

REFERENCE TITLE: **healthy forest incentives; procedures; extension**

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
Second Regular Session  
2024

## **HB 2737**

Introduced by  
Representatives Marshall: Diaz, Hendrix, Jones

**AN ACT**

**AMENDING SECTIONS 41-1516, 42-5061, 42-5075, 42-5159, 42-12006, 43-1076.01  
AND 43-1162, ARIZONA REVISED STATUTES; RELATING TO TAXATION.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 41-1516. Healthy forest enterprise incentives; definitions

5 A. The Arizona commerce authority shall:

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

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

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

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

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

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

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

28 ~~(ii) AND at least seventy-five percent of the qualifying forest~~  
29 ~~products, measured by weight, must~~ WILL be harvested from sources in this  
30 state.

31 (c) If the qualifying forest product is not on federal land, the  
32 business shall submit ~~a letter from the state forester~~ RECORDS OR  
33 DOCUMENTS PRODUCED IN CONNECTION WITH THE PROJECT stating that the  
34 business is primarily engaged in the business of harvesting or processing  
35 qualifying forest products for commercial use ~~as follows:~~

36 ~~(i) At least seventy percent of the harvested or processed products~~  
37 ~~must be qualifying forest products.~~

38 ~~(ii) AND at least seventy-five percent of the harvested or~~  
39 ~~processed products must~~ WILL be from areas in this state.

40 (d) If the business is engaged in transporting qualifying forest  
41 products, it must submit ~~a letter from the state forester or United States~~  
42 ~~forest service, or official~~ records or documents produced in connection  
43 with the project, stating that all of the qualifying forest products it  
44 transports are harvested from areas in this state. ~~In addition, the~~  
45 ~~business must submit evidence to the authority that at least seventy-five~~

1 ~~percent of the mileage traveled by its units each year are for~~  
2 ~~transporting qualifying forest products from or to qualifying projects~~  
3 ~~described in subdivision (b) or (c) of this paragraph unless a lower~~  
4 ~~mileage is due to forest closures or weather conditions that are beyond~~  
5 ~~the control of the business.~~

6 2. Must employ at least one permanent full-time employee.

7 ~~3. Must agree to furnish to the authority information relating to~~  
8 ~~the amount of state tax benefits that the business receives each year.~~

9 ~~4. Must enter into a memorandum of understanding with the authority~~  
10 ~~containing:~~

11 ~~(a) Employment goals. Each year the business must report in~~  
12 ~~writing to the authority its performance in achieving the goals.~~

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

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

29 ~~(d) The authorization for the authority to terminate, adjust or~~  
30 ~~recapture all or part of the tax benefits provided to the business on~~  
31 ~~noncompliance with the law, noncompliance with the terms of the memorandum~~  
32 ~~or violation of the terms of any contracts with the federal or state~~  
33 ~~government relating to the qualifying project.~~

34 3. AUTHORIZE the authority shall TO notify the department of  
35 revenue of the ANY conditions of noncompliance. The department of revenue  
36 may also terminate the certification if it obtains information indicating  
37 a failure to qualify and comply. The department of revenue may require  
38 the business to file appropriate amended tax returns or to file  
39 appropriate use tax returns reflecting the recapture of the direct or  
40 indirect tax benefits.

41 ~~5.~~ 4. Must submit a copy of the certification to the department of  
42 revenue for approval before using the certification for purposes of any  
43 tax incentive. The department of revenue shall review and approve the  
44 certification in a timely manner if the business is in good standing with  
45 the department and is not delinquent in the payment of any tax collected

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

4 C. For the purposes of section 42-5075, subsection B, paragraph 18,  
5 the authority shall certify prime contractors that contract for the  
6 construction of any building, or other structure, project, development or  
7 improvement owned by a qualified business for purposes of a qualifying  
8 project described in subsection B, paragraph 1 of this section.

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

11 1. Apply to the authority.

12 2. Submit and retain copies of all required information, including  
13 information relating to the actual or projected number of employees in  
14 this state.

15 3. Allow inspections and audits to verify the qualification and  
16 accuracy of information submitted to the authority.

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

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

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

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

41 ~~1. Information prescribed by the authority with respect to both~~  
42 ~~qualifying projects and other projects and business activity that do not~~  
43 ~~qualify for purposes of this section.~~

44 ~~2. The quantity, measured by weight, of qualifying forest products~~  
45 ~~harvested, transported or processed.~~

1 ~~I. On or before May 1 of each year, the authority shall report to~~  
2 ~~the joint legislative budget committee the quantity, measured by weight,~~  
3 ~~of qualifying forest products reported by harvesters, by transporters and~~  
4 ~~by processors in the preceding calendar year.~~

5 ~~I.~~ H. For the purposes of administering and ensuring compliance  
6 with this section, agents of the authority may enter, and a qualified  
7 business shall allow access to, a qualifying project site at reasonable  
8 times and on reasonable notice to:

9 1. Inspect the facilities at the site.

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

12 3. Otherwise ascertain compliance with law ~~and the terms of the~~  
13 ~~memorandum of understanding.~~

14 ~~K.~~ I. The authority shall revoke the business' certification and  
15 notify the department of revenue and county assessor if either:

16 1. Within thirty days after a formal request from the authority or  
17 the department of revenue, the business fails or refuses to provide the  
18 information or access for inspections required by this section.

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

21 ~~L.~~ J. For the purposes of this section:

22 1. "Forest health" means the degree to which the integrity of the  
23 forest is sustained, including reducing the risk of ~~catastrophic~~ wildfire  
24 and destructive insect infestation, benefiting wildland habitats,  
25 watersheds and communities.

26 2. "Harvesting" means all operations relating to ~~felling or~~  
27 ~~otherwise removing~~ MECHANICAL OR HAND THINNING OF trees ~~and OR~~ other  
28 forest plant growth ~~and preparing them for transport for subsequent~~  
29 ~~processing.~~

30 3. "Processing" means:

31 (a) Any change in the physical structure of qualifying forest  
32 products removed from a qualifying project into a marketable commercial  
33 product or component of a product that has commercial value to a consumer  
34 or purchaser and that is ready to be used with or without further altering  
35 its form.

36 (b) Burning qualifying forest products in the process of commercial  
37 electrical generation or commercial thermal energy production for heating  
38 or cooling, regardless of the physical structure of the forest product  
39 before burning.

40 ~~4. "Qualifying equipment" means equipment used directly in~~  
41 ~~harvesting or processing qualifying forest products removed from a~~  
42 ~~qualifying project. Qualifying equipment does not include self-propelled~~  
43 ~~vehicles required to be licensed by this state but may include other~~  
44 ~~licensed vehicles as provided by this paragraph. Qualifying equipment~~  
45 ~~includes:~~

1 ~~(a) Forest thinning and residue removal equipment, including~~  
2 ~~mulching and masticating equipment, feller-bunchers, skidders, log~~  
3 ~~loaders, portable chippers and grinders, slash bundlers, delimiters, log~~  
4 ~~trailers, chip trailers and other trailers that are uniquely designed for~~  
5 ~~handling forest products and that are licensed for operation on public~~  
6 ~~highways.~~

7 ~~(b) Forest residue receiving and handling equipment, including~~  
8 ~~truck dumpers, log unloaders, scales, log decking facilities and equipment~~  
9 ~~and chip pile facilities.~~

10 ~~(c) Sorting and processing equipment, including portable and~~  
11 ~~stationary log loaders, front-end loaders, forklifts and cranes, chippers~~  
12 ~~and grinders, screens, decks and debarkers, saws and sawmill equipment,~~  
13 ~~firewood processing, wood residue baling and bagging equipment, kilns,~~  
14 ~~planing and molding equipment and laminating and joining equipment.~~

15 ~~(d) Forest waste and residue disposal and processing equipment,~~  
16 ~~including:~~

17 ~~(i) Processing and sizing equipment, hogs, chippers, screens,~~  
18 ~~pelletizers and wood splitters.~~

19 ~~(ii) Transporting and handling equipment, including loaders,~~  
20 ~~conveyors, blowers, receiving hoppers, truck dumpers and dozers.~~

21 ~~(iii) Waste use equipment, including fuel feed, storage bins,~~  
22 ~~boilers and combustors.~~

23 ~~(iv) Waste project use equipment, including generators, switchgear~~  
24 ~~and substations and on-site distribution systems.~~

25 ~~(v) Generated waste disposal equipment, including ash silos and~~  
26 ~~wastewater treatment and disposal equipment.~~

27 ~~(vi) Shop and maintenance equipment and major spares having a value~~  
28 ~~of more than \$5,000 each.~~

29 ~~5.~~ 4. "Qualifying forest products" means dead standing and fallen  
30 timber, ~~and~~ forest thinnings associated with the harvest of ~~small diameter~~  
31 timber, slash, wood chips, peelings, brush ~~and~~ OR other woody  
32 vegetation, ~~removed~~ from federal, state and other public forest land and  
33 from private forest land.

34 ~~6.~~ 5. "Qualifying project" means harvesting, transporting or  
35 processing qualifying forest products as required for certification  
36 pursuant to this section.

37 6. "TRANSPORTING" MEANS PREPARING AND MOVING TREES OR OTHER FOREST  
38 PLANT GROWTH TO LOCATIONS FOR SUBSEQUENT PROCESSING.

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

41 42-5061. Retail classification; definitions

42 A. The retail classification is comprised of the business of  
43 selling tangible personal property at retail. The tax base for the retail  
44 classification is the gross proceeds of sales or gross income derived from

1 the business. The tax imposed on the retail classification does not apply  
2 to the gross proceeds of sales or gross income from:

3 1. Professional or personal service occupations or businesses that  
4 involve sales or transfers of tangible personal property only as  
5 inconsequential elements.

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

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

11 4. Sales of tangible personal property by any nonprofit  
12 organization organized and operated exclusively for charitable purposes  
13 and recognized by the United States internal revenue service under section  
14 501(c)(3) of the internal revenue code.

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

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

20 7. The sale of stocks and bonds.

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

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

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

29 11. Prescription eyeglasses or contact lenses.

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

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

38 14. Sales of motor vehicles to nonresidents of this state for use  
39 outside this state if either of the following ~~apply~~ APPLIES:

40 (a) The motor vehicle dealer ships or delivers the motor vehicle to  
41 a destination out of this state.

42 (b) The vehicle, trailer or semitrailer has a gross vehicle weight  
43 rating of more than ten thousand pounds, is used or maintained to  
44 transport property in the furtherance of interstate commerce and otherwise

1 meets the definition of commercial motor vehicle as defined in section  
2 28-5201.

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

23 25. Tangible personal property sold to:

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

25 (b) A qualifying health care organization as defined in section  
26 42-5001 if the tangible personal property is used by the organization  
27 solely to provide health and medical related educational and charitable  
28 services.

29 (c) A qualifying health care organization as defined in section  
30 42-5001 if the organization is dedicated to providing educational,  
31 therapeutic, rehabilitative and family medical education training for  
32 blind and visually impaired children and children with multiple  
33 disabilities from the time of birth to age twenty-one.

34 (d) A qualifying community health center as defined in section  
35 42-5001.

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

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

1 residential apartment housing for low-income persons over sixty-two years  
2 of age in a facility that qualifies for a federal housing subsidy.

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

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

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

11 27. Tangible personal property sold to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 37. Coal, petroleum, coke, natural gas, virgin fuel oil and  
43 electricity sold to a qualified environmental technology manufacturer,  
44 producer or processor as defined in section 41-1514.02 and directly used  
45 or consumed in generating or providing on-site power or energy solely for

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

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

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

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

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

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

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

1           42. Sales of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37           (a) A person:

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

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



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

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

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

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

21 (b) Any foreign government.

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

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

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

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

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

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

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

10           (a) "Off-highway vehicles" means off-highway vehicles as defined in  
11 section 28-1171 that are modified at the time of sale to function as a  
12 tractor or to tow tractor-drawn implements and that are not equipped with  
13 a modified exhaust system to increase horsepower or speed or an engine  
14 that is more than one thousand cubic centimeters or that have a maximum  
15 speed of fifty miles per hour or less.

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

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

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

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

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

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

1 (ii) Over two-thirds of the transmissions, measured in megabytes,  
2 transmitted by or on behalf of those direct broadcast television or data  
3 transmission services during the test period were transmitted by the  
4 facility to or on behalf of those services. For the purposes of  
5 subdivision (b) of this paragraph, "test period" means the three hundred  
6 sixty-five day period beginning on the later of the date on which the  
7 tangible personal property is purchased or the date on which the direct  
8 broadcast satellite television or data transmission service first  
9 transmits information to its customers.

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

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

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

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

31 19. Machinery or equipment, including related structural components  
32 and containment structures, that is employed in connection with  
33 manufacturing, processing, fabricating, job printing, refining, mining,  
34 natural gas pipelines, metallurgical operations, telecommunications,  
35 producing or transmitting electricity or research and development and that  
36 is used directly to meet or exceed rules or regulations adopted by the  
37 federal energy regulatory commission, the United States environmental  
38 protection agency, the United States nuclear regulatory commission, the  
39 Arizona department of environmental quality or a political subdivision of  
40 this state to prevent, monitor, control or reduce land, water or air  
41 pollution. For the purposes of this paragraph, "containment structure"  
42 means a structure that prevents, monitors, controls or reduces noxious or  
43 harmful discharge into the environment.

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

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

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

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

20           (c) Any machinery or equipment purchased after the television  
21 station has ceased analog broadcasting, or purchased after November 1,  
22 2009, whichever occurs first.

23           22. Qualifying equipment that is purchased from and after June 30,  
24 2004 through June 30, ~~2024~~ 2034 by a qualified business under section  
25 41-1516 for harvesting or processing qualifying forest products removed  
26 from qualifying projects as defined in section 41-1516. To qualify for  
27 this deduction, the qualified business at the time of purchase must  
28 present its certification approved by the department. **FOR THE PURPOSES OF**  
29 **THIS PARAGRAPH, "QUALIFYING EQUIPMENT":**

30           (a) **MEANS EQUIPMENT THAT IS USED DIRECTLY FOR HARVESTING OR**  
31 **PROCESSING QUALIFYING FOREST PRODUCTS AS DEFINED IN SECTION 41-1516 THAT**  
32 **ARE REMOVED FROM A QUALIFYING PROJECT AS DEFINED IN SECTION 41-1516.**

33           (b) **INCLUDES:**

34           (i) **FOREST THINNING AND RESIDUE REMOVAL EQUIPMENT, INCLUDING**  
35 **MULCHING AND MASTICATING EQUIPMENT, FELLER-BUNCHERS, SKIDDERS, LOG**  
36 **LOADERS, PORTABLE CHIPPERS AND GRINDERS, SLASH BUNDLERS, DELIMBERS, LOG**  
37 **TRAILERS, CHIP TRAILERS AND OTHER TRAILERS THAT ARE UNIQUELY DESIGNED FOR**  
38 **HANDLING FOREST PRODUCTS AND THAT ARE LICENSED FOR OPERATION ON PUBLIC**  
39 **HIGHWAYS.**

40           (ii) **FOREST RESIDUE RECEIVING AND HANDLING EQUIPMENT, INCLUDING**  
41 **TRUCK DUMPERS, LOG UNLOADERS, SCALES, LOG DECKING FACILITIES AND EQUIPMENT**  
42 **AND CHIP PILE FACILITIES.**

43           (iii) **SORTING AND PROCESSING EQUIPMENT, INCLUDING PORTABLE AND**  
44 **STATIONARY LOG LOADERS, FRONT-END LOADERS, FORKLIFTS AND CRANES, CHIPPERS**  
45 **AND GRINDERS, SCREENS, DECKS AND DEBARKERS, SAWS AND SAWMILL EQUIPMENT,**

1 FIREWOOD PROCESSING, WOOD RESIDUE BALING AND BAGGING EQUIPMENT, KILNS,  
2 PLANING AND MOLDING EQUIPMENT AND LAMINATING AND JOINING EQUIPMENT.

3 (iv) FOREST WASTE AND RESIDUE DISPOSAL AND PROCESSING EQUIPMENT,  
4 INCLUDING PROCESSING AND SIZING EQUIPMENT, HOGS, CHIPPERS, SCREENS,  
5 PELLETIZERS AND WOOD SPLITTERS, TRANSPORTING AND HANDLING EQUIPMENT,  
6 INCLUDING LOADERS, CONVEYORS, BLOWERS, RECEIVING HOPPERS, TRUCK DUMPERS  
7 AND DOZERS, WASTE USE EQUIPMENT, INCLUDING FUEL FEED, STORAGE BINS,  
8 BOILERS AND COMBUSTORS, WASTE PROJECT USE EQUIPMENT, INCLUDING GENERATORS,  
9 SWITCHGEAR AND SUBSTATIONS AND ON-SITE DISTRIBUTION SYSTEMS, GENERATED  
10 WASTE DISPOSAL EQUIPMENT, INCLUDING ASH SILOS AND WASTEWATER TREATMENT AND  
11 DISPOSAL EQUIPMENT AND SHOP AND MAINTENANCE EQUIPMENT AND MAJOR SPARES  
12 HAVING A VALUE OF MORE THAN \$5,000 EACH.

13 (c) DOES NOT INCLUDE SELF-PROPELLED VEHICLES REQUIRED TO BE  
14 LICENSED BY THIS STATE BUT MAY INCLUDE OTHER LICENSED VEHICLES AS PROVIDED  
15 BY THIS PARAGRAPH.

16 23. Computer data center equipment sold to the owner, operator or  
17 qualified colocation tenant of a computer data center that is certified by  
18 the Arizona commerce authority under section 41-1519 or an authorized  
19 agent of the owner, operator or qualified colocation tenant during the  
20 qualification period for use in the qualified computer data center. For  
21 the purposes of this paragraph, "computer data center", "computer data  
22 center equipment", "qualification period" and "qualified colocation  
23 tenant" have the same meanings prescribed in section 41-1519.

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

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

30 2. Janitorial equipment and hand tools.

31 3. Office equipment, furniture and supplies.

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

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

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

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

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

44 D. In addition to the deductions from the tax base prescribed by  
45 subsection A of this section, there shall be deducted from the tax base

1 the gross proceeds of sales or gross income derived from sales of  
2 machinery, equipment, materials and other tangible personal property used  
3 directly and predominantly to construct a qualified environmental  
4 technology manufacturing, producing or processing facility as described in  
5 section 41-1514.02. This subsection applies for ten full consecutive  
6 calendar or fiscal years after the start of initial construction.

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

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

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

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

31 1. Agricultural producers who are owners, proprietors or tenants of  
32 agricultural lands, orchards, farms or gardens where agricultural products  
33 are grown, raised or prepared for market and who are marketing their own  
34 agricultural products.

35 2. Businesses classified under the:

36 (a) Transporting classification.

37 (b) Utilities classification.

38 (c) Telecommunications classification.

39 (d) Pipeline classification.

40 (e) Private car line classification.

41 (f) Publication classification.

42 (g) Job printing classification.

43 (h) Prime contracting classification.

44 (i) Restaurant classification.

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

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

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

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

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

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

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

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

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

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

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

42 N. In computing the tax base in the case of the sale or transfer of  
43 wireless telecommunications equipment as an inducement to a customer to  
44 enter into or continue a contract for telecommunications services that are  
45 taxable under section 42-5064, gross proceeds of sales or gross income

1 does not include any sales commissions or other compensation received by  
2 the retailer as a result of the customer entering into or continuing a  
3 contract for the telecommunications services.

4 O. For the purposes of this section, a sale of wireless  
5 telecommunications equipment to a person who holds the equipment for sale  
6 or transfer to a customer as an inducement to enter into or continue a  
7 contract for telecommunications services that are taxable under section  
8 42-5064 is considered to be a sale for resale in the regular course of  
9 business.

10 P. Retail sales of prepaid calling cards or prepaid authorization  
11 numbers for telecommunications services, including sales of  
12 reauthorization of a prepaid card or authorization number, are subject to  
13 tax under this section.

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

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

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

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

26 1. The transfer of title or possession of the coal is for the  
27 purpose of refining the coal.

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

34 S. If a seller is entitled to a deduction pursuant to subsection B,  
35 paragraph 16, subdivision (b) of this section, the department may require  
36 the purchaser to establish that the requirements of subsection B,  
37 paragraph 16, subdivision (b) of this section have been satisfied. If the  
38 purchaser cannot establish that the requirements of subsection B,  
39 paragraph 16, subdivision (b) of this section have been satisfied, the  
40 purchaser is liable in an amount equal to any tax, penalty and interest  
41 that the seller would have been required to pay under article 1 of this  
42 chapter if the seller had not made a deduction pursuant to subsection B,  
43 paragraph 16, subdivision (b) of this section. Payment of the amount  
44 under this subsection exempts the purchaser from liability for any tax  
45 imposed under article 4 of this chapter and related to the tangible



1 personal property purchased. The amount shall be treated as transaction  
2 privilege tax to the purchaser and as tax revenues collected from the  
3 seller to designate the distribution base pursuant to section 42-5029.

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

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

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

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

26 V. For the purposes of this section:

27 1. "Agricultural aircraft" means an aircraft that is built for  
28 agricultural use for the aerial application of pesticides or fertilizer or  
29 for aerial seeding.

30 2. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

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

30 Sec. 3. Section 42-5075, Arizona Revised Statutes, is amended to  
31 read:

32 42-5075. Prime contracting classification; exemptions;  
33 definitions

34 A. The prime contracting classification is comprised of the  
35 business of prime contracting and the business of manufactured building  
36 dealer. Sales for resale to another manufactured building dealer are not  
37 subject to tax. Sales for resale do not include sales to a lessor of  
38 manufactured buildings. The sale of a used manufactured building is not  
39 taxable under this chapter. The prime contracting classification does not  
40 include any work or operation performed by a person that is not required  
41 to be licensed by the registrar of contractors pursuant to section  
42 32-1121.

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

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

7           2. Sales and installation of groundwater measuring devices required  
8 under section 45-604 and groundwater monitoring wells required by law,  
9 including monitoring wells installed for acquiring information for a  
10 permit required by law.

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

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

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

35           6. The gross proceeds of sales or gross income from a contract to  
36 provide for one or more of the following actions, or a contract for site  
37 preparation, constructing, furnishing or installing machinery, equipment  
38 or other tangible personal property, including structures necessary to  
39 protect exempt incorporated materials or installed machinery or equipment,  
40 and tangible personal property incorporated into the project, to perform  
41 one or more of the following actions in response to a release or suspected  
42 release of a hazardous substance, pollutant or contaminant from a facility  
43 to the environment, unless the release was authorized by a permit issued  
44 by a governmental authority:

1 (a) Actions to monitor, assess and evaluate such a release or a  
2 suspected release.

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

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

8 (d) Pumping and treatment or in situ treatment of contaminated  
9 groundwater or surface water to reduce the concentration or toxicity of a  
10 contaminant.

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

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

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

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

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

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

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

39 (b) The deduction provided in this paragraph does not include gross  
40 proceeds of sales or gross income from the portion of any contracting  
41 activity that consists of the development of, or modification to, real  
42 property in order to facilitate the installation, assembly, repair,  
43 maintenance or removal of machinery, equipment or other tangible personal  
44 property that is either deducted from the tax base of the retail

1 classification under section 42-5061, subsection B or exempt from use tax  
2 under section 42-5159, subsection B.

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

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

10 (i) Assembling the machinery, equipment or other tangible personal  
11 property.

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

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

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

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

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

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

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

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

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

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

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

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

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

15           14. The gross proceeds of sales or gross income derived from a  
16 contract entered into for the construction of a launch site, as defined in  
17 14 Code of Federal Regulations section 401.5.

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

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

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

32           18. The gross proceeds of sales or gross income received from a  
33 contract for the construction of any building, or other structure,  
34 project, development or improvement owned by a qualified business under  
35 section 41-1516 for harvesting or processing qualifying forest products  
36 removed from qualifying projects as defined in section 41-1516 if actual  
37 construction begins before January 1, ~~2024~~ 2034. To qualify for this  
38 deduction, the prime contractor must obtain a letter of qualification from  
39 the Arizona commerce authority before beginning work under the contract.

40           19. Any amount of the gross proceeds of sales or gross income  
41 attributable to development fees that are incurred in relation to a  
42 contract for construction, development or improvement of real property and  
43 that are paid by a prime contractor or subcontractor. For the purposes of  
44 this paragraph:

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

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

10 (c) "Development fees" means fees imposed to offset capital costs  
11 of providing public infrastructure, public safety or other public services  
12 to a development and authorized pursuant to section 9-463.05, section  
13 11-1102 or title 48 regardless of the jurisdiction to which the fees are  
14 paid.

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

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

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

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

35 (d) "Renewable energy" means usable energy, including electricity,  
36 fuels, gas and heat, produced through the conversion of energy provided by  
37 sunlight, water, wind, geothermal, heat, biomass, biogas, landfill gas or  
38 ~~other~~ ANOTHER nonfossil renewable resource.

39 21. The gross proceeds of sales or gross income derived from a  
40 contract to install containment structures. For the purposes of this  
41 paragraph, "containment structure" means a structure that prevents,  
42 monitors, controls or reduces noxious or harmful discharge into the  
43 environment.

1 C. Entitlement to the deduction pursuant to subsection B, paragraph  
2 7 of this section is subject to the following provisions:

3 1. A prime contractor may establish entitlement to the deduction by  
4 both:

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

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

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

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

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

42 D. Subcontractors or others who perform modification activities are  
43 not subject to tax if they can demonstrate that the job was within the  
44 control of a prime contractor or contractors or a dealership of  
45 manufactured buildings and that the prime contractor or dealership is



1 liable for the tax on the gross income, gross proceeds of sales or gross  
2 receipts attributable to the job and from which the subcontractors or  
3 others were paid.

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

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

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

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

37 I. The gross proceeds of sales or gross income derived from a  
38 contract for lawn maintenance services is not subject to tax under this  
39 section if the contract does not include landscaping activities. Lawn  
40 maintenance service is a service pursuant to section 42-5061, subsection  
41 A, paragraph 1, and includes lawn mowing and edging, weeding, repairing  
42 sprinkler heads or drip irrigation heads, seasonal replacement of flowers,  
43 refreshing gravel, lawn dethatching, seeding winter lawns, leaf and debris  
44 collection and removal, tree or shrub pruning or clipping, garden and

1 gravel raking and applying pesticides, as defined in section 3-361, and  
2 fertilizer materials, as defined in section 3-262.

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

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

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

22 M. The following apply in determining the taxable situs of sales of  
23 manufactured buildings:

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

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

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

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

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

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

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

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

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

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

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

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

29           (e) Inspection to determine the dates of substantial completion or  
30 final completion.

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

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

40           (i) Master schedule updates.

41           (ii) Modification work cash flow projection updates.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (vi) Any bond and insurance premiums.

1 (vii) Any applicable taxes.

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

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

9 (g) Preparing the plan and procedures for selection of  
10 subcontractors, including any prequalification of subcontractor  
11 candidates.

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

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

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

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

38 P. Notwithstanding subsection 0 of this section, a contract that  
39 primarily involves surface or subsurface improvements to land and that is  
40 subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 is  
41 taxable under this section, even if the contract also includes vertical  
42 improvements. Agencies that are subject to procurement processes under  
43 those provisions shall include in the request for proposals a notice to  
44 bidders when those projects are subject to this section. This subsection  
45 does not apply to contracts with:

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

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

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

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

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

36           3. If the original owner is responsible to the new owner for  
37 modifications made to the property in the period subsequent to the  
38 transfer of title and derives any gross proceeds of sale or gross income  
39 from the project subsequent to the transfer of title other than a delayed  
40 disbursement from escrow unrelated to the modifications, it is presumed  
41 that the amounts are received for the modifications made subsequent to the  
42 transfer of title unless the contrary is established by the owner through  
43 its books, records and papers kept in the regular course of business.

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

1           R. For the purposes of this section:  
2           1. "Alteration" means an activity or action that causes a direct  
3 physical change to existing property. For the purposes of this paragraph:  
4           (a) For existing property that is properly classified as class two  
5 property under section 42-12002, paragraph 1, subdivision (c) or paragraph  
6 2, subdivision (c) and that is used for residential purposes, class three  
7 property under section 42-12003 or class four property under section  
8 42-12004, this paragraph does not apply if the contract amount is more  
9 than twenty-five percent of the most recent full cash value established  
10 under chapter 13, article 2 of this title as of the date of any bid for  
11 the work or the date of the contract, whichever value is higher.  
12           (b) For all existing property other than existing property  
13 described in subdivision (a) of this paragraph, this paragraph does not  
14 apply if the contract amount is more than \$750,000.  
15           (c) Project elements may not be artificially separated from a  
16 contract to cause a project to qualify as an alteration. The department  
17 has the burden of proof that project elements have been artificially  
18 separated from a contract.  
19           (d) If a project for which the owner and the person performing the  
20 work reasonably believed, at the inception of the contract, would be  
21 treated as an alteration under this paragraph and, on completion of the  
22 project, the project exceeded the applicable threshold described in either  
23 subdivision (a) or (b) of this paragraph by ~~no~~ NOT more than twenty-five  
24 percent of the applicable threshold for any reason, the work performed  
25 under the contract qualifies as an alteration.  
26           (e) A change order that directly relates to the scope of work of  
27 the original contract shall be treated as part of the original contract,  
28 and the contract amount shall include any amount attributable to a change  
29 order that directly relates to the scope of work of the original contract.  
30           (f) Alteration does not include maintenance, repair or replacement.  
31           2. "Contracting" means engaging in business as a contractor.  
32           3. "Contractor" is synonymous with the term "builder" and means any  
33 person or organization that undertakes to or offers to undertake to, or  
34 purports to have the capacity to undertake to, or submits a bid to, or  
35 does personally or by or through others, modify any building, highway,  
36 road, railroad, excavation, manufactured building or other structure,  
37 project, development or improvement, or to do any part of such a project,  
38 including the erection of scaffolding or other structure or works in  
39 connection with such a project, and includes subcontractors and specialty  
40 contractors. For all purposes of taxation or deduction, this definition  
41 shall govern without regard to whether or not such a contractor is acting  
42 in fulfillment of a contract.  
43           4. "Manufactured building" means a manufactured home, mobile home  
44 or factory-built building, as defined in section 41-4001.

- 1           5. "Manufactured building dealer" means a dealer who either:  
2           (a) Is licensed pursuant to title 41, chapter 37, article 4 and who  
3 sells manufactured buildings to the final consumer.  
4           (b) Supervises, performs or coordinates the excavation and  
5 completion of site improvements or the setup of a manufactured building,  
6 including the contracting, if any, with any subcontractor or specialty  
7 contractor for the completion of the contract.
- 8           6. "Modification" means construction, grading and leveling ground,  
9 wreckage or demolition. Modification does not include:  
10           (a) Any project described in subsection 0 of this section.  
11           (b) Any wreckage or demolition of existing property, or any other  
12 activity that is a necessary component of a project described in  
13 subsection 0 of this section.  
14           (c) Any mobilization or demobilization related to a project  
15 described in subsection 0 of this section, such as the erection or removal  
16 of temporary facilities to be used by those persons working on the  
17 project.
- 18           7. "Modify" means to make a modification or cause a modification to  
19 be made.
- 20           8. "Owner" means the person that holds title to the real property  
21 or improvements to real property that is the subject of the work, as well  
22 as an agent of the title holder and any person with the authority to  
23 perform or authorize work on the real property or improvements, including  
24 a tenant and a property manager. For the purposes of subsection 0 of this  
25 section, a person who is hired by a general contractor that is hired by an  
26 owner, or a subcontractor of a general contractor that is hired by an  
27 owner, is considered to be hired by the owner.
- 28           9. "Prime contracting" means engaging in business as a prime  
29 contractor.
- 30           10. "Prime contractor" means a contractor who supervises, performs  
31 or coordinates the modification of any building, highway, road, railroad,  
32 excavation, manufactured building or other structure, project, development  
33 or improvement, including the contracting, if any, with any subcontractors  
34 or specialty contractors and who is responsible for the completion of the  
35 contract. Except as provided in subsections E and Q of this section, a  
36 person who owns real property, who engages one or more contractors to  
37 modify that real property and who does not itself modify that real  
38 property is not a prime contractor within the meaning of this paragraph  
39 regardless of the existence of a contract for sale or the subsequent sale  
40 of that real property.
- 41           11. "Replacement" means the removal from service of one component  
42 or system of existing property or tangible personal property installed in  
43 existing property, including machinery or equipment, and the installation  
44 of a new component or system or new tangible personal property, including  
45 machinery or equipment, that provides the same, a similar or an upgraded



1 design or functionality, regardless of the contract amount and regardless  
2 of whether the existing component or system or existing tangible personal  
3 property is physically removed from the existing property.

4 12. "Sale of a used manufactured building" does not include a lease  
5 of a used manufactured building.

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

8 42-5159. Exemptions

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

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

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

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

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

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

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

42 7. Purchases of implants used as growth promotants and injectable  
43 medicines, not already exempt under paragraph 16 of this subsection, for  
44 livestock and poultry owned by, or in possession of, persons who are  
45 engaged in producing livestock, poultry, or livestock or poultry products,

1 or who are engaged in feeding livestock or poultry commercially. For the  
2 purposes of this paragraph, "poultry" includes ratites.

3 8. Purchases of:

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

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

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

14 (a) Includes seeds, seedlings, roots, bulbs, liners, transplants,  
15 cuttings, soil and plant additives, agricultural minerals, auxiliary soil  
16 and plant substances, micronutrients, fertilizers, insecticides,  
17 herbicides, fungicides, soil fumigants, desiccants, rodenticides,  
18 adjuvants, plant nutrients and plant growth regulators.

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

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

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

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

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

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

36 13. Tangible personal property purchased by:

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

40 (b) A hospital operated by this state or a political subdivision of  
41 this state.

42 (c) A licensed nursing care institution or a licensed residential  
43 care institution or a residential care facility operated in conjunction  
44 with a licensed nursing care institution or a licensed kidney dialysis

1 center, which provides medical services, nursing services or health  
2 related services and is not used or held for profit.

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

7 (e) A qualifying health care organization as defined in section  
8 42-5001 if the organization is dedicated to providing educational,  
9 therapeutic, rehabilitative and family medical education training for  
10 blind and visually impaired children and children with multiple  
11 disabilities from the time of birth to age twenty-one.

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

17 (g) A person that is subject to tax under this chapter by reason of  
18 being engaged in business classified under section 42-5075, or a  
19 subcontractor working under the control of a person that is engaged in  
20 business classified under section 42-5075, if the tangible personal  
21 property is any of the following:

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

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

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

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

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

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

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

42 (l) A person engaged in business under the transient lodging  
43 classification if the property is a personal hygiene item or articles used  
44 by human beings for food, drink or condiment, except alcoholic beverages,

1 which are furnished without additional charge to and intended to be  
2 consumed by the transient during the transient's occupancy.

3 (m) For taxable periods beginning from and after June 30, 2001, a  
4 nonprofit charitable organization that has qualified under section  
5 501(c)(3) of the internal revenue code and that provides residential  
6 apartment housing for low-income persons over sixty-two years of age in a  
7 facility that qualifies for a federal housing subsidy, if the tangible  
8 personal property is used by the organization solely to provide  
9 residential apartment housing for low-income persons over sixty-two years  
10 of age in a facility that qualifies for a federal housing subsidy.

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

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

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

23 15. Tangible personal property sold by:

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

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

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

- 1           16. Drugs and medical oxygen, including delivery hose, mask or  
2 tent, regulator and tank, if prescribed by a member of the medical, dental  
3 or veterinarian profession who is licensed by law to administer such  
4 substances.
- 5           17. Prosthetic appliances, as defined in section 23-501, prescribed  
6 or recommended by a person who is licensed, registered or otherwise  
7 professionally credentialed as a physician, dentist, podiatrist,  
8 chiropractor, naturopath, homeopath, nurse or optometrist.
- 9           18. Prescription eyeglasses and contact lenses.
- 10          19. Insulin, insulin syringes and glucose test strips.
- 11          20. Hearing aids as defined in section 36-1901.
- 12          21. Durable medical equipment that has a centers for medicare and  
13 medicaid services common procedure code, is designated reimbursable by  
14 medicare, is prescribed by a person who is licensed under title 32,  
15 chapter 7, 13, 17 or 29, can withstand repeated use, is primarily and  
16 customarily used to serve a medical purpose, is generally not useful to a  
17 person in the absence of illness or injury and is appropriate for use in  
18 the home.
- 19          22. Food, as provided in and subject to the conditions of article 3  
20 of this chapter and sections 42-5074 and 42-6017.
- 21          23. Items purchased with United States department of agriculture  
22 coupons issued under the supplemental nutrition assistance program  
23 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;  
24 7 United States Code sections 2011 through 2036b) by the United States  
25 department of agriculture food and nutrition service or food instruments  
26 issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat.  
27 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code  
28 section 1786).
- 29          24. Food and drink provided without monetary charge by a taxpayer  
30 that is subject to section 42-5074 to its employees for their own  
31 consumption on the premises during the employees' hours of employment.
- 32          25. Tangible personal property that is used or consumed in a  
33 business subject to section 42-5074 for human food, drink or condiment,  
34 whether simple, mixed or compounded.
- 35          26. Food, drink or condiment and accessory tangible personal  
36 property that are acquired for use by or provided to a school district or  
37 charter school if they are to be either served or prepared and served to  
38 persons for consumption on the premises of a public school in the school  
39 district or on the premises of the charter school during school hours.
- 40          27. Lottery tickets or shares purchased pursuant to title 5,  
41 chapter 5.1, article 1.
- 42          28. Textbooks, sold by a bookstore, that are required by any state  
43 university or community college.
- 44          29. Magazines, other periodicals or other publications produced by  
45 this state to encourage tourist travel.

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

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

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

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

19           (b) Public educational institutions.

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

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

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

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

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

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

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

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

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

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

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

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

42 41. Wireless telecommunications equipment that is held for sale or  
43 transfer to a customer as an inducement to enter into or continue a  
44 contract for telecommunications services that are taxable under section  
45 42-5064.

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

24 (b) The title or possession of the coal is transferred back to the  
25 owner or operator of the power plant after completion of the coal refining  
26 process. For the purposes of this subdivision, "coal refining process"  
27 means the application of a coal additive system that aids the reduction of  
28 power plant emissions during the combustion of coal and the treatment of  
29 flue gas.

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

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

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

43 (c) "Indian tribe" means any organized nation, tribe, band or  
44 community that is recognized as an Indian tribe by the United States

1 department of the interior and includes any entity formed under the laws  
2 of the Indian tribe.

3 56. Cash equivalents, precious metal bullion and monetized bullion  
4 purchased by the ultimate consumer, but coins or other forms of money for  
5 manufacture into jewelry or works of art are subject to tax, and tangible  
6 personal property that is purchased through the redemption of any cash  
7 equivalent by the holder as a means of payment for goods that are subject  
8 to tax under this article is subject to tax. For the purposes of this  
9 paragraph:

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

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

19 (ii) Prepaid calling cards for telecommunications services.

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

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

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

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

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

43 3. Tangible personal property sold to persons engaged in business  
44 classified under the telecommunications classification under section  
45 42-5064, including a person representing or working on behalf of such a

1 person in a manner described in section 42-5075, subsection 0, and  
2 consisting of central office switching equipment, switchboards, private  
3 branch exchange equipment, microwave radio equipment and carrier equipment  
4 including optical fiber, coaxial cable and other transmission media that  
5 are components of carrier systems.

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

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

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

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

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

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

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

32 8. Aircraft, navigational and communication instruments and other  
33 accessories and related equipment sold to:

34 (a) A person:

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

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

44 (iii) Holding a foreign air carrier permit for air transportation  
45 for use as or in conjunction with or becoming a part of aircraft to be

1 used to transport persons, property or United States mail in intrastate,  
2 interstate or foreign commerce.

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

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

17 (b) Any foreign government.

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

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

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

31 11. Machinery or equipment used directly to drill for oil or gas or  
32 used directly in the process of extracting oil or gas from the earth for  
33 commercial purposes.

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

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

43 14. Machinery and equipment consisting of agricultural aircraft,  
44 tractors, off-highway vehicles, tractor-drawn implements, self-powered  
45 implements, machinery and equipment necessary for extracting milk, and

1 machinery and equipment necessary for cooling milk and livestock, and drip  
2 irrigation lines not already exempt under paragraph 7 of this subsection  
3 and that are used for commercially producing agricultural, horticultural,  
4 viticultural and floricultural crops and products in this state. For the  
5 purposes of this paragraph:

6 (a) "Off-highway vehicles" means off-highway vehicles as defined in  
7 section 28-1171 that are modified at the time of sale to function as a  
8 tractor or to tow tractor-drawn implements and that are not equipped with  
9 a modified exhaust system to increase horsepower or speed or an engine  
10 that is more than one thousand cubic centimeters or that have a maximum  
11 speed of fifty miles per hour or less.

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

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

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

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

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

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

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

43 For the purposes of subdivision (b) of this paragraph, "test period"  
44 means the three hundred sixty-five day period beginning on the later of  
45 the date on which the tangible personal property is purchased or the date

1 on which the direct broadcast satellite television or data transmission  
2 service first transmits information to its customers.

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

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

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

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

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

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

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

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

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

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

16           22. Qualifying equipment that is purchased from and after June 30,  
17 2004 through June 30, ~~2024~~ 2034 by a qualified business under section  
18 41-1516 for harvesting or processing qualifying forest products removed  
19 from qualifying projects as defined in section 41-1516. To qualify for  
20 this exemption, the qualified business must obtain and present its  
21 certification from the Arizona commerce authority at the time of  
22 purchase. FOR THE PURPOSES OF THIS PARAGRAPH, "QUALIFYING EQUIPMENT":

23           (a) MEANS EQUIPMENT THAT IS USED DIRECTLY FOR HARVESTING OR  
24 PROCESSING QUALIFYING FOREST PRODUCTS AS DEFINED BY SECTION 41-1516 THAT  
25 ARE REMOVED FROM A QUALIFYING PROJECT AS DEFINED BY SECTION 41-1516.

26           (b) INCLUDES:

27           (i) FOREST THINNING AND RESIDUE REMOVAL EQUIPMENT, INCLUDING  
28 MULCHING AND MASTICATING EQUIPMENT, FELLER-BUNCHERS, SKIDDERS, LOG  
29 LOADERS, PORTABLE CHIPPERS AND GRINDERS, SLASH BUNDLERS, DELIMBERS, LOG  
30 TRAILERS, CHIP TRAILERS AND OTHER TRAILERS THAT ARE UNIQUELY DESIGNED FOR  
31 HANDLING FOREST PRODUCTS AND THAT ARE LICENSED FOR OPERATION ON PUBLIC  
32 HIGHWAYS.

33           (ii) FOREST RESIDUE RECEIVING AND HANDLING EQUIPMENT, INCLUDING  
34 TRUCK DUMPERS, LOG UNLOADERS, SCALES, LOG DECKING FACILITIES AND EQUIPMENT  
35 AND CHIP PILE FACILITIES.

36           (iii) SORTING AND PROCESSING EQUIPMENT, INCLUDING PORTABLE AND  
37 STATIONARY LOG LOADERS, FRONT-END LOADERS, FORKLIFTS AND CRANES, CHIPPERS  
38 AND GRINDERS, SCREENS, DECKS AND DEBARKERS, SAWS AND SAWMILL EQUIPMENT,  
39 FIREWOOD PROCESSING, WOOD RESIDUE BALING AND BAGGING EQUIPMENT, KILNS,  
40 PLANING AND MOLDING EQUIPMENT AND LAMINATING AND JOINING EQUIPMENT.

41           (iv) FOREST WASTE AND RESIDUE DISPOSAL AND PROCESSING EQUIPMENT,  
42 INCLUDING PROCESSING AND SIZING EQUIPMENT, HOGS, CHIPPERS, SCREENS,  
43 PELLETIZERS AND WOOD SPLITTERS, TRANSPORTING AND HANDLING EQUIPMENT,  
44 INCLUDING LOADERS, CONVEYORS, BLOWERS, RECEIVING HOPPERS, TRUCK DUMPERS  
45 AND DOZERS, WASTE USE EQUIPMENT, INCLUDING FUEL FEED, STORAGE BINS,

1 BOILERS AND COMBUSTORS, WASTE PROJECT USE EQUIPMENT, INCLUDING GENERATORS,  
2 SWITCHGEAR AND SUBSTATIONS AND ON-SITE DISTRIBUTION SYSTEMS, GENERATED  
3 WASTE DISPOSAL EQUIPMENT, INCLUDING ASH SILOS AND WASTEWATER TREATMENT AND  
4 DISPOSAL EQUIPMENT AND SHOP AND MAINTENANCE EQUIPMENT AND MAJOR SPARES  
5 HAVING A VALUE OF MORE THAN \$5,000 EACH.

6 (c) DOES NOT INCLUDE SELF-PROPELLED VEHICLES REQUIRED TO BE  
7 LICENSED BY THIS STATE BUT MAY INCLUDE OTHER LICENSED VEHICLES AS PROVIDED  
8 BY THIS PARAGRAPH.

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

15 24. Computer data center equipment sold to the owner, operator or  
16 qualified colocation tenant of a computer data center that is certified by  
17 the Arizona commerce authority under section 41-1519 or an authorized  
18 agent of the owner, operator or qualified colocation tenant during the  
19 qualification period for use in the qualified computer data center. For  
20 the purposes of this paragraph, "computer data center", "computer data  
21 center equipment", "qualification period" and "qualified colocation  
22 tenant" have the same meanings prescribed in section 41-1519.

23 C. The exemptions provided by subsection B of this section do not  
24 include:

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

29 2. Janitorial equipment and hand tools.

30 3. Office equipment, furniture and supplies.

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

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

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

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

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



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

3 1. Revenues received from sales of ancillary services, electric  
4 distribution services, electric generation services, electric transmission  
5 services and other services related to providing electricity to a retail  
6 electric customer who is located outside this state for use outside this  
7 state if the electricity is delivered to a point of sale outside this  
8 state.

9 2. Revenues received from providing electricity, including  
10 ancillary services, electric distribution services, electric generation  
11 services, electric transmission services and other services related to  
12 providing electricity with respect to which the transaction privilege tax  
13 imposed under section 42-5063 has been paid.

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

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

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

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

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

32 1. A qualified manufacturing or smelting business. A utility that  
33 claims this deduction shall report each month, on a form prescribed by the  
34 department, the name and address of each qualified manufacturing or  
35 smelting business for which this deduction is taken. This paragraph  
36 applies to gas transportation services. For the purposes of this  
37 paragraph:

38 (a) "Gas transportation services" means the services of  
39 transporting natural gas to a natural gas customer or to a natural gas  
40 distribution facility if the natural gas was purchased from a supplier  
41 other than the utility.

42 (b) "Manufacturing" means the performance as a business of an  
43 integrated series of operations that places tangible personal property in  
44 a form, composition or character different from that in which it was  
45 acquired and transforms it into a different product with a distinctive

1 name, character or use. Manufacturing does not include job printing,  
2 publishing, packaging, mining, generating electricity or operating a  
3 restaurant.

4 (c) "Qualified manufacturing or smelting business" means one of the  
5 following:

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

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

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

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

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

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

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

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

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

36 1. "Agricultural aircraft" means an aircraft that is built for  
37 agricultural use for the aerial application of pesticides or fertilizer or  
38 for aerial seeding.

39 2. "Aircraft" includes:

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

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

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

4           J. For the purposes of subsection D of this section, "ancillary  
5 services", "electric distribution service", "electric generation service",  
6 "electric transmission service" and "other services" have the same  
7 meanings prescribed in section 42-5063.

8           Sec. 5. Section 42-12006, Arizona Revised Statutes, is amended to  
9 read:

10           42-12006. Class six property

11           For the purposes of taxation, class six is established consisting  
12 of:

13           1. Noncommercial historic property as defined in section 42-12101  
14 and valued at full cash value.

15           2. Real and personal property that is located within the area of a  
16 foreign trade zone or subzone established under 19 United States Code  
17 sections 81a through 81u and title 44, chapter 18, that is activated for  
18 foreign trade zone use by the district director of the United States  
19 customs service pursuant to 19 Code of Federal Regulations section 146.6  
20 and that is valued at full cash value. Property that is classified under  
21 this paragraph shall not thereafter be classified under paragraph 6 of  
22 this section.

23           3. Real and personal property and improvements that are located in  
24 a military reuse zone that is established under title 41, chapter 10,  
25 article 3 and that is devoted to providing aviation or aerospace services  
26 or to manufacturing, assembling or fabricating aviation or aerospace  
27 products, valued at full cash value and subject to the following terms and  
28 conditions:

29           (a) Property may not be classified under this paragraph for more  
30 than five tax years.

31           (b) Any new addition or improvement to property already classified  
32 under this paragraph qualifies separately for classification under this  
33 paragraph for not more than five tax years.

34           (c) If a military reuse zone is terminated, the property in that  
35 zone that was previously classified under this paragraph shall be  
36 reclassified as prescribed by this article.

37           (d) Property that is classified under this paragraph shall not  
38 thereafter be classified under paragraph 6 of this section.

39           4. Real and personal property and improvements or a portion of such  
40 property comprising an environmental technology manufacturing, producing  
41 or processing facility that qualified under section 41-1514.02, valued at  
42 full cash value and subject to the following terms and conditions:

43           (a) Property shall be classified under this paragraph for twenty  
44 tax years from the date placed in service.

1 (b) Any addition or improvement to property already classified  
2 under this paragraph qualifies separately for classification under this  
3 subdivision for an additional twenty tax years from the date placed in  
4 service.

5 (c) After revocation of certification under section 41-1514.02,  
6 property that was previously classified under this paragraph shall be  
7 reclassified as prescribed by this article.

8 (d) Property that is classified under this paragraph shall not  
9 thereafter be classified under paragraph 6 of this section.

10 5. That portion of real and personal property that is used on or  
11 after January 1, 1999 specifically and solely for remediation of the  
12 environment by an action that has been determined to be reasonable and  
13 necessary to respond to the release or threatened release of a hazardous  
14 substance by the department of environmental quality pursuant to section  
15 49-282.06 or pursuant to its corrective action authority under rules  
16 adopted pursuant to section 49-922, subsection B, paragraph 4 or by the  
17 United States environmental protection agency pursuant to the national  
18 contingency plan (40 Code of Federal Regulations part 300) and that is  
19 valued at full cash value. Property that is not being used specifically  
20 and solely for the remediation objectives described in this paragraph  
21 shall not be classified under this paragraph. For the purposes of this  
22 paragraph, "remediation of the environment" means one or more of the  
23 following actions:

24 (a) Monitoring, assessing or evaluating the release or threatened  
25 release.

26 (b) Excavating, removing, transporting, treating and disposing of  
27 contaminated soil.

28 (c) Pumping and treating contaminated water.

29 (d) Treating, containing or removing ~~of~~ contaminants in groundwater  
30 or soil.

31 6. Real and personal property and improvements constructed or  
32 installed from and after December 31, 2004 through December 31, ~~2024~~ 2034  
33 and owned by a qualified business under section 41-1516 and used solely  
34 for the purpose of harvesting, transporting or processing qualifying  
35 forest products removed from qualifying projects as defined in section  
36 41-1516. The classification under this paragraph is subject to the  
37 following terms and conditions:

38 (a) Property may be initially classified under this paragraph only  
39 in valuation years 2005 through ~~2024~~ 2034.

40 (b) Property may not be classified under this paragraph for more  
41 than five years.

42 (c) Any new addition or improvement, constructed or installed from  
43 and after December 31, 2004 through December 31, ~~2024~~ 2034, to property  
44 already classified under this paragraph qualifies separately for

1 classification and assessment under this paragraph for not more than five  
2 years.

3 (d) Property that is classified under this paragraph shall not  
4 thereafter be classified under paragraph 2, 3 or 4 of this section.

5 7. Real and personal property and improvements to the property that  
6 are used specifically and solely to manufacture from and after December  
7 31, 2006 through December 31, 2023 biodiesel fuel that is one hundred  
8 percent biodiesel and its by-products or motor vehicle biofuel and its  
9 by-products and that are valued at full cash value. This paragraph  
10 applies only to the portion of property that is used specifically for  
11 manufacturing and processing one hundred ~~per cent~~ PERCENT biodiesel fuel,  
12 or its related by-products, or motor vehicle biofuel, or its related  
13 by-products, from raw feedstock obtained from off-site sources, including  
14 necessary on-site storage facilities that are intrinsically associated  
15 with the manufacturing process. Any other commercial or industrial use  
16 disqualifies the entire property from classification under this paragraph.  
17 For the purposes of this paragraph, "motor vehicle biofuel" means a solid,  
18 liquid or gaseous fuel that is derived from biological material such as  
19 plant or animal matter, excluding organic material that has been  
20 transformed by geological processes into substances such as coal or  
21 petroleum or derivatives thereof, and that:

22 (a) Contains fuel additives in compliance with federal and state  
23 law.

24 (b) Is manufactured exclusively for use in a motor vehicle.

25 8. Real and personal property and improvements that are used for  
26 renewable energy manufacturing or headquarters operations as provided by  
27 section 42-12057. This paragraph applies only to property that is used in  
28 manufacturing and headquarters operations of renewable energy companies,  
29 including necessary on-site research and development, testing and storage  
30 facilities that are associated with the manufacturing process. Up to ten  
31 percent of the aggregate full cash value of the property may be derived  
32 from uses that are ancillary to and intrinsically associated with the  
33 manufacturing process or headquarters operation. Any additional ancillary  
34 property is not qualified for classification under this paragraph. No new  
35 properties may be classified pursuant to this paragraph from and after  
36 December 31, 2014. Property that is classified under this paragraph shall  
37 not thereafter be classified under any other paragraph of this section.

38 Sec. 6. Section 43-1076.01, Arizona Revised Statutes, is amended to  
39 read:

40 43-1076.01. Healthy forest production tax credit; definitions

41 A. For taxable years beginning from and after December 31, 2020, a  
42 credit is allowed against the taxes imposed by this title for processing  
43 qualifying forest products.

1           B. The taxpayer is eligible for the credit if all of the following  
2 apply:

3           1. The taxpayer has a current healthy forest enterprise incentive  
4 certification ~~and memorandum of understanding with the Arizona commerce~~  
5 ~~authority pursuant to~~ UNDER section 41-1516.

6           2. The taxpayer processes qualifying forest products from a  
7 qualifying project from and after December 31, 2020 and before January 1,  
8 2031.

9           3. The facility that processes qualifying forest products is  
10 located within this state.

11           C. The taxpayer is eligible for the credit for the calendar year in  
12 which the qualifying project processes qualifying forest products pursuant  
13 to subsection B of this section.

14           D. If the allowable credit under this section exceeds the taxes  
15 otherwise due under this title on the claimant's income, or if there are  
16 no taxes due under this title, the taxpayer may carry forward the amount  
17 of the claim not used to offset the taxes under this title for not more  
18 than five consecutive taxable years' income tax liability.

19           E. The credit authorized by this section is based on the number of  
20 tons of qualifying forest products that a taxpayer processes during a  
21 calendar year. For a taxpayer who files on a fiscal year basis, the  
22 credit shall be claimed on the return for the taxable year in which the  
23 calendar year ends.

24           F. Subject to subsection H of this section, the amount of the  
25 credit is \$10,000 for the first twenty thousand tons and \$5,000 for every  
26 ten thousand tons thereafter of qualifying forest products the taxpayer  
27 processes in the calendar year.

28           G. To be eligible for the credit under this section, the taxpayer  
29 must apply to the department, on a form prescribed by the department, for  
30 certification of the credit. The department shall accept applications  
31 beginning January 2 through January 31 of the year following the calendar  
32 year for which the credit is being requested. The application shall  
33 include:

34           1. The taxpayer's name, address and social security number or  
35 federal employer identification number.

36           2. The location of the taxpayer's facility that processes  
37 qualifying forest products for which the credit is claimed.

38           3. The amount of the credit that is claimed.

39           4. The date the taxpayer began processing commercially marketable  
40 amounts of qualifying forest products.

41           5. Any additional information that the department requires.

42           H. The department shall review each application under subsection G  
43 of this section and certify to the taxpayer the amount of the credit  
44 authorized. The amount of the credit for any calendar year may not exceed  
45 \$500,000 per taxpayer who processes qualifying forest products. Credits

1 are allowed under this section and section 43-1162 on a first-come,  
2 first-served basis. The department may not authorize tax credits under  
3 this section and section 43-1162 that exceed in the aggregate a total of  
4 \$2,000,000 for any calendar year.

5 I. The first time a taxpayer submits a qualified application under  
6 subsection G of this section, the department shall add the taxpayer's name  
7 to a credit authorization list in the order in which qualified  
8 applications are first received by the department on behalf of the  
9 taxpayer. A taxpayer's position on the credit authorization list shall be  
10 determined in the first year the taxpayer submits an application under  
11 subsection G of this section for processing qualifying forest products.  
12 The taxpayer's position on the list shall remain unchanged for the  
13 remainder of the period specified in subsection B, paragraph 2 of this  
14 section or until a year in which the taxpayer fails to submit a timely  
15 application under subsection G of this section or otherwise fails to  
16 comply with this section. If a taxpayer is removed from the credit  
17 authorization list for processing qualifying forest products, the taxpayer  
18 may establish a new position on the credit authorization list in a  
19 subsequent year by filing a timely application for processing qualifying  
20 forest products that qualifies for the credit.

21 J. If an application is received that, if authorized, would require  
22 the department to exceed the \$2,000,000 limit, the department shall grant  
23 the applicant only the remaining credit amount that would not exceed the  
24 \$2,000,000 limit. After the department authorizes \$2,000,000 in tax  
25 credits, the department shall deny any subsequent applications received  
26 for that calendar year. The department may not authorize any additional  
27 tax credits that exceed the \$2,000,000 limit even if the amounts that have  
28 been certified to any taxpayer were not claimed or a taxpayer otherwise  
29 fails to meet the requirements to claim the additional credit.

30 K. Co-owners of a facility that processes qualifying forest  
31 products, including partners in a partnership and shareholders of an  
32 S corporation as defined in section 1361 of the internal revenue code, may  
33 each claim the pro rata share of the credit allowed under this section  
34 based on ownership interest. The total of the credits allowed all such  
35 owners who process qualifying forest products may not exceed the amount  
36 that would have been allowed for a sole owner.

37 L. The department shall adopt rules and publish and prescribe forms  
38 and procedures as necessary to effectuate the purposes of this section.

39 M. For the purposes of this section:

40 1. ~~"Processed"~~ "PROCESSES" or "processing" means any change in the  
41 physical structure of qualifying forest products removed from a qualifying  
42 project into a marketable commercial product or component of a product  
43 that has commercial value to a consumer or purchaser and that is ready to  
44 be used with or without further altering its form.

1           2. "Qualifying forest products" means qualifying forest products as  
2 defined in section 41-1516 that are sourced within this state.

3           3. "Qualifying project" has the same meaning prescribed in section  
4 41-1516.

5           Sec. 7. Section 43-1162, Arizona Revised Statutes, is amended to  
6 read:

7           43-1162. Healthy forest production tax credit; definitions

8           A. For taxable years beginning from and after December 31, 2020, a  
9 credit is allowed against the taxes imposed by this title for processing  
10 qualifying forest products.

11           B. The taxpayer is eligible for the credit if all of the following  
12 apply:

13           1. The taxpayer has a current healthy forest enterprise incentive  
14 certification ~~and memorandum of understanding with the Arizona commerce~~  
15 ~~authority pursuant to~~ UNDER section 41-1516.

16           2. The taxpayer processes qualifying forest products from a  
17 qualifying project from and after December 31, 2020 and before January 1,  
18 2031.

19           3. The facility that processes qualifying forest products is  
20 located within this state.

21           C. The taxpayer is eligible for the credit for the calendar year in  
22 which the qualifying project processes qualifying forest products pursuant  
23 to subsection B of this section.

24           D. If the allowable credit under this section exceeds the taxes  
25 otherwise due under this title on the claimant's income, or if there are  
26 no taxes due under this title, the taxpayer may carry forward the amount  
27 of the claim not used to offset the taxes under this title for not more  
28 than five consecutive taxable years' income tax liability.

29           E. The credit authorized by this section is based on the number of  
30 tons of qualifying forest products that a taxpayer processes during a  
31 calendar year. For a taxpayer that files on a fiscal year basis, the  
32 credit shall be claimed on the return for the taxable year in which the  
33 calendar year ends.

34           F. Subject to subsection H of this section, the amount of the  
35 credit is \$10,000 for the first twenty thousand tons and \$5,000 for every  
36 ten thousand tons thereafter of qualifying forest products the taxpayer  
37 processes in the calendar year.

38           G. To be eligible for the credit under this section, the taxpayer  
39 must apply to the department, on a form prescribed by the department, for  
40 certification of the credit. The department shall accept applications  
41 beginning January 2 through January 31 of the year following the calendar  
42 year for which the credit is being requested. The application shall  
43 include:

44           1. The taxpayer's name, address and social security number or  
45 federal employer identification number.



1           2. The location of the taxpayer's facility that processes  
2 qualifying forest products for which the credit is claimed.

3           3. The amount of the credit that is claimed.

4           4. The date the taxpayer began processing commercially marketable  
5 amounts of qualifying forest products.

6           5. Any additional information that the department requires.

7           H. The department shall review each application under subsection G  
8 of this section and certify to the taxpayer the amount of the credit  
9 authorized. The amount of the credit for any calendar year may not exceed  
10 \$500,000 per taxpayer that processes qualifying forest products. Credits  
11 are allowed under this section and section 43-1076.01 on a first-come,  
12 first-served basis. The department may not authorize tax credits under  
13 this section and section 43-1076.01 that exceed in the aggregate a total  
14 of \$2,000,000 for any calendar year.

15           I. The first time a taxpayer submits a qualified application under  
16 subsection G of this section, the department shall add the taxpayer's name  
17 to a credit authorization list in the order in which qualified  
18 applications are first received by the department on behalf of the  
19 taxpayer. A taxpayer's position on the credit authorization list shall be  
20 determined in the first year the taxpayer submits an application under  
21 subsection G of this section for processing qualifying forest products.  
22 The taxpayer's position on the list shall remain unchanged for the  
23 remainder of the period specified in subsection B, paragraph 2 of this  
24 section or until a year in which the taxpayer fails to submit a timely  
25 application under subsection G of this section or otherwise fails to  
26 comply with this section. If a taxpayer is removed from the credit  
27 authorization list for processing qualifying forest products, the taxpayer  
28 may establish a new position on the credit authorization list in a  
29 subsequent year by filing a timely application for processing qualifying  
30 forest products that qualifies for the credit.

31           J. If an application is received that, if authorized, would require  
32 the department to exceed the \$2,000,000 limit, the department shall grant  
33 the applicant only the remaining credit amount that would not exceed the  
34 \$2,000,000 limit. After the department authorizes \$2,000,000 in tax  
35 credits, the department shall deny any subsequent applications received  
36 for that calendar year. The department may not authorize any additional  
37 tax credits that exceed the \$2,000,000 limit even if the amounts that have  
38 been certified to any taxpayer were not claimed or a taxpayer otherwise  
39 fails to meet the requirements to claim the additional credit.

40           K. Co-owners of a facility that processes qualifying forest  
41 products, including corporate partners in a partnership, may each claim  
42 the pro rata share of the credit allowed under this section based on  
43 ownership interest. The total of the credits allowed all such owners that  
44 process qualifying forest products may not exceed the amount that would  
45 have been allowed for a sole owner.

1 L. The department shall adopt rules and publish and prescribe forms  
2 and procedures as necessary to effectuate the purposes of this section.

3 M. For the purposes of this section:

4 1. ~~"Processed"~~ "PROCESSES" or "processing" means any change in the  
5 physical structure of qualifying forest products removed from a qualifying  
6 project into a marketable commercial product or component of a product  
7 that has commercial value to a consumer or purchaser and that is ready to  
8 be used with or without further altering its form.

9 2. "Qualifying forest products" means qualifying forest products as  
10 defined in section 41-1516 that are sourced within this state.

11 3. "Qualifying project" has the same meaning prescribed in section  
12 41-1516.

13 Sec. 8. Retroactivity

14 This act applies retroactively to from and after December 31, 2023.