, the director of the joint legislative budget
29 committee and the director of the governor's office of strategic planning
30 and budgeting shall:

31 1. Determine the total amount of revenues from the portion of the
32 revenues derived from the tax levied by title 42, chapter 5, articles 1
33 and 5, Arizona Revised Statutes, that are not designated as the
34 distribution base and that are directly distributed to the following funds
35 in fiscal year 2022-2023:

36 (a) The border security fund established by section 26-105, Arizona
37 Revised Statutes.

38 (b) The state highway fund established by section 28-6991, Arizona
39 Revised Statutes.

40 (c) The state aviation fund established by section 28-8202, Arizona
41 Revised Statutes.

42 (d) The budget stabilization fund established by section 35-144,
43 Arizona Revised Statutes.

44 (e) The state parks revenue fund established by section 41-511.21,
45 Arizona Revised Statutes.

1 (f) The water supply development revolving fund established by
2 section 49-1271, Arizona Revised Statutes.

3 (g) The long-term water augmentation fund established by section
4 49-1302, Arizona Revised Statutes.

5 2. Add the dollar amount determined pursuant to paragraph 1 of this
6 subsection to the actual amount of fiscal year 2022-2023 state general
7 fund revenue reported, excluding the beginning balance.

8 B. If the dollar amount determined pursuant to subsection A of this
9 section for fiscal year 2022-2023 is equal to or exceeds the dollar amount
10 prescribed by section 43-243, subsection B, paragraph 2, Arizona Revised
11 Statutes, and section 43-244, subsection B, paragraph 2, Arizona Revised
12 Statutes, the threshold is met and the director of the joint legislative
13 budget committee and the director of the governor's office of strategic
14 planning and budgeting shall notify the department of revenue as
15 prescribed by section 43-243, Arizona Revised Statutes, and section
16 43-244, Arizona Revised Statutes.

17 Sec. 22. Applicability

18 Except as provided in section 24 of this act, section 42-5061,
19 subsection B, paragraph 14, Arizona Revised Statutes, as amended by this
20 act, section 42-5071, Arizona Revised Statutes, as amended by this act,
21 and section 42-5159, subsection B, paragraph 14, Arizona Revised Statutes,
22 as amended by this act, apply to taxable periods beginning on or after the
23 first day of the month following the general effective date.

24 Sec. 23. Retroactivity

25 Section 28-8335, Arizona Revised Statutes, as amended by this act,
26 applies retroactively to from and after June 30, 2021.

27 Sec. 24. Conditional enactment; applicability; retroactivity

28 Section 42-5061, Arizona Revised Statutes, as amended by Laws 2021,
29 chapter 266, section 4, chapter 412, section 8, chapter 417, section 5,
30 chapter 443, section 3 and this act, and section 42-6004, Arizona Revised
31 Statutes, as amended by Laws 2021, chapter 417, section 11 and this act,
32 become effective on the date prescribed by Laws 2018, chapter 263, section
33 5 and apply as follows but only on the occurrence of the condition
34 prescribed by Laws 2018, chapter 263, section 5:

35 1. For section 42-5061, subsection B, paragraph 14, Arizona Revised
36 Statutes, as amended by this act, to taxable periods beginning on or after
37 the first day of the month following the general effective date of this
38 act.

39 2. For section 42-5061, subsection B, paragraph 19, Arizona Revised
40 Statutes, as amended by this act, and section 42-6004, Arizona Revised
41 Statutes, as amended by Laws 2021, chapter 417, section 11 and this act,
42 retroactively to taxable periods beginning from and after December 31,
43 2015.

H.B. 2871

APPROVED BY THE GOVERNOR JUNE 28, 2022.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 28, 2022.