

REFERENCE TITLE: TPT; use tax; exemption; firearms

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

HB 2166

Introduced by
Representatives Kaiser: Blackman, Carter, Nguyen, Wilmeth

AN ACT

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 SECTION 42-5159, ARIZONA REVISED STATUTES; RELATING TO TRANSACTION PRIVILEGE AND USE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5061, Arizona Revised Statutes, as amended by
3 Laws 2021, chapter 266, section 3, chapter 412, section 7, chapter 417,
4 section 4 and chapter 443, section 2, is amended to read:

5 42-5061. Retail classification; definitions

6 A. The retail classification is comprised of the business of
7 selling tangible personal property at retail. The tax base for the retail
8 classification is the gross proceeds of sales or gross income derived from
9 the business. The tax imposed on the retail classification does not apply
10 to the gross proceeds of sales or gross income from:

11 1. Professional or personal service occupations or businesses that
12 involve sales or transfers of tangible personal property only as
13 inconsequential elements.

14 2. Services rendered in addition to selling tangible personal
15 property at retail.

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

19 4. Sales of tangible personal property by any nonprofit
20 organization organized and operated exclusively for charitable purposes
21 and recognized by the United States internal revenue service under section
22 501(c)(3) of the internal revenue code.

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

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

28 7. The sale of stocks and bonds.

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

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

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

37 11. Prescription eyeglasses or contact lenses.

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

39 13. Durable medical equipment that has a centers for medicare and
40 medicaid services common procedure code, is designated reimbursable by
41 medicare, is prescribed by a person who is licensed under title 32,
42 chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is
43 primarily and customarily used to serve a medical purpose, is generally
44 not useful to a person in the absence of illness or injury and is
45 appropriate for use in the home.

1 14. Sales of motor vehicles to nonresidents of this state for use
2 outside this state if the motor vehicle dealer ships or delivers the motor
3 vehicle to a destination out of this state.

4 15. Food, as provided in and subject to the conditions of article 3
5 of this chapter and sections 42-5074 and 42-6017.

6 16. Items purchased with United States department of agriculture
7 coupons issued under the supplemental nutrition assistance program
8 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
9 7 United States Code sections 2011 through 2036b) by the United States
10 department of agriculture food and nutrition service or food instruments
11 issued under section 17 of the child nutrition act (P.L. 95-627; 92
12 Stat. 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
13 section 1786).

14 17. Textbooks by any bookstore that are required by any state
15 university or community college.

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

20 19. Articles of food, drink or condiment and accessory tangible
21 personal property to a school district or charter school if such articles
22 and accessory tangible personal property are to be prepared and served to
23 persons for consumption on the premises of a public school within the
24 district or on the premises of the charter school during school hours.

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

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

34 (a) "Cash equivalents" means items or intangibles, whether or not
35 negotiable, that are sold to one or more persons, through which a value
36 denominated in money is purchased in advance and may be redeemed in full
37 or in part for tangible personal property, intangibles or services. Cash
38 equivalents include gift cards, stored value cards, gift certificates,
39 vouchers, traveler's checks, money orders or other instruments, orders or
40 electronic mechanisms, such as an electronic code, personal identification
41 number or digital payment mechanism, or any other prepaid intangible right
42 to acquire tangible personal property, intangibles or services in the
43 future, whether from the seller of the cash equivalent or from another
44 person. Cash equivalents do not include either of the following:

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

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

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

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

12 22. Motor vehicle fuel and use fuel that are subject to a tax
13 imposed under title 28, chapter 16, article 1, sales of use fuel to a
14 holder of a valid single trip use fuel tax permit issued under section
15 28-5739, sales of aviation fuel that are subject to the tax imposed under
16 section 28-8344 and sales of jet fuel that are subject to the tax imposed
17 under article 8 of this chapter.

18 23. Tangible personal property sold to a person engaged in the
19 business of leasing or renting such property under the personal property
20 rental classification if such property is to be leased or rented by such
21 person.

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

25 25. Tangible personal property sold to:

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

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

31 (c) A qualifying health care organization as defined in section
32 42-5001 if the organization is dedicated to providing educational,
33 therapeutic, rehabilitative and family medical education training for
34 blind and visually impaired children and children with multiple
35 disabilities from the time of birth to age twenty-one.

36 (d) A qualifying community health center as defined in section
37 42-5001.

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

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

1 personal property is used by the organization solely to provide
2 residential apartment housing for low-income persons over sixty-two years
3 of age in a facility that qualifies for a federal housing subsidy.

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

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

10 26. Magazines or other periodicals or other publications by this
11 state to encourage tourist travel.

12 27. Tangible personal property sold to:

13 (a) A person that is subject to tax under this article by reason of
14 being engaged in business classified under section 42-5075 or to a
15 subcontractor working under the control of a person engaged in business
16 classified under section 42-5075, if the property so sold is any of the
17 following:

18 (i) Incorporated or fabricated by the person into any real
19 property, structure, project, development or improvement as part of the
20 business.

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

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

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

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

35 29. Tangible personal property purchased in this state by a
36 nonprofit charitable organization that has qualified under section
37 501(c)(3) of the United States internal revenue code and that engages in
38 and uses such property exclusively in programs for persons with mental or
39 physical disabilities if the programs are exclusively for training, job
40 placement, rehabilitation or testing.

41 30. Sales of tangible personal property by a nonprofit organization
42 that is exempt from taxation under section 501(c)(3), 501(c)(4) or
43 501(c)(6) of the internal revenue code if the organization is associated
44 with a major league baseball team or a national touring professional
45 golfing association and no part of the organization's net earnings inures

1 to the benefit of any private shareholder or individual. This paragraph
2 does not apply to an organization that is owned, managed or controlled, in
3 whole or in part, by a major league baseball team, or its owners,
4 officers, employees or agents, or by a major league baseball association
5 or professional golfing association, or its owners, officers, employees or
6 agents, unless the organization conducted or operated exhibition events in
7 this state before January 1, 2018 that were exempt from taxation under
8 section 42-5073.

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

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

20 33. Sales of propagative materials to persons who use those items
21 to commercially produce agricultural, horticultural, viticultural or
22 floricultural crops in this state. For the purposes of this paragraph,
23 "propagative materials":

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

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

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

38 35. Sales of natural gas or liquefied petroleum gas used to propel
39 a motor vehicle.

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

43 37. Coal, petroleum, coke, natural gas, virgin fuel oil and
44 electricity sold to a qualified environmental technology manufacturer,
45 producer or processor as defined in section 41-1514.02 and directly used

1 or consumed in generating or providing on-site power or energy solely for
 2 environmental technology manufacturing, producing or processing or
 3 environmental protection. This paragraph applies for twenty full
 4 consecutive calendar or fiscal years from the date the first paper
 5 manufacturing machine is placed in service. In the case of an
 6 environmental technology manufacturer, producer or processor that does not
 7 manufacture paper, the time period begins with the date the first
 8 manufacturing, processing or production equipment is placed in service.

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

22 39. Through December 31, 1994, personal property liquidation
 23 transactions, conducted by a personal property liquidator. From and after
 24 December 31, 1994, personal property liquidation transactions shall be
 25 taxable under this section provided that nothing in this subsection shall
 26 be construed to authorize the taxation of casual activities or
 27 transactions under this chapter. For the purposes of this paragraph:

28 (a) "Personal property liquidation transaction" means a sale of
 29 personal property made by a personal property liquidator acting solely on
 30 behalf of the owner of the personal property sold at the dwelling of the
 31 owner or on the death of any owner, on behalf of the surviving spouse, if
 32 any, any devisee or heir or the personal representative of the estate of
 33 the deceased, if one has been appointed.

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

36 40. Sales of food, drink and condiment for consumption within the
 37 premises of any prison, jail or other institution under the jurisdiction
 38 of the state department of corrections, the department of public safety,
 39 the department of juvenile corrections or a county sheriff.

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

1 42. Sales of:

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

4 (b) Livestock and poultry feed, salts, vitamins and other additives
5 for livestock or poultry consumption that are sold to persons for use or
6 consumption by their own livestock or poultry, for use or consumption in
7 the businesses of farming, ranching and producing or feeding livestock,
8 poultry, or livestock or poultry products or for use or consumption in
9 noncommercial boarding of livestock. For the purposes of this paragraph,
10 "poultry" includes ratites.

11 43. Sales of implants used as growth promotants and injectable
12 medicines, not already exempt under paragraph 8 of this subsection, for
13 livestock or poultry owned by or in possession of persons that are engaged
14 in producing livestock, poultry, or livestock or poultry products or that
15 are engaged in feeding livestock or poultry commercially. For the
16 purposes of this paragraph, "poultry" includes ratites.

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

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

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

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

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

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

36 48. Tangible personal property sold to a commercial airline and
37 consisting of food, beverages and condiments and accessories used for
38 serving the food and beverages, if those items are to be provided without
39 additional charge to passengers for consumption in flight. For the
40 purposes of this paragraph, "commercial airline" means a person holding a
41 federal certificate of public convenience and necessity or foreign air
42 carrier permit for air transportation to transport persons, property or
43 United States mail in intrastate, interstate or foreign commerce.

1 49. Sales of alternative fuel vehicles if the vehicle was
2 manufactured as a diesel fuel vehicle and converted to operate on
3 alternative fuel and equipment that is installed in a conventional diesel
4 fuel motor vehicle to convert the vehicle to operate on an alternative
5 fuel, as defined in section 1-215.

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

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

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

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

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

23 (b) "Curriculum design or enhancement" means planning, implementing
24 or reporting on courses of study, lessons, assignments or other learning
25 activities.

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

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

34 56. Sales or other transfers of renewable energy credits or any
35 other unit created to track energy derived from renewable energy
36 resources. For the purposes of this paragraph, "renewable energy credit"
37 means a unit created administratively by the corporation commission or
38 governing body of a public power utility to track kilowatt hours of
39 electricity derived from a renewable energy resource or the kilowatt hour
40 equivalent of conventional energy resources displaced by distributed
41 renewable energy resources.

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

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

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

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

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

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

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

26 61. SALES OF FIREARMS AND FIREARM SAFETY EQUIPMENT. FOR THE
27 PURPOSES OF THIS PARAGRAPH:

28 (a) "FIREARMS" MEANS HANDGUNS, PISTOLS, REVOLVERS, RIFLES, SHOTGUNS
29 OR OTHER WEAPONS THAT WILL EXPEL, ARE DESIGNED TO EXPEL OR MAY READILY BE
30 CONVERTED TO EXPEL A PROJECTILE BY THE ACTION OF AN EXPLOSIVE.

31 (b) "FIREARM SAFETY EQUIPMENT" MEANS ALL OF THE FOLLOWING AND DOES
32 NOT INCLUDE ZIP TIES, ROPE AND STRING:

33 (i) A DEVICE THAT, WHEN INSTALLED ON A FIREARM, IS DESIGNED TO
34 PREVENT THE FIREARM FROM BEING OPERATED WITHOUT FIRST DEACTIVATING THE
35 DEVICE.

36 (ii) A DEVICE INCORPORATED INTO THE DESIGN OF THE FIREARM THAT IS
37 DESIGNED TO PREVENT THE OPERATION OF THE FIREARM BY ANYONE NOT HAVING
38 ACCESS TO THE DEVICE.

39 (iii) A SAFE, GUN SAFE, GUN CASE, LOCK BOX OR OTHER DEVICE THAT IS
40 DESIGNED TO BE OR CAN BE USED TO STORE A FIREARM AND THAT IS DESIGNED TO
41 BE UNLOCKED ONLY BY MEANS OF A KEY, A COMBINATION OR OTHER SIMILAR MEANS.

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

1 1. Machinery, or equipment, used directly in manufacturing,
2 processing, fabricating, job printing, refining or metallurgical
3 operations. The terms "manufacturing", "processing", "fabricating", "job
4 printing", "refining" and "metallurgical" as used in this paragraph refer
5 to and include those operations commonly understood within their ordinary
6 meaning. "Metallurgical operations" includes leaching, milling,
7 precipitating, smelting and refining.

8 2. Mining machinery, or equipment, used directly in the process of
9 extracting ores or minerals from the earth for commercial purposes,
10 including equipment required to prepare the materials for extraction and
11 handling, loading or transporting such extracted material to the
12 surface. "Mining" includes underground, surface and open pit operations
13 for extracting ores and minerals.

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

22 4. Machinery, equipment or transmission lines used directly in
23 producing or transmitting electrical power, but not including
24 distribution. Transformers and control equipment used at transmission
25 substation sites constitute equipment used in producing or transmitting
26 electrical power.

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

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

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

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

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

44 7. Pipes or valves four inches in diameter or larger used to
45 transport oil, natural gas, artificial gas, water or coal slurry,

1 including compressor units, regulators, machinery and equipment, fittings,
2 seals and any other part that is used in operating the pipes or valves.

3 8. Aircraft, navigational and communication instruments and other
4 accessories and related equipment sold to:

5 (a) A person:

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

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

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

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

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

33 (b) Any foreign government.

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

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

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

3 11. Machinery or equipment used directly to drill for oil or gas or
4 used directly in the process of extracting oil or gas from the earth for
5 commercial purposes.

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

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

15 14. New machinery and equipment consisting of agricultural
16 aircraft, tractors, tractor-drawn implements, self-powered implements,
17 machinery and equipment necessary for extracting milk, and machinery and
18 equipment necessary for cooling milk and livestock, and drip irrigation
19 lines not already exempt under paragraph 7 of this subsection and that are
20 used for commercial production of agricultural, horticultural,
21 viticultural and floricultural crops and products in this state. For the
22 purposes of this paragraph:

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

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

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

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

44 (a) Any direct broadcast satellite television or data transmission
45 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. For the purposes of
12 subdivision (b) of this paragraph, "test period" means the three hundred
13 sixty-five day period beginning on the later of the date on which the
14 tangible personal property is purchased or the date on which the direct
15 broadcast satellite television or data transmission service first
16 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 used directly in feeding poultry,
35 environmentally controlling housing for poultry, moving eggs within a
36 production and packaging facility or sorting or cooling eggs. This
37 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.

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

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

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

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

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

26 22. Qualifying equipment that is purchased from and after June 30,
27 2004 through June 30, 2024 by a qualified business under section 41-1516
28 for harvesting or processing qualifying forest products removed from
29 qualifying projects as defined in section 41-1516. To qualify for this
30 deduction, the qualified business at the time of purchase must present its
31 certification approved by the department.

32 23. Computer data center equipment sold to the owner, operator or
33 qualified colocation tenant of a computer data center that is certified by
34 the Arizona commerce authority under section 41-1519 or an authorized
35 agent of the owner, operator or qualified colocation tenant during the
36 qualification period for use in the qualified computer data center. For
37 the purposes of this paragraph, "computer data center", "computer data
38 center equipment", "qualification period" and "qualified colocation
39 tenant" have the same meanings prescribed in section 41-1519.

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

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

- 1 2. Janitorial equipment and hand tools.
- 2 3. Office equipment, furniture and supplies.
- 3 4. Tangible personal property used in selling or distributing
- 4 activities, other than the telecommunications transmissions described in
- 5 subsection B, paragraph 16 of this section.
- 6 5. Motor vehicles required to be licensed by this state, except
- 7 buses or other urban mass transit vehicles specifically exempted pursuant
- 8 to subsection B, paragraph 12 of this section, without regard to the use
- 9 of such motor vehicles.
- 10 6. Shops, buildings, docks, depots and all other materials of
- 11 whatever kind or character not specifically included as exempt.
- 12 7. Motors and pumps used in drip irrigation systems.
- 13 8. Machinery and equipment or other tangible personal property used
- 14 by a contractor in performing a contract.
- 15 D. In addition to the deductions from the tax base prescribed by
- 16 subsection A of this section, there shall be deducted from the tax base
- 17 the gross proceeds of sales or gross income derived from sales of
- 18 machinery, equipment, materials and other tangible personal property used
- 19 directly and predominantly to construct a qualified environmental
- 20 technology manufacturing, producing or processing facility as described in
- 21 section 41-1514.02. This subsection applies for ten full consecutive
- 22 calendar or fiscal years after the start of initial construction.
- 23 E. In computing the tax base, gross proceeds of sales or gross
- 24 income from retail sales of heavy trucks and trailers does not include any
- 25 amount attributable to federal excise taxes imposed by 26 United States
- 26 Code section 4051.
- 27 F. If a person is engaged in an occupation or business to which
- 28 subsection A of this section applies, the person's books shall be kept so
- 29 as to show separately the gross proceeds of sales of tangible personal
- 30 property and the gross income from sales of services, and if not so kept
- 31 the tax shall be imposed on the total of the person's gross proceeds of
- 32 sales of tangible personal property and gross income from services.
- 33 G. If a person is engaged in the business of selling tangible
- 34 personal property at both wholesale and retail, the tax under this section
- 35 applies only to the gross proceeds of the sales made other than at
- 36 wholesale if the person's books are kept so as to show separately the
- 37 gross proceeds of sales of each class, and if the books are not so kept,
- 38 the tax under this section applies to the gross proceeds of every sale so
- 39 made.
- 40 H. A person who engages in manufacturing, baling, crating, boxing,
- 41 barreling, canning, bottling, sacking, preserving, processing or otherwise
- 42 preparing for sale or commercial use any livestock, agricultural or
- 43 horticultural product or any other product, article, substance or
- 44 commodity and who sells the product of such business at retail in this

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

3 1. Agricultural producers who are owners, proprietors or tenants of
4 agricultural lands, orchards, farms or gardens where agricultural products
5 are grown, raised or prepared for market and who are marketing their own
6 agricultural products.

7 2. Businesses classified under the:

8 (a) Transporting classification.

9 (b) Utilities classification.

10 (c) Telecommunications classification.

11 (d) Pipeline classification.

12 (e) Private car line classification.

13 (f) Publication classification.

14 (g) Job printing classification.

15 (h) Prime contracting classification.

16 (i) Restaurant classification.

17 I. The gross proceeds of sales or gross income derived from the
18 following shall be deducted from the tax base for the retail
19 classification:

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

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

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

33 4. Sales of overhead materials or other tangible personal property
34 to a manufacturer, modifier, assembler or repairer if the gross proceeds
35 of sales or gross income derived from the property by the manufacturer,
36 modifier, assembler or repairer will be exempt under paragraph 3 of this
37 subsection.

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

42 K. The department shall require every person claiming a deduction
43 provided by subsection I or J of this section to file on forms prescribed
44 by the department at such times as the department directs a sworn

1 statement disclosing the name of the purchaser and the exact amount of
2 sales on which the exclusion or deduction is claimed.

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

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

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

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

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

21 O. For the purposes of this section, a sale of wireless
22 telecommunications equipment to a person who holds the equipment for sale
23 or transfer to a customer as an inducement to enter into or continue a
24 contract for telecommunications services that are taxable under section
25 42-5064 is considered to be a sale for resale in the regular course of
26 business.

27 P. Retail sales of prepaid calling cards or prepaid authorization
28 numbers for telecommunications services, including sales of
29 reauthorization of a prepaid card or authorization number, are subject to
30 tax under this section.

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

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

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

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

43 1. The transfer of title or possession of the coal is for the
44 purpose of refining the coal.

1 2. The title or possession of the coal is transferred back to the
2 owner or operator of the power plant after completion of the coal refining
3 process. For the purposes of this paragraph, "coal refining process"
4 means the application of a coal additive system that aids in the reduction
5 of power plant emissions during the combustion of coal and the treatment
6 of flue gas.

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

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

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

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

31 U. In computing the tax base for the sale of a motor vehicle to a
32 nonresident of this state, if the purchaser's state of residence allows a
33 corresponding use tax exemption to the tax imposed by article 1 of this
34 chapter and the rate of the tax in the purchaser's state of residence is
35 lower than the rate prescribed in article 1 of this chapter or if the
36 purchaser's state of residence does not impose an excise tax, and the
37 nonresident has secured a special ninety day nonresident registration
38 permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01,
39 there shall be deducted from the tax base a portion of the gross proceeds
40 or gross income from the sale so that the amount of transaction privilege
41 tax that is paid in this state is equal to the excise tax that is imposed
42 by the purchaser's state of residence on the nonexempt sale or use of the
43 motor vehicle.

1 V. For the purposes of this section:

2 1. "Agricultural aircraft" means an aircraft that is built for
3 agricultural use for the aerial application of pesticides or fertilizer or
4 for aerial seeding.

5 2. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

40 6. "Subcontract" means an agreement between a contractor and any
41 person who is not an employee of the contractor for furnishing supplies
42 or services that, in whole or in part, are necessary to perform one or
43 more government contracts, or under which any portion of the contractor's
44 obligation under one or more government contracts is performed, undertaken
45 or assumed and that includes provisions causing title to overhead

1 materials or other tangible personal property used in performing the
2 subcontract to pass to the government or that includes provisions
3 incorporating such title passing clauses in a government contract into the
4 subcontract.

5 Sec. 2. Section 42-5061, Arizona Revised Statutes, as amended by
6 Laws 2021, chapter 266, section 4, chapter 412, section 8, chapter 417,
7 section 5 and chapter 443, section 3, is amended to read:

8 42-5061. Retail classification; definitions

9 A. The retail classification is comprised of the business of
10 selling tangible personal property at retail. The tax base for the retail
11 classification is the gross proceeds of sales or gross income derived from
12 the business. The tax imposed on the retail classification does not apply
13 to the gross proceeds of sales or gross income from:

14 1. Professional or personal service occupations or businesses that
15 involve sales or transfers of tangible personal property only as
16 inconsequential elements.

17 2. Services rendered in addition to selling tangible personal
18 property at retail.

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

22 4. Sales of tangible personal property by any nonprofit
23 organization organized and operated exclusively for charitable purposes
24 and recognized by the United States internal revenue service under section
25 501(c)(3) of the internal revenue code.

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

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

31 7. The sale of stocks and bonds.

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

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

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

40 11. Prescription eyeglasses or contact lenses.

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

42 13. Durable medical equipment that has a centers for medicare and
43 medicaid services common procedure code, is designated reimbursable by
44 medicare, is prescribed by a person who is licensed under title 32,
45 chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is

1 primarily and customarily used to serve a medical purpose, is generally
2 not useful to a person in the absence of illness or injury and is
3 appropriate for use in the home.

4 14. Sales of motor vehicles to nonresidents of this state for use
5 outside this state if the motor vehicle dealer ships or delivers the motor
6 vehicle to a destination out of this state.

7 15. Food, as provided in and subject to the conditions of article 3
8 of this chapter and sections 42-5074 and 42-6017.

9 16. Items purchased with United States department of agriculture
10 coupons issued under the supplemental nutrition assistance program
11 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
12 7 United States Code sections 2011 through 2036b) by the United States
13 department of agriculture food and nutrition service or food instruments
14 issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat.
15 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
16 section 1786).

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

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

23 19. Articles of food, drink or condiment and accessory tangible
24 personal property to a school district or charter school if such articles
25 and accessory tangible personal property are to be prepared and served to
26 persons for consumption on the premises of a public school within the
27 district or on the premises of the charter school during school hours.

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

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

37 (a) "Cash equivalents" means items or intangibles, whether or not
38 negotiable, that are sold to one or more persons, through which a value
39 denominated in money is purchased in advance and may be redeemed in full
40 or in part for tangible personal property, intangibles or services. Cash
41 equivalents include gift cards, stored value cards, gift certificates,
42 vouchers, traveler's checks, money orders or other instruments, orders or
43 electronic mechanisms, such as an electronic code, personal identification
44 number or digital payment mechanism, or any other prepaid intangible right
45 to acquire tangible personal property, intangibles or services in the

1 future, whether from the seller of the cash equivalent or from another
2 person. Cash equivalents do not include either of the following:

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

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

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

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

14 22. Motor vehicle fuel and use fuel that are subject to a tax
15 imposed under title 28, chapter 16, article 1, sales of use fuel to a
16 holder of a valid single trip use fuel tax permit issued under section
17 28-5739, sales of aviation fuel that are subject to the tax imposed under
18 section 28-8344 and sales of jet fuel that are subject to the tax imposed
19 under article 8 of this chapter.

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

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

27 25. Tangible personal property sold to:

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

29 (b) A qualifying health care organization as defined in section
30 42-5001 if the tangible personal property is used by the organization
31 solely to provide health and medical related educational and charitable
32 services.

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

38 (d) A qualifying community health center as defined in section
39 42-5001.

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

43 (f) For taxable periods beginning from and after June 30, 2001, a
44 nonprofit charitable organization that has qualified under section
45 501(c)(3) of the internal revenue code and that provides residential

1 apartment housing for low-income persons over sixty-two years of age in a
2 facility that qualifies for a federal housing subsidy, if the tangible
3 personal property is used by the organization solely to provide
4 residential apartment housing for low-income persons over sixty-two years
5 of age in a facility that qualifies for a federal housing subsidy.

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

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

12 26. Magazines or other periodicals or other publications by this
13 state to encourage tourist travel.

14 27. Tangible personal property sold to:

15 (a) A person that is subject to tax under this article by reason of
16 being engaged in business classified under section 42-5075 or to a
17 subcontractor working under the control of a person engaged in business
18 classified under section 42-5075, if the property so sold is any of the
19 following:

20 (i) Incorporated or fabricated by the person into any real
21 property, structure, project, development or improvement as part of the
22 business.

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

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

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

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

37 29. Tangible personal property purchased in this state by a
38 nonprofit charitable organization that has qualified under section
39 501(c)(3) of the United States internal revenue code and that engages in
40 and uses such property exclusively in programs for persons with mental or
41 physical disabilities if the programs are exclusively for training, job
42 placement, rehabilitation or testing.

43 30. Sales of tangible personal property by a nonprofit organization
44 that is exempt from taxation under section 501(c)(3), 501(c)(4) or
45 501(c)(6) of the internal revenue code if the organization is associated

1 with a major league baseball team or a national touring professional
2 golfing association and no part of the organization's net earnings inures
3 to the benefit of any private shareholder or individual. This paragraph
4 does not apply to an organization that is owned, managed or controlled, in
5 whole or in part, by a major league baseball team, or its owners,
6 officers, employees or agents, or by a major league baseball association
7 or professional golfing association, or its owners, officers, employees or
8 agents, unless the organization conducted or operated exhibition events in
9 this state before January 1, 2018 that were exempt from taxation under
10 section 42-5073.

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

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

22 33. Sales of propagative materials to persons who use those items
23 to commercially produce agricultural, horticultural, viticultural or
24 floricultural crops in this state. For the purposes of this paragraph,
25 "propagative materials":

26 (a) Includes seeds, seedlings, roots, bulbs, liners, transplants,
27 cuttings, soil and plant additives, agricultural minerals, auxiliary soil
28 and plant substances, micronutrients, fertilizers, insecticides,
29 herbicides, fungicides, soil fumigants, desiccants, rodenticides,
30 adjuvants, plant nutrients and plant growth regulators.

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

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

40 35. Sales of natural gas or liquefied petroleum gas used to propel
41 a motor vehicle.

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

1 37. Petroleum, coke, natural gas, virgin fuel oil and electricity
2 sold to a qualified environmental technology manufacturer, producer or
3 processor as defined in section 41-1514.02 and directly used or consumed
4 in generating or providing on-site power or energy solely for
5 environmental technology manufacturing, producing or processing or
6 environmental protection. This paragraph applies for twenty full
7 consecutive calendar or fiscal years from the date the first paper
8 manufacturing machine is placed in service. In the case of an
9 environmental technology manufacturer, producer or processor that does not
10 manufacture paper, the time period begins with the date the first
11 manufacturing, processing or production equipment is placed in service.

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

25 39. Through December 31, 1994, personal property liquidation
26 transactions, conducted by a personal property liquidator. From and after
27 December 31, 1994, personal property liquidation transactions shall be
28 taxable under this section provided that nothing in this subsection shall
29 be construed to authorize the taxation of casual activities or
30 transactions under this chapter. For the purposes of this paragraph:

31 (a) "Personal property liquidation transaction" means a sale of
32 personal property made by a personal property liquidator acting solely on
33 behalf of the owner of the personal property sold at the dwelling of the
34 owner or on the death of any owner, on behalf of the surviving spouse, if
35 any, any devisee or heir or the personal representative of the estate of
36 the deceased, if one has been appointed.

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

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

43 41. A motor vehicle and any repair and replacement parts and
44 tangible personal property becoming a part of such motor vehicle sold to a
45 motor carrier that is subject to a fee prescribed in title 28, chapter 16,

1 article 4 and that is engaged in the business of leasing or renting such
2 property.

3 42. Sales of:

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

6 (b) Livestock and poultry feed, salts, vitamins and other additives
7 for livestock or poultry consumption that are sold to persons for use or
8 consumption by their own livestock or poultry, for use or consumption in
9 the businesses of farming, ranching and producing or feeding livestock,
10 poultry, or livestock or poultry products or for use or consumption in
11 noncommercial boarding of livestock. For the purposes of this paragraph,
12 "poultry" includes ratites.

13 43. Sales of implants used as growth promotants and injectable
14 medicines, not already exempt under paragraph 8 of this subsection, for
15 livestock or poultry owned by or in possession of persons that are engaged
16 in producing livestock, poultry, or livestock or poultry products or that
17 are engaged in feeding livestock or poultry commercially. For the
18 purposes of this paragraph, "poultry" includes ratites.

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

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

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

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

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

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

38 48. Tangible personal property sold to a commercial airline and
39 consisting of food, beverages and condiments and accessories used for
40 serving the food and beverages, if those items are to be provided without
41 additional charge to passengers for consumption in flight. For the
42 purposes of this paragraph, "commercial airline" means a person holding a
43 federal certificate of public convenience and necessity or foreign air
44 carrier permit for air transportation to transport persons, property or
45 United States mail in intrastate, interstate or foreign commerce.

1 49. Sales of alternative fuel vehicles if the vehicle was
2 manufactured as a diesel fuel vehicle and converted to operate on
3 alternative fuel and equipment that is installed in a conventional diesel
4 fuel motor vehicle to convert the vehicle to operate on an alternative
5 fuel, as defined in section 1-215.

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

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

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

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

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

23 (b) "Curriculum design or enhancement" means planning, implementing
24 or reporting on courses of study, lessons, assignments or other learning
25 activities.

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

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

34 56. Sales or other transfers of renewable energy credits or any
35 other unit created to track energy derived from renewable energy
36 resources. For the purposes of this paragraph, "renewable energy credit"
37 means a unit created administratively by the corporation commission or
38 governing body of a public power utility to track kilowatt hours of
39 electricity derived from a renewable energy resource or the kilowatt hour
40 equivalent of conventional energy resources displaced by distributed
41 renewable energy resources.

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

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

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

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

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

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

22 60. Sales of coal.

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

27 62. SALES OF FIREARMS AND FIREARM SAFETY EQUIPMENT. FOR THE
28 PURPOSES OF THIS PARAGRAPH:

29 (a) "FIREARMS" MEANS HANDGUNS, PISTOLS, REVOLVERS, RIFLES, SHOTGUNS
30 OR OTHER WEAPONS THAT WILL EXPEL, ARE DESIGNED TO EXPEL OR MAY READILY BE
31 CONVERTED TO EXPEL A PROJECTILE BY THE ACTION OF AN EXPLOSIVE.

32 (b) "FIREARM SAFETY EQUIPMENT" MEANS ALL OF THE FOLLOWING AND DOES
33 NOT INCLUDE ZIP TIES, ROPE AND STRING:

34 (i) A DEVICE THAT, WHEN INSTALLED ON A FIREARM, IS DESIGNED TO
35 PREVENT THE FIREARM FROM BEING OPERATED WITHOUT FIRST DEACTIVATING THE
36 DEVICE.

37 (ii) A DEVICE INCORPORATED INTO THE DESIGN OF THE FIREARM THAT IS
38 DESIGNED TO PREVENT THE OPERATION OF THE FIREARM BY ANYONE NOT HAVING
39 ACCESS TO THE DEVICE.

40 (iii) A SAFE, GUN SAFE, GUN CASE, LOCK BOX OR OTHER DEVICE THAT IS
41 DESIGNED TO BE OR CAN BE USED TO STORE A FIREARM AND THAT IS DESIGNED TO
42 BE UNLOCKED ONLY BY MEANS OF A KEY, A COMBINATION OR OTHER SIMILAR MEANS.

43 B. In addition to the deductions from the tax base prescribed by
44 subsection A of this section, the gross proceeds of sales or gross income

1 derived from sales of the following categories of tangible personal
2 property shall be deducted from the tax base:

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

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

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

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

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

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

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

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

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

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

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

7 (a) A person:

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

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

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

21 (iv) Operating an aircraft to transport persons in any manner for
22 compensation or hire, or for use in a fractional ownership program that
23 meets the requirements of federal aviation administration regulations
24 (14 Code of Federal Regulations part 91, subpart K), including as an air
25 carrier, a foreign air carrier or a commercial operator or under a
26 restricted category, within the meaning of 14 Code of Federal Regulations,
27 regardless of whether the operation or aircraft is regulated or certified
28 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code
29 of Federal Regulations.

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

35 (b) Any foreign government.

36 (c) Persons who are not residents of this state and who will not
37 use such property in this state other than in removing such property from
38 this state. This subdivision also applies to corporations that are not
39 incorporated in this state, regardless of maintaining a place of business
40 in this state, if the principal corporate office is located outside this
41 state and the property will not be used in this state other than in
42 removing the property from this state.

43 9. Machinery, tools, equipment and related supplies used or
44 consumed directly in repairing, remodeling or maintaining aircraft,

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

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

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

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

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

17 14. New machinery and equipment consisting of agricultural
18 aircraft, tractors, tractor-drawn implements, self-powered implements,
19 machinery and equipment necessary for extracting milk, and machinery and
20 equipment necessary for cooling milk and livestock, and drip irrigation
21 lines not already exempt under paragraph 7 of this subsection and that are
22 used for commercial production of agricultural, horticultural,
23 viticultural and floricultural crops and products in this state. For the
24 purposes of this paragraph:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 federal energy regulatory commission, the United States environmental
2 protection agency, the United States nuclear regulatory commission, the
3 Arizona department of environmental quality or a political subdivision of
4 this state to prevent, monitor, control or reduce land, water or air
5 pollution.

6 20. Machinery and equipment that are sold to a person engaged in
7 commercially producing livestock, livestock products or agricultural,
8 horticultural, viticultural or floricultural crops or products in this
9 state, including a person representing or working on behalf of such a
10 person in a manner described in section 42-5075, subsection 0, if the
11 machinery and equipment are used directly and primarily to prevent,
12 monitor, control or reduce 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 deduction, the qualified business at the time of purchase must present its
33 certification approved by the department.

34 23. Computer data center equipment sold to the owner, operator or
35 qualified colocation tenant of a computer data center that is certified by
36 the Arizona commerce authority under section 41-1519 or an authorized
37 agent of the owner, operator or qualified colocation tenant during the
38 qualification period for use in the qualified computer data center. For
39 the purposes of this paragraph, "computer data center", "computer data
40 center equipment", "qualification period" and "qualified colocation
41 tenant" have the same meanings prescribed in section 41-1519.

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

44 1. Expendable materials. For the purposes of this paragraph,
45 expendable materials do not include any of the categories of tangible

1 personal property specified in subsection B of this section regardless of
2 the cost or useful life of that property.

3 2. Janitorial equipment and hand tools.

4 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

42 H. A person who engages in manufacturing, baling, crating, boxing,
43 barreling, canning, bottling, sacking, preserving, processing or otherwise
44 preparing for sale or commercial use any livestock, agricultural or
45 horticultural product or any other product, article, substance or

1 commodity and who sells the product of such business at retail in this
2 state is deemed, as to such sales, to be engaged in business classified
3 under the retail classification. This subsection does not apply to:

4 1. Agricultural producers who are owners, proprietors or tenants of
5 agricultural lands, orchards, farms or gardens where agricultural products
6 are grown, raised or prepared for market and who are marketing their own
7 agricultural products.

8 2. Businesses classified under the:

9 (a) Transporting classification.

10 (b) Utilities classification.

11 (c) Telecommunications classification.

12 (d) Pipeline classification.

13 (e) Private car line classification.

14 (f) Publication classification.

15 (g) Job printing classification.

16 (h) Prime contracting classification.

17 (i) Restaurant classification.

18 I. The gross proceeds of sales or gross income derived from the
19 following shall be deducted from the tax base for the retail
20 classification:

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

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

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

34 4. Sales of overhead materials or other tangible personal property
35 to a manufacturer, modifier, assembler or repairer if the gross proceeds
36 of sales or gross income derived from the property by the manufacturer,
37 modifier, assembler or repairer will be exempt under paragraph 3 of this
38 subsection.

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

43 K. The department shall require every person claiming a deduction
44 provided by subsection I or J of this section to file on forms prescribed
45 by the department at such times as the department directs a sworn

1 statement disclosing the name of the purchaser and the exact amount of
2 sales on which the exclusion or deduction is claimed.

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

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

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

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

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

21 O. For the purposes of this section, a sale of wireless
22 telecommunications equipment to a person who holds the equipment for sale
23 or transfer to a customer as an inducement to enter into or continue a
24 contract for telecommunications services that are taxable under section
25 42-5064 is considered to be a sale for resale in the regular course of
26 business.

27 P. Retail sales of prepaid calling cards or prepaid authorization
28 numbers for telecommunications services, including sales of
29 reauthorization of a prepaid card or authorization number, are subject to
30 tax under this section.

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

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

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

39 R. If a seller is entitled to a deduction pursuant to subsection B,
40 paragraph 16, subdivision (b) of this section, the department may require
41 the purchaser to establish that the requirements of subsection B,
42 paragraph 16, subdivision (b) of this section have been satisfied. If the
43 purchaser cannot establish that the requirements of subsection B,
44 paragraph 16, subdivision (b) of this section have been satisfied, the
45 purchaser is liable in an amount equal to any tax, penalty and interest

1 that the seller would have been required to pay under article 1 of this
2 chapter if the seller had not made a deduction pursuant to subsection B,
3 paragraph 16, subdivision (b) of this section. Payment of the amount
4 under this subsection exempts the purchaser from liability for any tax
5 imposed under article 4 of this chapter and related to the tangible
6 personal property purchased. The amount shall be treated as transaction
7 privilege tax to the purchaser and as tax revenues collected from the
8 seller to designate the distribution base pursuant to section 42-5029.

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

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

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

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

31 U. For the purposes of this section:

32 1. "Agricultural aircraft" means an aircraft that is built for
33 agricultural use for the aerial application of pesticides or fertilizer or
34 for aerial seeding.

35 2. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

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

36 Sec. 3. Section 42-5159, Arizona Revised Statutes, is amended to
37 read:

38 42-5159. Exemptions

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

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

1 2. Tangible personal property, the sale or use of which has already
2 been subjected to an excise tax at a rate equal to or exceeding the tax
3 imposed by this article under the laws of another state of the United
4 States. If the excise tax imposed by the other state is at a rate less
5 than the tax imposed by this article, the tax imposed by this article is
6 reduced by the amount of the tax already imposed by the other state.

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

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

15 5. Motor vehicle fuel and use fuel, the sales, distribution or use
16 of which in this state is subject to the tax imposed under title 28,
17 chapter 16, article 1, use fuel that is sold to or used by a person
18 holding a valid single trip use fuel tax permit issued under section
19 28-5739, aviation fuel, the sales, distribution or use of which in this
20 state is subject to the tax imposed under section 28-8344, and jet fuel,
21 the sales, distribution or use of which in this state is subject to the
22 tax imposed under article 8 of this chapter.

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

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

34 8. Purchases of:

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

37 (b) Livestock and poultry feed, salts, vitamins and other additives
38 sold to persons for use or consumption in the businesses of farming,
39 ranching and producing or feeding livestock or poultry or for use or
40 consumption in noncommercial boarding of livestock. For the purposes of
41 this paragraph, "poultry" includes ratites.

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

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

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

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

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

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

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

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

23 13. Tangible personal property purchased by:

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

27 (b) A hospital operated by this state or a political subdivision of
28 this state.

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

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

38 (e) A qualifying health care organization as defined in section
39 42-5001 if the organization is dedicated to providing educational,
40 therapeutic, rehabilitative and family medical education training for
41 blind and visually impaired children and children with multiple
42 disabilities from the time of birth to age twenty-one.

43 (f) A nonprofit charitable organization that has qualified under
44 section 501(c)(3) of the United States internal revenue code and that
45 engages in and uses such property exclusively in programs for persons with

1 mental or physical disabilities if the programs are exclusively for
2 training, job placement, rehabilitation or testing.

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

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

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

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

14 (h) A person that is not subject to tax under section 42-5075 and
15 that has been provided a copy of a certificate described in section
16 42-5009, subsection L, if the property purchased is incorporated or
17 fabricated by the person into the real property, structure, project,
18 development or improvement described in the certificate.

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

23 (j) A qualifying community health center as defined in section
24 42-5001.

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

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

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

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

43 (o) A person representing or working on behalf of any person
44 described in subdivision (a), (b), (c), (d), (e), (f), (i), (j), (k), (m)
45 or (n) of this paragraph, if the tangible personal property is

1 incorporated or fabricated into a project described in section 42-5075,
2 subsection 0.

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

8 15. Tangible personal property sold by:

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

12 (b) A nonprofit organization that is exempt from taxation under
13 section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if
14 the organization is associated with a major league baseball team or a
15 national touring professional golfing association and no part of the
16 organization's net earnings inures to the benefit of any private
17 shareholder or individual. This subdivision does not apply to an
18 organization that is owned, managed or controlled, in whole or in part, by
19 a major league baseball team, or its owners, officers, employees or
20 agents, or by a major league baseball association or professional golfing
21 association, or its owners, officers, employees or agents, unless the
22 organization conducted or operated exhibition events in this state before
23 January 1, 2018 that were exempt from transaction privilege tax under
24 section 42-5073.

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

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

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

39 18. Prescription eyeglasses and contact lenses.

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

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

42 21. Durable medical equipment that has a centers for medicare and
43 medicaid services common procedure code, is designated reimbursable by
44 medicare, is prescribed by a person who is licensed under title 32,
45 chapter 7, 13, 17 or 29, can withstand repeated use, is primarily and

1 customarily used to serve a medical purpose, is generally not useful to a
2 person in the absence of illness or injury and is appropriate for use in
3 the home.

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

6 23. Items purchased with United States department of agriculture
7 coupons issued under the supplemental nutrition assistance program
8 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
9 7 United States Code sections 2011 through 2036b) by the United States
10 department of agriculture food and nutrition service or food instruments
11 issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat.
12 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
13 section 1786).

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

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

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

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

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

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

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

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

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

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

5 (b) Public educational institutions.

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

9 33. Natural gas or liquefied petroleum gas used to propel a motor
10 vehicle.

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

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

29 36. Food, drink and condiment purchased for consumption within the
30 premises of any prison, jail or other institution under the jurisdiction
31 of the state department of corrections, the department of public safety,
32 the department of juvenile corrections or a county sheriff.

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

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

41 39. Overhead materials or other tangible personal property that is
42 used in performing a contract between the United States government and a
43 manufacturer, modifier, assembler or repairer, including property used in
44 performing a subcontract with a government contractor who is a
45 manufacturer, modifier, assembler or repairer, to which title passes to

1 the government under the terms of the contract or subcontract. For the
2 purposes of this paragraph:

3 (a) "Overhead materials" means tangible personal property, the
4 gross proceeds of sales or gross income derived from which would otherwise
5 be included in the retail classification, that is 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 (b) "Subcontract" means an agreement between a contractor and any
11 person who is not an employee of the contractor for furnishing of supplies
12 or services that, in whole or in part, are necessary to perform one or
13 more government contracts, or under which any portion of the contractor's
14 obligation under one or more government contracts is performed, undertaken
15 or assumed, and that includes provisions causing title to overhead
16 materials or other tangible personal property used in performing the
17 subcontract to pass to the government or that includes provisions
18 incorporating such title passing clauses in a government contract into the
19 subcontract.

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

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

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

34 43. Tangible personal property purchased by a commercial airline
35 and consisting of food, beverages and condiments and accessories used for
36 serving the food and beverages, if those items are to be provided without
37 additional charge to passengers for consumption in flight. For the
38 purposes of this paragraph, "commercial airline" means a person holding a
39 federal certificate of public convenience and necessity or foreign air
40 carrier permit for air transportation to transport persons, property or
41 United States mail in intrastate, interstate or foreign commerce.

42 44. Alternative fuel vehicles if the vehicle was manufactured as a
43 diesel fuel vehicle and converted to operate on alternative fuel and
44 equipment that is installed in a conventional diesel fuel motor vehicle to

1 convert the vehicle to operate on an alternative fuel, as defined in
2 section 1-215.

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

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

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

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

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

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

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

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

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

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

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

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

43 53. Renewable energy credits or any other unit created to track
44 energy derived from renewable energy resources. For the purposes of this
45 paragraph, "renewable energy credit" means a unit created administratively

1 by the corporation commission or governing body of a public power entity
2 to track kilowatt hours of electricity derived from a renewable energy
3 resource or the kilowatt hour equivalent of conventional energy resources
4 displaced by distributed renewable energy resources.

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

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

10 (b) The title or possession of the coal is transferred back to the
11 owner or operator of the power plant after completion of the coal refining
12 process. For the purposes of this subdivision, "coal refining process"
13 means the application of a coal additive system that aids the reduction of
14 power plant emissions during the combustion of coal and the treatment of
15 flue gas.

16 55. Tangible personal property incorporated or fabricated into a
17 project described in section 42-5075, subsection 0, that is located within
18 the exterior boundaries of an Indian reservation for which the owner, as
19 defined in section 42-5075, of the project is an Indian tribe or an
20 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 the Indian tribe.

33 56. Cash equivalents, precious metal bullion and monetized bullion
34 purchased by the ultimate consumer, but coins or other forms of money for
35 manufacture into jewelry or works of art are subject to tax, and tangible
36 personal property that is purchased through the redemption of any cash
37 equivalent by the holder as a means of payment for goods that are subject
38 to tax under this article is subject to tax. For the purposes of this
39 paragraph:

40 (a) "Cash equivalents" means items, whether or not negotiable, that
41 are sold to one or more persons, through which a value denominated in
42 money is purchased in advance and that may be redeemed in full or in part
43 for tangible personal property, intangibles or services. Cash equivalents
44 include gift cards, stored value cards, gift certificates, vouchers,

1 traveler's checks, money orders or other tangible instruments or orders.
2 Cash equivalents do not include either of the following:

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

5 (ii) Prepaid calling cards for telecommunications services.

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

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

13 57. A FIREARM AND FIREARM SAFETY EQUIPMENT. FOR THE PURPOSES OF
14 THIS PARAGRAPH:

15 (a) "FIREARM" MEANS A HANDGUN, PISTOL, REVOLVER, RIFLE, SHOTGUN OR
16 OTHER WEAPON THAT WILL EXPEL, IS DESIGNED TO EXPEL OR MAY READILY BE
17 CONVERTED TO EXPEL A PROJECTILE BY THE ACTION OF AN EXPLOSIVE.

18 (b) "FIREARM SAFETY EQUIPMENT" MEANS ALL OF THE FOLLOWING AND DOES
19 NOT INCLUDE ZIP TIES, ROPE AND STRING:

20 (i) A DEVICE THAT, WHEN INSTALLED ON A FIREARM, IS DESIGNED TO
21 PREVENT THE FIREARM FROM BEING OPERATED WITHOUT FIRST DEACTIVATING THE
22 DEVICE.

23 (ii) A DEVICE INCORPORATED INTO THE DESIGN OF THE FIREARM THAT IS
24 DESIGNED TO PREVENT THE OPERATION OF THE FIREARM BY ANYONE NOT HAVING
25 ACCESS TO THE DEVICE.

26 (iii) A SAFE, GUN SAFE, GUN CASE, LOCK BOX OR OTHER DEVICE THAT IS
27 DESIGNED TO BE OR CAN BE USED TO STORE A FIREARM AND THAT IS DESIGNED TO
28 BE UNLOCKED ONLY BY MEANS OF A KEY, A COMBINATION OR OTHER SIMILAR MEANS.

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

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

39 2. Machinery, or equipment, used directly in the process of
40 extracting ores or minerals from the earth for commercial purposes,
41 including equipment required to prepare the materials for extraction and
42 handling, loading or transporting such extracted material to the surface.
43 "Mining" includes underground, surface and open pit operations for
44 extracting ores and minerals.

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

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

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

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

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

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

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

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

35 8. Aircraft, navigational and communication instruments and other
36 accessories and related equipment sold to:

37 (a) A person:

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

42 (ii) That is certificated or licensed under federal aviation
43 administration regulations (14 Code of Federal Regulations part 121 or
44 135) as a scheduled or unscheduled carrier of persons for hire for use as

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

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

7 (iv) Operating an aircraft to transport persons in any manner for
8 compensation or hire, or for use in a fractional ownership program that
9 meets the requirements of federal aviation administration regulations
10 (14 Code of Federal Regulations part 91, subpart K), including as an air
11 carrier, a foreign air carrier or a commercial operator or under a
12 restricted category, within the meaning of 14 Code of Federal Regulations,
13 regardless of whether the operation or aircraft is regulated or certified
14 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code
15 of Federal Regulations.

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

21 (b) Any foreign government.

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

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

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

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

38 12. Buses or other urban mass transit vehicles that are used
39 directly to transport persons or property for hire or pursuant to a
40 governmentally adopted and controlled urban mass transportation program
41 and that are sold to bus companies holding a federal certificate of
42 convenience and necessity or operated by any city, town or other
43 governmental entity or by any person contracting with such governmental
44 entity as part of a governmentally adopted and controlled program to
45 provide urban mass transportation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (c) Any machinery or equipment purchased after the television
11 station has ceased analog broadcasting, or purchased after November 1,
12 2009, whichever occurs first.

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

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

25 24. Computer data center equipment sold to the owner, operator or
26 qualified colocation tenant of a computer data center that is certified by
27 the Arizona commerce authority under section 41-1519 or an authorized
28 agent of the owner, operator or qualified colocation tenant during the
29 qualification period for use in the qualified computer data center. For
30 the purposes of this paragraph, "computer data center", "computer data
31 center equipment", "qualification period" and "qualified colocation
32 tenant" have the same meanings prescribed in section 41-1519.

33 C. The exemptions provided by subsection B of this section do not
34 include:

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

39 2. Janitorial equipment and hand tools.

40 3. Office equipment, furniture and supplies.

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

44 5. Motor vehicles required to be licensed by this state, except
45 buses or other urban mass transit vehicles specifically exempted pursuant

1 to subsection B, paragraph 12 of this section, without regard to the use
2 of such motor vehicles.

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

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

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

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

10 1. Revenues received from sales of ancillary services, electric
11 distribution services, electric generation services, electric transmission
12 services and other services related to providing electricity to a retail
13 electric customer who is located outside this state for use outside this
14 state if the electricity is delivered to a point of sale outside this
15 state.

16 2. Revenues received from providing electricity, including
17 ancillary services, electric distribution services, electric generation
18 services, electric transmission services and other services related to
19 providing electricity with respect to which the transaction privilege tax
20 imposed under section 42-5063 has been paid.

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

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

26 1. Fees charged by a municipally owned utility to persons
27 constructing residential, commercial or industrial developments or
28 connecting residential, commercial or industrial developments to a
29 municipal utility system or systems if the fees are segregated and used
30 only for capital expansion, system enlargement or debt service of the
31 utility system or systems.

32 2. Reimbursement or contribution compensation to any person or
33 persons owning a utility system for property and equipment installed to
34 provide utility access to, on or across the land of an actual utility
35 consumer if the property and equipment become the property of the utility.
36 This deduction shall not exceed the value of such property and equipment.

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

39 1. A qualified manufacturing or smelting business. A utility that
40 claims this deduction shall report each month, on a form prescribed by the
41 department, the name and address of each qualified manufacturing or
42 smelting business for which this deduction is taken. This paragraph
43 applies to gas transportation services. For the purposes of this
44 paragraph:

1 (a) "Gas transportation services" means the services of
2 transporting natural gas to a natural gas customer or to a natural gas
3 distribution facility if the natural gas was purchased from a supplier
4 other than the utility.

5 (b) "Manufacturing" means the performance as a business of an
6 integrated series of operations that places tangible personal property in
7 a form, composition or character different from that in which it was
8 acquired and transforms it into a different product with a distinctive
9 name, character or use. Manufacturing does not include job printing,
10 publishing, packaging, mining, generating electricity or operating a
11 restaurant.

12 (c) "Qualified manufacturing or smelting business" means one of the
13 following:

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

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

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

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

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

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

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

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

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

2 1. "Agricultural aircraft" means an aircraft that is built for
3 agricultural use for the aerial application of pesticides or fertilizer or
4 for aerial seeding.

5 2. "Aircraft" includes:

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

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

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

15 J. For the purposes of subsection D of this section, "ancillary
16 services", "electric distribution service", "electric generation service",
17 "electric transmission service" and "other services" have the same
18 meanings prescribed in section 42-5063.

19 Sec. 4. Effective date

20 Except as provided in section 5 of this act, this act is effective
21 from and after December 31, 2022.

22 Sec. 5. Conditional enactment; applicability

23 Section 42-5061, Arizona Revised Statutes, as amended by Laws 2021,
24 chapter 266, section 4, chapter 412, section 8, chapter 417, section 5 and
25 chapter 443, section 3 and this act, becomes effective on the date
26 prescribed by Laws 2018, chapter 263, section 5 and applies to taxable
27 periods beginning from and after December 31, 2022 but only on the
28 occurrence of the condition prescribed by Laws 2018, chapter 263,
29 section 5.