

Senate Engrossed House Bill

FILED

**KEN BENNETT
SECRETARY OF STATE**

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CHAPTER 225

HOUSE BILL 2160

AN ACT

AMENDING SECTIONS 41-1516, 42-2003, 42-5061, 42-5063 AND 42-5159, ARIZONA
REVISED STATUTES; RELATING TO TAXPAYERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-1516, Arizona Revised Statutes, is amended to
3 read:

4 41-1516. Healthy forest enterprise incentives; definitions

5 A. The department of commerce shall:

6 1. Implement a program to encourage counties, cities and towns to
7 provide local incentives to economic enterprises that promote forest health
8 in this state.

9 2. Identify and certify to the department of revenue the names of and
10 relevant information relating to qualified businesses for the purposes of
11 available state tax incentives for economic enterprises that promote forest
12 health in this state.

13 B. To qualify for state tax incentives pursuant to this section, a
14 business:

15 1. Must be primarily engaged in a qualifying project. The business
16 shall submit to the department of commerce evidence that it is engaged in a
17 qualifying project as follows:

18 (a) The business operation must enhance or sustain forest health,
19 sustain or recover watershed or improve public safety.

20 (b) If the qualifying forest product is on federal land, the business
21 shall submit a letter from the federal agency administering the land, or
22 official records or documents produced in connection with the project,
23 stating that the business is primarily engaged in the business of harvesting
24 or initial processing of qualifying forest products for commercial use as
25 follows:

26 (i) At least seventy per cent of the harvested or processed products,
27 measured by weight, must be qualifying forest products.

28 (ii) At least seventy-five per cent of the qualifying forest products,
29 measured by weight, must be harvested from sources in this state.

30 (c) If the qualifying forest product is not on federal land, the
31 business shall submit a letter from the state forester stating that the
32 business is primarily engaged in the business of harvesting or initial
33 processing of qualifying forest products for commercial use as follows:

34 (i) At least seventy per cent of the harvested or processed products
35 must be qualifying forest products.

36 (ii) At least seventy-five per cent of the harvested or processed
37 products must be from areas in this state.

38 (d) If the business is engaged in transporting qualifying forest
39 products, it must submit a letter from the state forester or United States
40 forest service, or official records or documents produced in connection with
41 the project, stating that all of the qualifying forest products it transports
42 are harvested from areas in this state. In addition, the business must
43 submit evidence to the department of commerce that at least seventy-five per
44 cent of the mileage traveled by its units each year are for transporting
45 qualifying forest products from or to qualifying projects described in

1 subdivision (b) or (c) of this paragraph, unless a lower mileage is due to
2 forest closures or weather conditions that are beyond the control of the
3 business.

4 2. Must employ at least three permanent full-time employees.

5 3. Must agree to—

6 (a) furnish to the department of commerce information relating to the
7 amount of state tax benefits that the business receives each year.

8 ~~(b) The disclosure of the amount of state tax benefits received each
9 year in composite form, without specific identification of the taxpayer.~~

10 4. Must enter into a memorandum of understanding with the department
11 of commerce containing:

12 (a) Employment goals. Each year the business must report in writing
13 to the department of commerce its performance in achieving the goals.

14 (b) A commitment to continue in business and use the qualifying
15 equipment primarily on qualifying projects in this state as described in
16 paragraph 1 of this subsection, other than for reasons beyond the control of
17 the business. The department of commerce shall consult with the department
18 of revenue in designing the memorandum of understanding to incorporate the
19 legal qualifications for the available tax incentives and shall include the
20 requirement that any qualifying equipment that is purchased or leased free of
21 transaction privilege or use tax must continue to be used in this state for
22 the term of the memorandum of understanding or the duration of its
23 operational life, whichever is shorter.

24 (c) Provisions considered necessary by the department of commerce to
25 ensure the competency and responsibility of businesses that qualify under
26 this section, including registration or other accreditation with trade and
27 professional organizations and compliance with best management and
28 operational practices used by governmental agencies in awarding forestry
29 contracts.

30 (d) The authorization for the department of commerce to terminate,
31 adjust or recapture all or part of the tax benefits provided to the business
32 on noncompliance with the law, noncompliance with the terms of the memorandum
33 or violation of the terms of any contracts with the federal or state
34 government relating to the qualifying project. The department of commerce
35 shall notify the department of revenue of the conditions of noncompliance.
36 The department of revenue may also terminate the certification if it obtains
37 information indicating a failure to qualify and comply. The department of
38 revenue may require the business to file appropriate amended tax returns or
39 to file appropriate use tax returns reflecting the recapture of the direct or
40 indirect tax benefits.

41 5. Must submit a copy of the certification to the department of
42 revenue for approval before using the certification for purposes of any tax
43 incentive. The department of revenue shall review and approve the
44 certification in a timely manner if the business is in good standing with the
45 department and is not delinquent in the payment of any tax collected by the

1 department. A failure to approve or deny the certification within sixty days
2 after the date the business submits it to the department constitutes approval
3 of the certification.

4 C. For the purposes of section 42-5075, subsection B, paragraph 19,
5 the department of commerce shall certify prime contractors that contract for
6 the construction of any building, or other structure, project, development or
7 improvement owned by a qualified business for purposes of a qualifying
8 project described in subsection B, paragraph 1 of this section.

9 D. To obtain and maintain certification under this section, a business
10 must:

- 11 1. Apply to the department of commerce.
- 12 2. Submit and retain copies of all required information, including
13 information relating to the actual or projected number of employees in this
14 state.
- 15 3. Allow inspections and audits to verify the qualification and
16 accuracy of information submitted to the department of commerce.

17 E. Certification under this section is valid for twelve calendar
18 months from the date of issuance. A business must apply for recertification
19 at least thirty days before the current certification expires. The
20 application for recertification shall be in a form prescribed by the
21 department of commerce and shall confirm that the business is continuing in a
22 qualifying project and is in compliance with all requirements prescribed for
23 certification.

24 F. Within sixty days after receiving a complete and correct
25 application and all required information as prescribed by this section, the
26 department of commerce shall grant or deny certification and give written
27 notice by certified mail to the applicant. The applicant is certified as a
28 qualified business on the date the notice of certification is delivered to
29 the applicant. A failure to respond within sixty days after receiving a
30 complete and correct application constitutes approval of the application.

31 G. The certification shall state an effective date with respect to
32 each authorized tax incentive which, in each case, must be at the start of a
33 taxable year or taxable period.

34 H. On or before March 1 of each year, each qualifying business shall
35 make a report to the department of commerce on all business activity in the
36 preceding calendar year. Business information contained in the reports is
37 confidential and shall not be disclosed to the public except as provided by
38 this section and except that a copy of the report shall be transmitted to the
39 department of revenue. The report shall be in a form prescribed by the
40 department of commerce and include:

- 41 1. Information prescribed by the department of commerce with respect
42 to both qualifying projects and other projects and business activity that do
43 not qualify for purposes of this section.
- 44 2. Employment information necessary to confirm eligibility for income
45 tax credits as prescribed by sections 43-1076 and 43-1162.

1 3. THE QUANTITY, MEASURED BY WEIGHT, OF QUALIFYING FOREST PRODUCTS
2 HARVESTED, TRANSPORTED OR PROCESSED.

3 I. ON OR BEFORE MAY 1 OF EACH YEAR, THE DEPARTMENT OF COMMERCE SHALL
4 REPORT TO THE JOINT LEGISLATIVE BUDGET COMMITTEE:

5 1. THE QUANTITY, MEASURED BY WEIGHT, OF QUALIFYING FOREST PRODUCTS
6 REPORTED BY HARVESTERS, BY TRANSPORTERS AND BY PROCESSORS IN THE PRECEDING
7 CALENDAR YEAR.

8 2. THE NUMBER OF NEW FULL-TIME EMPLOYEES HIRED IN QUALIFIED EMPLOYMENT
9 POSITIONS IN THIS STATE IN THE PRECEDING CALENDAR YEAR AND REPORTED FOR TAX
10 CREDIT PURPOSES.

11 3. THE TOTAL NUMBER OF ALL FULL-TIME EMPLOYEES EMPLOYED IN QUALIFIED
12 EMPLOYMENT POSITIONS IN THIS STATE IN THE PRECEDING CALENDAR YEAR AND
13 REPORTED FOR TAX CREDIT PURPOSES.

14 ~~I~~ J. For purposes of administering and ensuring compliance with this
15 section, agents of the department of commerce may enter, and a qualified
16 business shall allow access to, a qualifying project site at reasonable times
17 and on reasonable notice to:

18 1. Inspect the facilities at the site.

19 2. Obtain factual data and records pertinent to and required by law to
20 be kept for purposes of tax incentives.

21 3. Otherwise ascertain compliance with law and the terms of the
22 memorandum of understanding.

23 ~~J~~ K. The department of commerce shall revoke the business'
24 certification and notify the department of revenue and county assessor if
25 either:

26 1. Within thirty days after a formal request from the department of
27 commerce or the department of revenue the business fails or refuses to
28 provide the information or access for inspections required by this section.

29 2. The business no longer meets the terms and conditions required for
30 qualification for the applicable tax incentives.

31 ~~K~~ L. For the purposes of this section:

32 1. "Forest health" means the degree to which the integrity of the
33 forest is sustained, including reducing the risk of catastrophic wildfire and
34 destructive insect infestation, benefiting wildland habitats, watersheds and
35 communities.

36 2. "Harvesting" means all operations relating to felling or otherwise
37 removing trees and other forest plant growth and preparing them for transport
38 for subsequent processing.

39 3. "Initial processing" means:

40 (a) The first change, after harvest, in the physical structure of
41 qualifying forest products removed from a qualifying project into a
42 marketable commercial product or component of a product that has commercial
43 value to a consumer or purchaser and that is ready to be used with or without
44 further altering its form.

1 (b) Burning qualifying forest products in the process of commercial
2 electrical generation or commercial thermal energy production for heating or
3 cooling, regardless of the physical structure of the forest product before
4 burning.

5 4. "Qualifying equipment" means equipment used directly in the
6 harvesting or initial processing of qualifying forest products removed from a
7 qualifying project. Qualifying equipment does not include self-propelled
8 vehicles required to be licensed by this state, but may include other
9 licensed vehicles as provided by this paragraph. Qualifying equipment
10 includes:

11 (a) Forest thinning and residue removal equipment, including mulching
12 and masticating equipment, feller-bunchers, skidders, log loaders, portable
13 chippers and grinders, slash bundlers, delimiters, log trailers, chip trailers
14 and other trailers that are uniquely designed for handling forest products
15 and that are licensed for operation on public highways.

16 (b) Forest residue receiving and handling equipment, including truck
17 dumpers, log unloaders, scales, log decking facilities and equipment and chip
18 pile facilities.

19 (c) Sorting and processing equipment, including portable and
20 stationary log loaders, front end loaders, fork lifts and cranes, chippers
21 and grinders, screens, decks and debarkers, saws and sawmill equipment,
22 firewood processing, wood residue baling and bagging equipment, kilns,
23 planing and molding equipment and laminating and joining equipment.

24 (d) Forest waste and residue disposal and processing equipment,
25 including:

26 (i) Processing and sizing equipment, hogs, chippers, screens,
27 pelletizers and wood splitters.

28 (ii) Transporting and handling equipment, including loaders,
29 conveyors, blowers, receiving hoppers, truck dumpers and dozers.

30 (iii) Waste use equipment, including fuel feed, storage bins, boilers
31 and combustors.

32 (iv) Waste project use equipment, including generators, switchgear and
33 substations and on-site distribution systems.

34 (v) Generated waste disposal equipment, including ash silos and
35 wastewater treatment and disposal equipment.

36 (vi) Shop and maintenance equipment and major spares having a value of
37 more than five thousand dollars each.

38 5. "Qualifying forest products" means dead standing and fallen timber,
39 and forest thinnings associated with the harvest of small diameter timber,
40 slash, wood chips, peelings, brush and other woody vegetation, removed from
41 federal, state and other public forest land and from private forest land.

42 6. "Qualifying project" means harvesting, transporting or the initial
43 processing of qualifying forest products as required for certification
44 pursuant to this section.

1 Sec. 2. Section 42-2003, Arizona Revised Statutes, is amended to read:
2 42-2003. Authorized disclosure of confidential information

3 A. Confidential information relating to:

4 1. A taxpayer may be disclosed to the taxpayer, its successor in
5 interest or a designee of the taxpayer who is authorized in writing by the
6 taxpayer. A principal corporate officer of a parent corporation may execute
7 a written authorization for a controlled subsidiary.

8 2. A corporate taxpayer may be disclosed to any principal officer, any
9 person designated by a principal officer or any person designated in a
10 resolution by the corporate board of directors or other similar governing
11 body.

12 3. A partnership may be disclosed to any partner of the partnership.
13 This exception does not include disclosure of confidential information of a
14 particular partner unless otherwise authorized.

15 4. An estate may be disclosed to the personal representative of the
16 estate and to any heir, next of kin or beneficiary under the will of the
17 decedent if the department finds that the heir, next of kin or beneficiary
18 has a material interest which will be affected by the confidential
19 information.

20 5. A trust may be disclosed to the trustee or trustees, jointly or
21 separately, and to the grantor or any beneficiary of the trust if the
22 department finds that the grantor or beneficiary has a material interest
23 which will be affected by the confidential information.

24 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
25 to confidentiality either in writing or on the record in any administrative
26 or judicial proceeding.

27 7. The name and taxpayer identification numbers of persons issued
28 direct payment permits may be publicly disclosed.

29 B. Confidential information may be disclosed to:

30 1. Any employee of the department whose official duties involve tax
31 administration.

32 2. The office of the attorney general solely for its use in
33 preparation for, or in an investigation which may result in, any proceeding
34 involving tax administration before the department or any other agency or
35 board of this state, or before any grand jury or any state or federal court.

36 3. The department of liquor licenses and control for its use in
37 determining whether a spirituous liquor licensee has paid all transaction
38 privilege taxes and affiliated excise taxes incurred as a result of the sale
39 of spirituous liquor, as defined in section 4-101, at the licensed
40 establishment and imposed on the licensed establishments by this state and
41 its political subdivisions.

42 4. Other state tax officials whose official duties require the
43 disclosure for proper tax administration purposes if the information is
44 sought in connection with an investigation or any other proceeding conducted
45 by the official. Any disclosure is limited to information of a taxpayer who

1 is being investigated or who is a party to a proceeding conducted by the
2 official.

3 5. The following agencies, officials and organizations, if they grant
4 substantially similar privileges to the department for the type of
5 information being sought, pursuant to statute and a written agreement between
6 the department and the foreign country, agency, state, Indian tribe or
7 organization:

8 (a) The United States internal revenue service, alcohol and tobacco
9 tax and trade bureau of the United States treasury, United States bureau of
10 alcohol, tobacco, firearms and explosives of the United States department of
11 justice, United States drug enforcement agency and federal bureau of
12 investigation.

13 (b) A state tax official of another state.

14 (c) An organization of states, federation of tax administrators or
15 multistate tax commission that operates an information exchange for tax
16 administration purposes.

17 (d) An agency, official or organization of a foreign country with
18 responsibilities that are comparable to those listed in subdivision (a), (b)
19 or (c) of this paragraph.

20 (e) An agency, official or organization of an Indian tribal government
21 with responsibilities comparable to the responsibilities of the agencies,
22 officials or organizations identified in subdivision (a), (b) or (c) of this
23 paragraph.

24 6. The auditor general, in connection with any audit of the department
25 subject to the restrictions in section 42-2002, subsection D.

26 7. Any person to the extent necessary for effective tax administration
27 in connection with:

28 (a) The processing, storage, transmission, destruction and
29 reproduction of the information.

30 (b) The programming, maintenance, repair, testing and procurement of
31 equipment for purposes of tax administration.

32 8. The office of administrative hearings relating to taxes
33 administered by the department pursuant to section 42-1101, but the
34 department shall not disclose any confidential information:

35 (a) Regarding income tax, withholding tax or estate tax.

36 (b) On any tax issue relating to information associated with the
37 reporting of income tax, withholding tax or estate tax.

38 9. The United States treasury inspector general for tax administration
39 for the purpose of reporting a violation of internal revenue code section
40 7213A (26 United States Code section 7213A), unauthorized inspection of
41 returns or return information.

42 10. The financial management service of the United States treasury
43 department for use in the treasury offset program.

1 11. The United States treasury department or its authorized agent for
2 use in the state income tax levy program and in the electronic federal tax
3 payment system.

4 12. The department of commerce for its use in:

5 (a) Qualifying motion picture production companies for the tax
6 incentives provided for motion picture production under chapter 5 of this
7 title and sections 43-1075 and 43-1163.

8 (b) Qualifying applicants for the motion picture infrastructure
9 project tax credits under sections 43-1075.01 and 43-1163.01.

10 (c) Qualifying renewable energy operations for the tax incentives
11 under sections 42-12006, 43-1083.01 and 43-1164.01.

12 (d) Fulfilling its annual reporting responsibility pursuant to section
13 41-1511, subsections T and U and section 41-1517, subsections S and T.

14 13. A prosecutor for purposes of section 32-1164, subsection C.

15 14. The state fire marshal for use in determining compliance with and
16 enforcing title 41, chapter 16, article 3.1.

17 C. Confidential information may be disclosed in any state or federal
18 judicial or administrative proceeding pertaining to tax administration
19 pursuant to the following conditions:

20 1. One or more of the following circumstances must apply:

21 (a) The taxpayer is a party to the proceeding.

22 (b) The proceeding arose out of, or in connection with, determining
23 the taxpayer's civil or criminal liability, or the collection of the
24 taxpayer's civil liability, with respect to any tax imposed under this title
25 or title 43.

26 (c) The treatment of an item reflected on the taxpayer's return is
27 directly related to the resolution of an issue in the proceeding.

28 (d) Return information directly relates to a transactional
29 relationship between a person who is a party to the proceeding and the
30 taxpayer and directly affects the resolution of an issue in the proceeding.

31 2. Confidential information may not be disclosed under this subsection
32 if the disclosure is prohibited by section 42-2002, subsection C or D.

33 D. Identity information may be disclosed for purposes of notifying
34 persons entitled to tax refunds if the department is unable to locate the
35 persons after reasonable effort.

36 E. The department, upon the request of any person, shall provide the
37 names and addresses of bingo licensees as defined in section 5-401, verify
38 whether or not a person has a privilege license and number, a distributor's
39 license and number or a withholding license and number or disclose the
40 information to be posted on the department's web site or otherwise publicly
41 accessible pursuant to section 42-1124, subsection F and section 42-3201,
42 subsection A.

43 F. A department employee, in connection with the official duties
44 relating to any audit, collection activity or civil or criminal
45 investigation, may disclose return information to the extent that disclosure

1 is necessary to obtain information which is not otherwise reasonably
2 available. These official duties include the correct determination of and
3 liability for tax, the amount to be collected or the enforcement of other
4 state tax revenue laws.

5 G. If an organization is exempt from this state's income tax as
6 provided in section 43-1201 for any taxable year, the name and address of the
7 organization and the application filed by the organization upon which the
8 department made its determination for exemption together with any papers
9 submitted in support of the application and any letter or document issued by
10 the department concerning the application are open to public inspection.

11 H. Confidential information relating to transaction privilege tax, use
12 tax, severance tax, jet fuel excise and use tax and rental occupancy tax may
13 be disclosed to any county, city or town tax official if the information
14 relates to a taxpayer who is or may be taxable by the county, city or town.
15 Any taxpayer information released by the department to the county, city or
16 town:

17 1. May only be used for internal purposes.

18 2. May not be disclosed to the public in any manner that does not
19 comply with confidentiality standards established by the department. The
20 county, city or town shall agree in writing with the department that any
21 release of confidential information that violates the confidentiality
22 standards adopted by the department will result in the immediate suspension
23 of any rights of the county, city or town to receive taxpayer information
24 under this subsection.

25 I. The department may disclose statistical information gathered from
26 confidential information if it does not disclose confidential information
27 attributable to any one taxpayer. ~~In order to comply with the requirements~~
28 ~~of section 42-5029, subsection A, paragraph 3, the department may disclose to~~
29 ~~the state treasurer statistical information gathered from confidential~~
30 ~~information, even if it discloses confidential information attributable to a~~
31 ~~taxpayer.~~ THE DEPARTMENT MAY DISCLOSE STATISTICAL INFORMATION GATHERED FROM
32 CONFIDENTIAL INFORMATION, EVEN IF IT DISCLOSES CONFIDENTIAL INFORMATION
33 ATTRIBUTABLE TO A TAXPAYER, TO:

34 1. THE STATE TREASURER IN ORDER TO COMPLY WITH THE REQUIREMENTS OF
35 SECTION 42-5029, SUBSECTION A, PARAGRAPH 3.

36 2. THE JOINT LEGISLATIVE INCOME TAX CREDIT REVIEW COMMITTEE AND THE
37 JOINT LEGISLATIVE BUDGET COMMITTEE STAFF IN ORDER TO COMPLY WITH THE
38 REQUIREMENTS OF SECTION 43-221.

39 J. The department may disclose the aggregate amounts of any tax
40 credit, tax deduction or tax exemption enacted after January 1, 1994.
41 Information subject to disclosure under this subsection shall not be
42 disclosed if a taxpayer demonstrates to the department that such information
43 would give an unfair advantage to competitors.

44 K. Except as provided in section 42-2002, subsection C, confidential
45 information, described in section 42-2001, paragraph 2, subdivision (a), item

1 (iii), may be disclosed to law enforcement agencies for law enforcement
2 purposes.

3 L. The department may provide transaction privilege tax license
4 information to property tax officials in a county for the purpose of
5 identification and verification of the tax status of commercial property.

6 M. The department may provide transaction privilege tax, luxury tax,
7 use tax, property tax and severance tax information to the ombudsman-citizens
8 aide pursuant to title 41, chapter 8, article 5.

9 N. Except as provided in section 42-2002, subsection D, a court may
10 order the department to disclose confidential information pertaining to a
11 party to an action. An order shall be made only upon a showing of good cause
12 and that the party seeking the information has made demand upon the taxpayer
13 for the information.

14 O. This section does not prohibit the disclosure by the department of
15 any information or documents submitted to the department by a bingo licensee.
16 Before disclosing the information the department shall obtain the name and
17 address of the person requesting the information.

18 P. If the department is required or permitted to disclose confidential
19 information, it may charge the person or agency requesting the information
20 for the reasonable cost of its services.

21 Q. Except as provided in section 42-2002, subsection D, the department
22 of revenue shall release confidential information as requested by the
23 department of economic security pursuant to section 42-1122 or 46-291.
24 Information disclosed under this subsection is limited to the same type of
25 information that the United States internal revenue service is authorized to
26 disclose under section 6103(l)(6) of the internal revenue code.

27 R. Except as provided in section 42-2002, subsection D, the department
28 of revenue shall release confidential information as requested by the courts
29 and clerks of the court pursuant to section 42-1122.

30 S. To comply with the requirements of section 42-5031, the department
31 may disclose to the state treasurer, to the county stadium district board of
32 directors and to any city or town tax official that is part of the county
33 stadium district confidential information attributable to a taxpayer's
34 business activity conducted in the county stadium district.

35 T. The department shall release confidential information as requested
36 by the attorney general for purposes of determining compliance with and
37 enforcing section 44-7101, the master settlement agreement referred to
38 therein and subsequent agreements to which the state is a party that amend or
39 implement the master settlement agreement. Information disclosed under this
40 subsection is limited to luxury tax information relating to tobacco
41 manufacturers, distributors, wholesalers and retailers and information
42 collected by the department pursuant to section 44-7101(2)(j).

43 U. For proceedings before the department, the office of administrative
44 hearings, the board of tax appeals or any state or federal court involving
45 penalties that were assessed against a return preparer or electronic return

1 preparer pursuant to section 42-1103.02 or 42-1125.01, confidential
2 information may be disclosed only before the judge or administrative law
3 judge adjudicating the proceeding, the parties to the proceeding and the
4 parties' representatives in the proceeding prior to its introduction into
5 evidence in the proceeding. The confidential information may be introduced
6 as evidence in the proceeding only if the taxpayer's name, the names of any
7 dependents listed on the return, all social security numbers, the taxpayer's
8 address, the taxpayer's signature and any attachments containing any of the
9 foregoing information are redacted and if either:

10 1. The treatment of an item reflected on such return is or may be
11 related to the resolution of an issue in the proceeding.

12 2. Such return or return information relates or may relate to a
13 transactional relationship between a person who is a party to the proceeding
14 and the taxpayer which directly affects the resolution of an issue in the
15 proceeding.

16 V. The department may disclose to the attorney general confidential
17 information received under section 44-7111 and requested by the attorney
18 general for purposes of determining compliance with and enforcing section
19 44-7111. The department and attorney general shall share with each other the
20 information received under section 44-7111, and may share the information
21 with other federal, state or local agencies only for the purposes of
22 enforcement of section 44-7101, section 44-7111 or corresponding laws of
23 other states.

24 W. The department may provide the name and address of qualifying
25 hospitals and qualifying health care organizations, as defined in section
26 42-5001, to a business classified and reporting transaction privilege tax
27 under the utilities classification.

28 Sec. 3. Section 42-5061, Arizona Revised Statutes, is amended to read:

29 42-5061. Retail classification; definitions

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

35 1. Professional or personal service occupations or businesses which
36 involve sales or transfers of tangible personal property only as
37 inconsequential elements.

38 2. Services rendered in addition to selling tangible personal property
39 at retail.

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

43 4. Sales of tangible personal property by any nonprofit organization
44 organized and operated exclusively for charitable purposes and recognized by

- 1 the United States internal revenue service under section 501(c)(3) of the
2 internal revenue code.
- 3 5. Sales to persons engaged in business classified under the
4 restaurant classification of articles used by human beings for food, drink or
5 condiment, whether simple, mixed or compounded.
- 6 6. Business activity which is properly included in any other business
7 classification which is taxable under THIS article ~~2 of this chapter~~.
- 8 7. The sale of stocks and bonds.
- 9 8. Drugs and medical oxygen, including delivery hose, mask or tent,
10 regulator and tank, on the prescription of a member of the medical, dental or
11 veterinarian profession who is licensed by law to administer such substances.
- 12 9. Prosthetic appliances as defined in section 23-501 prescribed or
13 recommended by a health professional WHO IS licensed pursuant to title 32,
14 chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 15 10. Insulin, insulin syringes and glucose test strips.
- 16 11. Prescription eyeglasses or contact lenses.
- 17 12. Hearing aids as defined in section 36-1901.
- 18 13. Durable medical equipment which has a centers for medicare and
19 medicaid services common procedure code, is designated reimbursable by
20 medicare, is prescribed by a person who is licensed under title 32, chapter
21 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
22 customarily used to serve a medical purpose, is generally not useful to a
23 person in the absence of illness or injury and is appropriate for use in the
24 home.
- 25 14. Sales to nonresidents of this state for use outside this state if
26 the vendor ships or delivers the tangible personal property out of this
27 state.
- 28 15. Food, as provided in and subject to the conditions of article 3 of
29 this chapter and section 42-5074.
- 30 16. Items purchased with United States department of agriculture food
31 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
32 958) or food instruments issued under section 17 of the child nutrition act
33 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
34 section 1786).
- 35 17. Textbooks by any bookstore that are required by any state
36 university or community college.
- 37 18. Food and drink to a person who is engaged in business which is
38 classified under the restaurant classification and which provides such food
39 and drink without monetary charge to its employees for their own consumption
40 on the premises during the employees' hours of employment.
- 41 19. Articles of food, drink or condiment and accessory tangible
42 personal property to a school district if such articles and accessory
43 tangible personal property are to be prepared and served to persons for
44 consumption on the premises of a public school within the district during
45 school hours.

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

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

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

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

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

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

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

26 25. Tangible personal property sold to:

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

28 (b) A qualifying health care organization as defined in section
29 42-5001 if the tangible personal property is used by the organization solely
30 to provide health and medical related educational and charitable 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 blind,
34 visually impaired and multihandicapped children from the time of birth to age
35 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 501(c)(3)
43 of the internal revenue code and that provides residential apartment housing
44 for low income persons over sixty-two years of age in a facility that
45 qualifies for a federal housing subsidy, if the tangible personal property is

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

4 26. Magazines or other periodicals or other publications by this state
5 to encourage tourist travel.

6 27. Tangible personal property sold to a person that is subject to tax
7 under this article by reason of being engaged in business classified under
8 the prime contracting classification under section 42-5075, or to a
9 subcontractor working under the control of a prime contractor that is subject
10 to tax under article 1 of this chapter, if the property so sold is any of the
11 following:

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

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

16 (c) Incorporated or fabricated by the person into any lake facility
17 development in a commercial enhancement reuse district under conditions
18 prescribed for the deduction allowed by section 42-5075, subsection B,
19 paragraph 8.

20 28. The sale of a motor vehicle to:

21 (a) A nonresident of this state if the purchaser's state of residence
22 does not allow a corresponding use tax exemption to the tax imposed by
23 article 1 of this chapter and if the nonresident has secured a special ninety
24 day nonresident registration permit for the vehicle as prescribed by sections
25 28-2154 and 28-2154.01.

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

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

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

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

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

7 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
8 propagative material to persons who use those items to commercially produce
9 agricultural, horticultural, viticultural or floricultural crops in this
10 state.

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

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

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

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

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

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

1 operation and includes job printing, engraving, embossing, copying and
2 bookbinding.

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

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

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

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

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

25 43. Livestock and poultry feed, salts, vitamins and other additives for
26 livestock or poultry consumption that are sold to persons who are engaged in
27 producing livestock, poultry, or livestock or poultry products or who are
28 engaged in feeding livestock or poultry commercially. For the purposes of
29 this paragraph, "poultry" includes ratites.

30 44. Sales of implants used as growth promotants and injectable
31 medicines, not already exempt under paragraph 8 of this subsection, for
32 livestock or poultry owned by or in possession of persons who are engaged in
33 producing livestock, poultry, or livestock or poultry products or who are
34 engaged in feeding livestock or poultry commercially. For the purposes of
35 this paragraph, "poultry" includes ratites.

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

40 46. Tangible personal property sold to a person engaged in business and
41 subject to tax under the transient lodging classification if the tangible
42 personal property is a personal hygiene item or articles used by human beings
43 for food, drink or condiment, except alcoholic beverages, which are furnished
44 without additional charge to and intended to be consumed by the transient
45 during the transient's occupancy.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (b) Any foreign government for use by such government outside of this
44 state.

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

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

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

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

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

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

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

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

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

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

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

4 15. Machinery and equipment that are purchased by or on behalf of the
5 owners of a soundstage complex and primarily used for motion picture,
6 multimedia or interactive video production in the complex. This paragraph
7 applies only if the initial construction of the soundstage complex begins
8 after June 30, 1996 and before January 1, 2002 and the machinery and
9 equipment are purchased before the expiration of five years after the start
10 of initial construction. For the purposes of this paragraph:

11 (a) "Motion picture, multimedia or interactive video production"
12 includes products for theatrical and television release, educational
13 presentations, electronic retailing, documentaries, music videos, industrial
14 films, CD-ROM, video game production, commercial advertising and television
15 episode production and other genres that are introduced through developing
16 technology.

17 (b) "Soundstage complex" means a facility of multiple stages including
18 production offices, construction shops and related areas, prop and costume
19 shops, storage areas, parking for production vehicles and areas that are
20 leased to businesses that complement the production needs and orientation of
21 the overall facility.

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

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

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

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

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

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

43 17. Clean rooms that are used for manufacturing, processing,
44 fabrication or research and development, as defined in paragraph 14 of this
45 subsection, of semiconductor products. For the purposes of this paragraph,

1 "clean room" means all property that comprises or creates an environment
2 where humidity, temperature, particulate matter and contamination are
3 precisely controlled within specified parameters, without regard to whether
4 the property is actually contained within that environment or whether any of
5 the property is affixed to or incorporated into real property. Clean room:

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

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

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

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

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

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

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

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

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

4 22. Qualifying equipment that is purchased from and after June 30, 2004
5 through June 30, 2014 by a qualified business under section 41-1516 for
6 harvesting or the initial processing of qualifying forest products removed
7 from qualifying projects as defined in section 41-1516. To qualify for this
8 deduction, the qualified business at the time of purchase must present its
9 certification approved by the department.

10 23. Machinery, equipment and other tangible personal property used
11 directly in motion picture production by a motion picture production company.
12 To qualify for this deduction, at the time of purchase, the motion picture
13 production company must present to the retailer its certificate that is
14 issued pursuant to section 42-5009, subsection H and that establishes its
15 qualification for the deduction.

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

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

22 2. Janitorial equipment and hand tools.

23 3. Office equipment, furniture and supplies.

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

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

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

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

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

42 E. In computing the tax base, gross proceeds of sales or gross income
43 from retail sales of heavy trucks and trailers does not include any amount
44 attributable to federal excise taxes imposed by 26 United States Code section
45 4051.

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

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

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

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

- 25 1. Transporting classification.
- 26 2. Utilities classification.
- 27 3. Telecommunications classification.
- 28 4. Pipeline classification.
- 29 5. Private car line classification.
- 30 6. Publication classification.
- 31 7. Job printing classification.
- 32 8. Prime contracting classification.
- 33 9. Owner builder sales classification.
- 34 10. Restaurant classification.

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

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

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

43 3. Overhead materials or other tangible personal property that is used
44 in performing a contract between the United States government and a
45 manufacturer, modifier, assembler or repairer, including property used in

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

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

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

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

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

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

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

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

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

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

40 Q. Retail sales of prepaid calling cards or prepaid authorization
41 numbers for telecommunications services, including sales of reauthorization
42 of a prepaid card or authorization number, are subject to tax under this
43 section.

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

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

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

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 the
9 purchaser to establish that the requirements of subsection B, paragraph 16,
10 subdivision (b) of this section have been satisfied. If the purchaser cannot
11 establish that the requirements of subsection B, paragraph 16, subdivision
12 (b) of this section have been satisfied, the purchaser is liable in an amount
13 equal to any tax, penalty and interest which the seller would have been
14 required to pay under article 1 of this chapter if the seller had not made a
15 deduction pursuant to subsection B, paragraph 16, subdivision (b) of this
16 section. Payment of the amount under this subsection exempts the purchaser
17 from liability for any tax imposed under article 4 of this chapter and
18 related to the tangible personal property purchased. The amount shall be
19 treated as transaction privilege tax to the purchaser and as tax revenues
20 collected from the seller to designate the distribution base pursuant to
21 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 or
26 operated by the tourism and sports authority pursuant to title 5, chapter 8.

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

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

42 V. For the purposes of this section:

1 1. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

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

1 Sec. 4. Section 42-5063, Arizona Revised Statutes, is amended to read:
2 42-5063. Utilities classification; definitions

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

4 1. Producing and furnishing or furnishing to consumers natural or
5 artificial gas and water.

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

9 B. The ~~utility~~ UTILITIES classification does not include:

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

14 2. Sales of natural gas or liquefied petroleum gas used to propel a
15 motor vehicle.

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

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

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

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

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

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

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

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

44 4. The portion of gross proceeds of sales or gross income that is
45 derived from sales to ~~an~~ A QUALIFIED environmental technology manufacturer,

1 producer or processor as defined in section 41-1514.02 of a utility product
2 and that is used directly in environmental technology manufacturing,
3 producing or processing. This paragraph shall apply for ~~fifteen~~ 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~~ A QUALIFIED
6 environmental technology manufacturer, producer or processor who does not
7 manufacture paper, the time period shall begin with the date the first
8 manufacturing, processing or production equipment is placed in service.

9 D. For THE purposes of this section:

10 1. "Ancillary services" means those services so designated in federal
11 energy regulatory commission order 888 adopted in 1996 that include the
12 services necessary to support the transmission of electricity from resources
13 to loads while maintaining reliable operation of the transmission system
14 according to good utility practice.

15 2. "Electric distribution service" means distributing electricity to
16 retail electric customers through the use of electric distribution
17 facilities.

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

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

25 5. "Other services" includes metering, meter reading services, billing
26 and collecting services.

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

30 Sec. 5. Section 42-5159, Arizona Revised Statutes, is amended to read:
31 42-5159. Exemptions

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

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

38 2. Tangible personal property the sale or use of which has already
39 been subjected to an excise tax at a rate equal to or exceeding the tax
40 imposed by this article under the laws of another state of the United States.
41 If the excise tax imposed by the other state is at a rate less than the tax
42 imposed by this article, the tax imposed by this article is reduced by the
43 amount of the tax already imposed by the other state.

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

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

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

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

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

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

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

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

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

42 12. Materials that are purchased by or for publicly funded libraries
43 including school district libraries, charter school libraries, community
44 college libraries, state university libraries or federal, state, county or
45 municipal libraries for use by the public as follows:

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

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

3 13. Tangible personal property purchased by:

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

7 (b) A hospital operated by this state or a political subdivision of
8 this state.

9 (c) A licensed nursing care institution or a licensed residential care
10 institution or a residential care facility operated in conjunction with a
11 licensed nursing care institution or a licensed kidney dialysis center, which
12 provides medical services, nursing services or health related services and is
13 not used or held for profit.

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

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

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

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

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

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

36 (iii) Incorporated or fabricated by the person into any lake facility
37 development in a commercial enhancement reuse district under conditions
38 prescribed for the deduction allowed by section 42-5075, subsection B,
39 paragraph 8.

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

44 (i) A qualifying community health center as defined in section
45 42-5001.

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

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

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

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

22 15. Tangible personal property sold by:

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

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

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

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

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

43 18. Prescription eyeglasses and contact lenses.

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

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

1 21. Durable medical equipment which has a centers for medicare and
2 medicaid services common procedure code, is designated reimbursable by
3 medicare, is prescribed by a person who is licensed under title 32, chapter
4 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
5 used to serve a medical purpose, is generally not useful to a person in the
6 absence of illness or injury and is appropriate for use in the home.

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

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

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

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

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

25 27. Lottery tickets or shares purchased pursuant to title 5, chapter 5,
26 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 this
30 state to encourage tourist travel.

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

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

1 32. Motor vehicles that are removed from inventory by a motor vehicle
2 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 only
12 useful to assist a person who is physically disabled as defined in section
13 46-191, has a developmental disability as defined in section 36-551 or has a
14 head injury as defined in section 41-3201 to be more independent and
15 functional.

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

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

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

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

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

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

3 (a) "Overhead materials" means tangible personal property, the gross
4 proceeds of sales or gross income derived from which would otherwise be
5 included in the retail classification, and which are used or consumed in the
6 performance of a contract, the cost of which is charged to an overhead
7 expense account and allocated to various contracts based upon generally
8 accepted accounting principles and consistent with government contract
9 accounting 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 or
12 services that, in whole or in part, are necessary to the performance of one
13 or more government contracts, or under which any portion of the contractor's
14 obligation under one or more government contracts is performed, undertaken or
15 assumed, and that includes provisions causing title to overhead materials or
16 other tangible personal property used in the performance of the subcontract
17 to pass to the government or that includes provisions incorporating such
18 title passing clauses in a government contract into the subcontract.

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

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

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

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

40 44. Alternative fuel vehicles if the vehicle was manufactured as a
41 diesel fuel vehicle and converted to operate on alternative fuel and
42 equipment that is installed in a conventional diesel fuel motor vehicle to
43 convert the vehicle to operate on an alternative fuel, as defined in section
44 1-215.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 or operated by any city, town or other governmental entity or by any person
2 contracting with such governmental entity as part of a governmentally adopted
3 and controlled program to provide urban mass transportation.

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

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

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

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

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

29 15. Machinery and equipment that are purchased by or on behalf of the
30 owners of a soundstage complex and primarily used for motion picture,
31 multimedia or interactive video production in the complex. This paragraph
32 applies only if the initial construction of the soundstage complex begins
33 after June 30, 1996 and before January 1, 2002 and the machinery and
34 equipment are purchased before the expiration of five years after the start
35 of initial construction. For the purposes of this paragraph:

36 (a) "Motion picture, multimedia or interactive video production"
37 includes products for theatrical and television release, educational
38 presentations, electronic retailing, documentaries, music videos, industrial
39 films, CD-ROM, video game production, commercial advertising and television
40 episode production and other genres that are introduced through developing
41 technology.

42 (b) "Soundstage complex" means a facility of multiple stages including
43 production offices, construction shops and related areas, prop and costume
44 shops, storage areas, parking for production vehicles and areas that are

1 leased to businesses that complement the production needs and orientation of
2 the overall facility.

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

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

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

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

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

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

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

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

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

40 18. Machinery and equipment that are used directly in the feeding of
41 poultry, the environmental control of housing for poultry, the movement of
42 eggs within a production and packaging facility or the sorting or cooling of
43 eggs. This exemption does not apply to vehicles used for transporting eggs.

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

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

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

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

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

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

30 22. Qualifying equipment that is purchased from and after June 30, 2004
31 through June 30, 2014 by a qualified business under section 41-1516 for
32 harvesting or the initial processing of qualifying forest products removed
33 from qualifying projects as defined in section 41-1516. To qualify for this
34 exemption, the qualified business must obtain and present its certification
35 from the department of commerce at the time of purchase.

36 23. Machinery, equipment and other tangible personal property used
37 directly in motion picture production by a motion picture production company.
38 To qualify for this exemption, at the time of purchase, the motion picture
39 production company must present to the retailer its certificate that is
40 issued pursuant to section 42-5009, subsection H and that establishes its
41 qualification for the exemption.

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

- 1 1. Expendable materials. For the purposes of this paragraph,
2 expendable materials do not include any of the categories of tangible
3 personal property specified in subsection B of this section regardless of the
4 cost or useful life of that property.
- 5 2. Janitorial equipment and hand tools.
- 6 3. Office equipment, furniture and supplies.
- 7 4. Tangible personal property used in selling or distributing
8 activities, other than the telecommunications transmissions described in
9 subsection B, paragraph 16 of this section.
- 10 5. Motor vehicles required to be licensed by this state, except buses
11 or other urban mass transit vehicles specifically exempted pursuant to
12 subsection B, paragraph 11 of this section, without regard to the use of such
13 motor vehicles.
- 14 6. Shops, buildings, docks, depots and all other materials of whatever
15 kind or character not specifically included as exempt.
- 16 7. Motors and pumps used in drip irrigation systems.
- 17 D. The following shall be deducted in computing the purchase price of
18 electricity by a retail electric customer from a utility business:
- 19 1. Revenues received from sales of ancillary services, electric
20 distribution services, electric generation services, electric transmission
21 services and other services related to providing electricity to a retail
22 electric customer who is located outside this state for use outside this
23 state if the electricity is delivered to a point of sale outside this state.
- 24 2. Revenues received from providing electricity, including ancillary
25 services, electric distribution services, electric generation services,
26 electric transmission services and other services related to providing
27 electricity with respect to which the transaction privilege tax imposed under
28 section 42-5063 has been paid.
- 29 E. The tax levied by this article does not apply to:
- 30 1. The storage, use or consumption in Arizona of machinery, equipment,
31 materials or other tangible personal property if used directly and
32 predominantly to construct a qualified environmental technology
33 manufacturing, producing or processing facility, as described in section
34 41-1514.02. This paragraph applies for ten full consecutive calendar or
35 fiscal years after the start of initial construction.
- 36 2. The purchase of electricity by a qualified environmental technology
37 manufacturer, producer or processor as defined in section 41-1514.02 that is
38 used directly in environmental technology manufacturing, producing or
39 processing. This paragraph shall apply for ~~fifteen~~ TWENTY full consecutive
40 calendar or fiscal years from the date the first paper manufacturing machine
41 is placed in service. In the case of an environmental technology
42 manufacturer, producer or processor who does not manufacture paper, the time
43 period shall begin with the date the first manufacturing, processing or
44 production equipment is placed in service.

1 3. The purchase of solar energy devices from a retailer that is
2 registered with the department as a solar energy retailer or a solar energy
3 contractor.

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

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

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

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

17 1. "Aircraft" includes:

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

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

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

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

31 Sec. 6. Findings and intent

32 The legislature finds that development of the rural economy is
33 particularly critical in times of economic distress. The tax incentives
34 afforded by the healthy forest and environmental technology programs have
35 been particularly valuable in stimulating commerce in rural Arizona. This
36 bill enhances those programs by confirming and extending the availability of
37 economic development opportunities for businesses to locate, operate and
38 provide employment opportunities in rural areas of this state.

APPROVED BY THE GOVERNOR MAY 6, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 6, 2010.

Passed the House April 1, 20 10

by the following vote: 54 Ayes,

0 Nays, 6 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

Passed the Senate April 26, 20 10

by the following vote: 27 Ayes,

2 Nays, 1 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

 day of , 20

at o'clock M.

Secretary to the Governor

Approved this day of

at o'clock M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this day of , 20

at o'clock M.

Secretary of State

H.B. 2160

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 28, 2010,

by the following vote: _____ Ayes,

_____ Nays, _____ Not Voting

[Signature]
Speaker of the House
Cheryl Laube
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this
29 day of April, 2010,

at 11:50 o'clock A - M.

[Signature]
Secretary to the Governor

Approved this 6 day of

May, 2010,

at 10:45 o'clock A. M.

[Signature]
Governor of Arizona

H.B. 2160

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 6th day of May, 2010,

at 3:08 o'clock P. M.

[Signature]
Secretary of State