

PROPOSED AMENDMENT  
SENATE AMENDMENTS TO H.B. 2568  
(Reference to House engrossed bill)

Page 4, between lines 38 and 39, insert:

"Sec. 2. Section 42-5061, Arizona Revised Statutes, is amended to read:

42-5061. Retail classification; definitions

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

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

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

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

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

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

6. Business activity which is properly included in any other business classification which is taxable under ~~THIS article 2 of this chapter.~~

7. The sale of stocks and bonds.

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

4           9. Prosthetic appliances as defined in section 23-501 prescribed or  
5 recommended by a health professional WHO IS licensed pursuant to title 32,  
6 chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.

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

8           11. Prescription eyeglasses or contact lenses.

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

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

17          14. Sales to nonresidents of this state for use outside this state if  
18 the vendor ships or delivers the tangible personal property out of this  
19 state.

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

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

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

29          18. Food and drink to a person who is engaged in business which is  
30 classified under the restaurant classification and which provides such food  
31 and drink without monetary charge to its employees for their own consumption  
32 on the premises during the employees' hours of employment.

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

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

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

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

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

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

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

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

31           25. Tangible personal property sold to:

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

1           (b) A qualifying health care organization as defined in section  
2 42-5001 if the tangible personal property is used by the organization solely  
3 to provide health and medical related educational and charitable services.

4           (c) A qualifying health care organization as defined in section  
5 42-5001 if the organization is dedicated to providing educational,  
6 therapeutic, rehabilitative and family medical education training for blind,  
7 visually impaired and multihandicapped children from the time of birth to age  
8 twenty-one.

9           (d) A qualifying community health center as defined in section  
10 42-5001.

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

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

22           26. Magazines or other periodicals or other publications by this state  
23 to encourage tourist travel.

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

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

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

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

7 28. The sale of a motor vehicle to:

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

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

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

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

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

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

1 paper, the time period shall begin with the date the first manufacturing,  
2 processing or production equipment is placed in service.

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

16 40. Through December 31, 1994, personal property liquidation  
17 transactions, conducted by a personal property liquidator. From and after  
18 December 31, 1994, personal property liquidation transactions shall be  
19 taxable under this section provided that nothing in this subsection shall be  
20 construed to authorize the taxation of casual activities or transactions  
21 under this chapter. For the purposes of this paragraph:

22 (a) "Personal property liquidation transaction" means a sale of  
23 personal property made by a personal property liquidator acting solely on  
24 behalf of the owner of the personal property sold at the dwelling of the  
25 owner or upon the death of any owner, on behalf of the surviving spouse, if  
26 any, any devisee or heir or the personal representative of the estate of the  
27 deceased, if one has been appointed.

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

30 41. Sales of food, drink and condiment for consumption within the  
31 premises of any prison, jail or other institution under the jurisdiction of

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

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

7 43. Livestock and poultry feed, salts, vitamins and other additives for  
8 livestock or poultry consumption that are sold to persons who are engaged in  
9 producing livestock, poultry, or livestock or poultry products or who are  
10 engaged in feeding livestock or poultry commercially. For the purposes of  
11 this paragraph, "poultry" includes ratites.

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

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

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

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

31 48. Sales of materials that are purchased by or for publicly funded  
32 libraries including school district libraries, charter school libraries,



1 community college libraries, state university libraries or federal, state,  
2 county or municipal libraries for use by the public as follows:

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

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

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

13 50. Sales of alternative fuel vehicles if the vehicle was manufactured  
14 as a diesel fuel vehicle and converted to operate on alternative fuel and  
15 equipment that is installed in a conventional diesel fuel motor vehicle to  
16 convert the vehicle to operate on an alternative fuel, as defined in section  
17 1-215.

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

21 52. Sales of tangible personal property to be incorporated or installed  
22 as part of environmental response or remediation activities under section  
23 42-5075, subsection B, paragraph 6.

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

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

31 55. Application services that are designed to assess or test student  
32 learning or to promote curriculum design or enhancement purchased by or for

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

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

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

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

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

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

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

31 4. Machinery, equipment or transmission lines used directly in  
32 producing or transmitting electrical power, but not including distribution.

1 Transformers and control equipment used at transmission substation sites  
2 constitute equipment used in producing or transmitting electrical power.

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

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

10 7. Aircraft, navigational and communication instruments and other  
11 accessories and related equipment sold to:

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

18 (b) Any foreign government for use by such government outside of this  
19 state.

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

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

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

1           10. Machinery or equipment used directly to drill for oil or gas or  
2           used directly in the process of extracting oil or gas from the earth for  
3           commercial purposes.

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

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

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

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

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

24          14. Machinery or equipment used in research and development. For the  
25          purposes of this paragraph, "research and development" means basic and  
26          applied research in the sciences and engineering, and designing, developing  
27          or testing prototypes, processes or new products, including research and  
28          development of computer software that is embedded in or an integral part of  
29          the prototype or new product or that is required for machinery or equipment  
30          otherwise exempt under this section to function effectively. Research and  
31          development do not include manufacturing quality control, routine consumer  
32          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

1 transmission services that operate pursuant to 47 Code of Federal Regulations  
2 part 25.

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

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

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

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

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

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

16          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

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

4 23. Machinery, equipment and other tangible personal property used  
5 directly in motion picture production by a motion picture production company.  
6 To qualify for this deduction, at the time of purchase, the motion picture  
7 production company must present to the retailer its certificate that is  
8 issued pursuant to section 42-5009, subsection H and that establishes its  
9 qualification for the deduction.

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

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

16 2. Janitorial equipment and hand tools.

17 3. Office equipment, furniture and supplies.

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

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

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

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

28 D. In addition to the deductions from the tax base prescribed by  
29 subsection A of this section, there shall be deducted from the tax base the  
30 gross proceeds of sales or gross income derived from sales of machinery,  
31 equipment, materials and other tangible personal property used directly and  
32 predominantly to construct a qualified environmental technology



1 manufacturing, producing or processing facility as described in section  
2 41-1514.02. This subsection applies for ~~ten~~ TWENTY full consecutive calendar  
3 or fiscal years after the start of initial construction.

4 E. In computing the tax base, gross proceeds of sales or gross income  
5 from retail sales of heavy trucks and trailers does not include any amount  
6 attributable to federal excise taxes imposed by 26 United States Code section  
7 4051.

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

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

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

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

32 1. Transporting classification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13           V. For the purposes of this section:

14           1. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

16          6. "Subcontract" means an agreement between a contractor and any  
17          person who is not an employee of the contractor for furnishing of supplies or  
18          services that, in whole or in part, are necessary to the performance of one  
19          or more government contracts, or under which any portion of the contractor's  
20          obligation under one or more government contracts is performed, undertaken or  
21          assumed and that includes provisions causing title to overhead materials or  
22          other tangible personal property used in the performance of the subcontract  
23          to pass to the government or that includes provisions incorporating such  
24          title passing clauses in a government contract into the subcontract.

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

26          42-5063. Utilities classification; definitions

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

28           1. Producing and furnishing or furnishing to consumers natural or  
29           artificial gas and water.

30           2. Providing to retail electric customers ancillary services, electric  
31           distribution services, electric generation services, electric transmission  
32           services and other services related to providing electricity.

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

2           1. Sales of ancillary services, electric distribution services,  
3           electric generation services, electric transmission services and other  
4           services related to providing electricity, gas or water to a person who  
5           resells the services.

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

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

11          4. Sales of ancillary services, electric distribution services,  
12          electric generation services, electric transmission services and other  
13          services that are related to providing electricity to a retail electric  
14          customer who is located outside this state for use outside this state if the  
15          electricity is delivered to a point of sale outside this state.

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

19          1. Revenues received by a municipally owned utility in the form of  
20          fees charged to persons constructing residential, commercial or industrial  
21          developments or connecting residential, commercial or industrial developments  
22          to a municipal utility system or systems if the fees are segregated and used  
23          only for capital expansion, system enlargement or debt service of the utility  
24          system or systems.

25          2. Revenues received by any person or persons owning a utility system  
26          in the form of reimbursement or contribution compensation for property and  
27          equipment installed to provide utility access to, on or across the land of an  
28          actual utility consumer if the property and equipment become the property of  
29          the utility. This deduction shall not exceed the value of such property and  
30          equipment.

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

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

1 (b) A qualifying health care organization as defined in section  
2 42-5001 if the tangible personal property is used by the organization solely  
3 to provide health and medical related educational and charitable services.

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

14 D. For THE purposes of this section:

15 1. "Ancillary services" means those services so designated in federal  
16 energy regulatory commission order 888 adopted in 1996 that include the  
17 services necessary to support the transmission of electricity from resources  
18 to loads while maintaining reliable operation of the transmission system  
19 according to good utility practice.

20 2. "Electric distribution service" means distributing electricity to  
21 retail electric customers through the use of electric distribution  
22 facilities.

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

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

30 5. "Other services" includes metering, meter reading services, billing  
31 and collecting services.



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

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

5           42-5159. Exemptions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1           13. Tangible personal property purchased by:

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

5           (b) A hospital operated by this state or a political subdivision of  
6 this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

29           14. Commodities, as defined by title 7 United States Code section 2,  
30 that are consigned for resale in a warehouse in this state in or from which  
31 the commodity is deliverable on a contract for future delivery subject to the

1 rules of a commodity market regulated by the United States commodity futures  
2 trading commission.

3 15. Tangible personal property sold by:

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

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

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

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

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

24 18. Prescription eyeglasses and contact lenses.

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

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

27 21. Durable medical equipment which has a centers for medicare and  
28 medicaid services common procedure code, is designated reimbursable by  
29 medicare, is prescribed by a person who is licensed under title 32, chapter  
30 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily  
31 used to serve a medical purpose, is generally not useful to a person in the  
32 absence of illness or injury and is appropriate for use in the home.

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

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

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

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

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

19           27. Lottery tickets or shares purchased pursuant to title 5, chapter 5,  
20 article 1.

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

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

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

28           31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity  
29 purchased by a qualified environmental technology manufacturer, producer or  
30 processor as defined in section 41-1514.02 and directly used or consumed in  
31 the generation or provision of on-site power or energy solely for  
32 environmental technology manufacturing, producing or processing or

1 environmental protection. This paragraph shall apply for ~~fifteen~~ TWENTY full  
2 consecutive calendar or fiscal years from the date the first paper  
3 manufacturing machine is placed in service. In the case of an environmental  
4 technology manufacturer, producer or processor who does not manufacture  
5 paper, the time period shall begin with the date the first manufacturing,  
6 processing or production equipment is placed in service.

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

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

11 (b) Public educational institutions.

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

15 33. Natural gas or liquefied petroleum gas used to propel a motor  
16 vehicle.

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17           3. Tangible personal property sold to persons engaged in business  
18 classified under the telecommunications classification under section 42-5064  
19 and consisting of central office switching equipment, switchboards, private  
20 branch exchange equipment, microwave radio equipment and carrier equipment  
21 including optical fiber, coaxial cable and other transmission media which are  
22 components of carrier systems.

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

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

30           6. Pipes or valves four inches in diameter or larger used to transport  
31 oil, natural gas, artificial gas, water or coal slurry, including compressor

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1           (a) "Motion picture, multimedia or interactive video production"  
2 includes products for theatrical and television release, educational  
3 presentations, electronic retailing, documentaries, music videos, industrial  
4 films, CD-ROM, video game production, commercial advertising and television  
5 episode production and other genres that are introduced through developing  
6 technology.

7           (b) "Soundstage complex" means a facility of multiple stages including  
8 production offices, construction shops and related areas, prop and costume  
9 shops, storage areas, parking for production vehicles and areas that are  
10 leased to businesses that complement the production needs and orientation of  
11 the overall facility.

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

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

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

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

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

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

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

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

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

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

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

31          20. Machinery and equipment that are used in the commercial production  
32          of livestock, livestock products or agricultural, horticultural, viticultural

1 or floricultural crops or products in this state and that are used directly  
2 and primarily to prevent, monitor, control or reduce air, water or land  
3 pollution.

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

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

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

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

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

24 23. Machinery, equipment and other tangible personal property used  
25 directly in motion picture production by a motion picture production company.  
26 To qualify for this exemption, at the time of purchase, the motion picture  
27 production company must present to the retailer its certificate that is  
28 issued pursuant to section 42-5009, subsection H and that establishes its  
29 qualification for the exemption.

30 C. The exemptions provided by subsection B of this section do not  
31 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

1 manufacturing, producing or processing facility, as described in section  
2 41-1514.02. This paragraph applies for ten full consecutive calendar or  
3 fiscal years after the start of initial construction.

4 2. The purchase of electricity by a qualified environmental technology  
5 manufacturer, producer or processor as defined in section 41-1514.02 that is  
6 used directly in environmental technology manufacturing, producing or  
7 processing. This paragraph shall apply for ~~fifteen~~ TWENTY full consecutive  
8 calendar or fiscal years from the date the first paper manufacturing machine  
9 is placed in service. In the case of an environmental technology  
10 manufacturer, producer or processor who does not manufacture paper, the time  
11 period shall begin with the date the first manufacturing, processing or  
12 production equipment is placed in service.

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

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

18 1. Fees charged by a municipally owned utility to persons constructing  
19 residential, commercial or industrial developments or connecting residential,  
20 commercial or industrial developments to a municipal utility system or  
21 systems if the fees are segregated and used only for capital expansion,  
22 system enlargement or debt service of the utility system or systems.

23 2. Reimbursement or contribution compensation to any person or persons  
24 owning a utility system for property and equipment installed to provide  
25 utility access to, on or across the land of an actual utility consumer if the  
26 property and equipment become the property of the utility. This deduction  
27 shall not exceed the value of such property and equipment.

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

29 1. "Aircraft" includes:

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

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

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

7 H. For the purposes of subsection D of this section, "ancillary  
8 services", "electric distribution service", "electric generation service",  
9 "electric transmission service" and "other services" have the same meanings  
10 prescribed in section 42-5063."

11 Renumber to conform

12 Page 11, line 5, after "A." insert "Sections 1, 5 and 6 of"; strike "applies"  
13 insert "apply"

14 Line 19, before "This" insert "Sections 1, 5 and 6 of"; strike "is" insert "are"

15 Amend title to conform

LEFF

2568b11.doc  
04/05/2010  
03:15 PM  
C: dmt