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REFERENCE TITLE: 2022 tax corrections act

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

S. B. _____

Introduced by _____

AN ACT

AMENDING SECTIONS 41-1516, 42-2003, 42-3401, 42-5075, 42-12006, 42-12057, 43-222, 43-405, 43-1014, 43-1021 AND 43-1022, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1026; AMENDING SECTION 43-1073, ARIZONA REVISED STATUTES; REPEALING SECTIONS 43-1076 AND 43-1081, ARIZONA REVISED STATUTES; AMENDING SECTIONS 43-1081.01, 43-1121 AND 43-1130.01, ARIZONA REVISED STATUTES; REPEALING SECTION 43-1169, ARIZONA REVISED STATUTES; AMENDING SECTIONS 43-1170 AND 43-1311, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 13, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1382; 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) At least seventy-five percent of the qualifying forest
29 products, measured by weight, must 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 stating that the
33 business is primarily engaged in the business of harvesting or processing
34 qualifying forest products for commercial use as follows:
35 (i) At least seventy percent of the harvested or processed products
36 must be qualifying forest products.
37 (ii) At least seventy-five percent of the harvested or processed
38 products must be from areas in this state.
39 (d) If the business is engaged in transporting qualifying forest
40 products, it must submit a letter from the state forester or United States
41 forest service, or official records or documents produced in connection
42 with the project, stating that all of the qualifying forest products it
43 transports are harvested from areas in this state. In addition, the
44 business must submit evidence to the authority that at least seventy-five
45 percent of the mileage traveled by its units each year are for

1 transporting qualifying forest products from or to qualifying projects
2 described in subdivision (b) or (c) of this paragraph, unless a lower
3 mileage is due to forest closures or weather conditions that are beyond
4 the control of the business.

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

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

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

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

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

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

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

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

1 sixty days after the date the business submits it to the department
2 constitutes approval of the certification.

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

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

10 1. Apply to the authority.

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

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

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

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

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

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

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

43 ~~2. Employment information necessary to confirm eligibility for~~
44 ~~income tax credit as prescribed by section 43-1076.~~

1 ~~3.~~ 2. The quantity, measured by weight, of qualifying forest
2 products harvested, transported or processed.

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

8 ~~2. The number of new full-time employees hired in qualified
9 employment positions in this state in the preceding calendar year and
10 reported for tax credit purposes.~~

11 ~~3. The total number of all full-time employees employed in
12 qualified employment positions in this state in the preceding calendar
13 year and reported for tax credit purposes.~~

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

18 1. Inspect the facilities at the site.
19 2. Obtain factual data and records pertinent to and required by law
20 to be kept for purposes of tax incentives.
21 3. Otherwise ascertain compliance with law and the terms of the
22 memorandum of understanding.

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

25 1. Within thirty days after a formal request from the authority or
26 the department of revenue, the business fails or refuses to provide the
27 information or access for inspections required by this section.
28 2. The business no longer meets the terms and conditions required
29 for qualification for the applicable tax incentives.

30 L. For the purposes of this section:

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

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

38 3. "Processing" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 6. "Qualifying project" means harvesting, transporting or processing
2 qualifying forest products as required for certification pursuant to this
3 section.

4 Sec. 2. Section 42-2003, Arizona Revised Statutes, is amended to
5 read:

6 42-2003. Authorized disclosure of confidential information

7 A. Confidential information relating to:

8 1. A taxpayer may be disclosed to the taxpayer, its successor in
9 interest or a designee of the taxpayer who is authorized in writing by the
10 taxpayer. A principal corporate officer of a parent corporation may
11 execute a written authorization for a controlled subsidiary. **IF A
12 TAXPAYER ELECTS TO FILE AN ARIZONA SMALL BUSINESS INCOME TAX RETURN UNDER
13 SECTION 43-302, A WRITTEN AUTHORIZATION BY A TAXPAYER TO ALLOW THE
14 DEPARTMENT TO DISCLOSE PERSONAL INCOME TAX INFORMATION TO A DESIGNEE
15 INCLUDES THE CORRESPONDING ARIZONA SMALL BUSINESS INCOME TAX RETURN.**

16 2. A corporate taxpayer may be disclosed to any principal officer,
17 any person designated by a principal officer or any person designated in a
18 resolution by the corporate board of directors or other similar governing
19 body. If a corporate officer signs a statement under penalty of perjury
20 representing that the officer is a principal officer, the department may
21 rely on the statement until the statement is shown to be false. For the
22 purposes of this paragraph, "principal officer" includes a chief executive
23 officer, president, secretary, treasurer, vice president of tax, chief
24 financial officer, chief operating officer or chief tax officer or any
25 other corporate officer who has the authority to bind the taxpayer on
26 matters related to state taxes.

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

30 4. A limited liability company may be disclosed to any member of
31 the company or, if the company is manager-managed, to any manager.

32 5. An estate may be disclosed to the personal representative of the
33 estate and to any heir, next of kin or beneficiary under the will of the
34 decedent if the department finds that the heir, next of kin or beneficiary
35 has a material interest that will be affected by the confidential
36 information.

37 6. A trust may be disclosed to the trustee or trustees, jointly or
38 separately, and to the grantor or any beneficiary of the trust if the
39 department finds that the grantor or beneficiary has a material interest
40 that will be affected by the confidential information.

41 7. A government entity may be disclosed to the head of the entity
42 or a member of the governing board of the entity, or any employee of the
43 entity who has been delegated the authorization in writing by the head of
44 the entity or the governing board of the entity.

1 8. Any taxpayer may be disclosed if the taxpayer has waived any
2 rights to confidentiality either in writing or on the record in any
3 administrative or judicial proceeding.

4 9. The name and taxpayer identification numbers of persons issued
5 direct payment permits may be publicly disclosed.

6 10. Any taxpayer may be disclosed during a meeting or telephone
7 call if the taxpayer is present during the meeting or telephone call and
8 authorizes the disclosure of confidential information.

9 B. Confidential information may be disclosed to:

10 1. Any employee of the department whose official duties involve tax
11 administration.

12 2. The office of the attorney general solely for its use in
13 preparation for, or in an investigation that may result in, any proceeding
14 involving tax administration before the department or any other agency or
15 board of this state, or before any grand jury or any state or federal
16 court.

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

23 4. Other state tax officials whose official duties require the
24 disclosure for proper tax administration purposes if the information is
25 sought in connection with an investigation or any other proceeding
26 conducted by the official. Any disclosure is limited to information of a
27 taxpayer who is being investigated or who is a party to a proceeding
28 conducted by the official.

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

34 (a) The United States internal revenue service, alcohol and tobacco
35 tax and trade bureau of the United States treasury, United States bureau
36 of alcohol, tobacco, firearms and explosives of the United States
37 department of justice, United States drug enforcement agency and federal
38 bureau of investigation.

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

40 (c) An organization of states, federation of tax administrators or
41 multistate tax commission that operates an information exchange for tax
42 administration purposes.

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

1 (e) An agency, official or organization of an Indian tribal
2 government with responsibilities comparable to the responsibilities of the
3 agencies, officials or organizations identified in subdivision (a), (b) or
4 (c) of this paragraph.

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

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

9 (a) The processing, storage, transmission, destruction and
10 reproduction of the information.

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

13 (c) The collection of the taxpayer's civil liability.

14 8. The office of administrative hearings relating to taxes
15 administered by the department pursuant to section 42-1101, but the
16 department shall not disclose any confidential information without the
17 taxpayer's written consent:

18 (a) Regarding income tax or withholding tax.

19 (b) On any tax issue relating to information associated with the
20 reporting of income tax or withholding tax.

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

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

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

30 12. The Arizona commerce authority for its use in:

31 (a) Qualifying renewable energy operations for the tax incentives
32 under section 42-12006.

33 (b) Qualifying businesses with a qualified facility for income tax
34 credits under sections 43-1083.03 and 43-1164.04.

35 (c) Fulfilling its annual reporting responsibility pursuant to
36 ~~section 41-1511, subsections U and V and~~ section 41-1512, subsections U
37 and V.

38 (d) Certifying computer data centers for tax relief under section
39 41-1519.

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

41 14. The office of the state fire marshal for use in determining
42 compliance with and enforcing title 37, chapter 9, article 5.

43 15. The department of transportation for its use in administering
44 taxes, surcharges and penalties prescribed by title 28.

1 16. The Arizona health care cost containment system administration
2 for its use in administering nursing facility provider assessments.

3 17. The department of administration risk management division and
4 the office of the attorney general if the information relates to a claim
5 against this state pursuant to section 12-821.01 involving the department
6 of revenue.

7 18. Another state agency if the taxpayer authorizes the disclosure
8 of confidential information in writing, including an authorization that is
9 part of an application form or other document submitted to the agency.

10 19. The department of economic security for its use in determining
11 whether an employer has paid all amounts due under the unemployment
12 insurance program pursuant to title 23, chapter 4.

13 20. The department of health services for its use in determining
14 the following:

15 (a) Whether a medical marijuana dispensary is in compliance with
16 the tax requirements of chapter 5 of this title for the purposes of
17 section 36-2806, subsection A.

18 (b) Whether a marijuana establishment, marijuana testing facility
19 or dual licensee licensed under title 36, chapter 28.2 is in compliance
20 with the tax obligations under this title or title 43.

21 21. THE ARIZONA DEPARTMENT OF AGRICULTURE FOR THE PURPOSE OF
22 ASCERTAINING COMPLIANCE WITH THE LICENSING PROVISIONS IN TITLE 3.

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

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

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

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

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

34 (d) Return information directly relates to a transactional
35 relationship between a person who is a party to the proceeding and the
36 taxpayer and directly affects the resolution of an issue in the
37 proceeding.

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

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

1 E. The department, on the request of any person, shall provide the
2 names and addresses of bingo licensees as defined in section 5-401, verify
3 whether or not a person has a privilege license and number, a tobacco
4 product distributor's license and number or a withholding license and
5 number or disclose the information to be posted on the department's
6 website or otherwise publicly accessible pursuant to section 42-1124,
7 subsection F and section 42-3401.

8 F. A department employee, in connection with the official duties
9 relating to any audit, collection activity or civil or criminal
10 investigation, may disclose return information to the extent that
11 disclosure is necessary to obtain information that is not otherwise
12 reasonably available. These official duties include the correct
13 determination of and liability for tax, the amount to be collected or the
14 enforcement of other state tax revenue laws.

15 G. Confidential information relating to transaction privilege tax,
16 use tax, severance tax, jet fuel excise and use tax and any other tax
17 collected by the department on behalf of any jurisdiction may be disclosed
18 to any county, city or town tax official if the information relates to a
19 taxpayer who is or may be taxable by a county, city or town or who may be
20 subject to audit by the department pursuant to section 42-6002. Any
21 taxpayer information that is released by the department to the county,
22 city or town:

23 1. May be used only for internal purposes, including audits. If
24 there is a legitimate business need relating to enforcing laws,
25 regulations and ordinances pursuant to section 9-500.39 or 11-269.17, a
26 county, city or town tax official may redisclose transaction privilege tax
27 information relating to a vacation rental or short-term rental property
28 owner or online lodging operator from the new license report and license
29 update report, subject to the following:

30 (a) The information redisclosed is limited to the following:

31 (i) The transaction privilege tax license number.

32 (ii) The type of organization or ownership of the business.

33 (iii) The legal business name and doing business as name, if
34 different from the legal name.

35 (iv) The business mailing address, tax record physical location
36 address, telephone number, email address and fax number.

37 (v) The date the business started in this state, the business
38 description and the North American industry classification system code.

39 (vi) The name, address and telephone number for each owner,
40 partner, corporate officer, member, managing member or official of the
41 employing unit.

42 (b) Redisclosure is limited to nonelected officials in other units
43 within the county, city or town. The information may not be redisclosed
44 to an elected official or the elected official's staff.

1 (c) All redisclosures of confidential information made pursuant to
2 this paragraph are subject to paragraph 2 of this subsection.

3 2. May not be disclosed to the public in any manner that does not
4 comply with confidentiality standards established by the department. The
5 county, city or town shall agree in writing with the department that any
6 release of confidential information that violates the confidentiality
7 standards adopted by the department will result in the immediate
8 suspension of any rights of the county, city or town to receive taxpayer
9 information under this subsection.

10 H. The department may disclose statistical information gathered
11 from confidential information if it does not disclose confidential
12 information attributable to any one taxpayer. The department may disclose
13 statistical information gathered from confidential information, even if it
14 discloses confidential information attributable to a taxpayer, to:

15 1. The state treasurer in order to comply with the requirements of
16 section 42-5029, subsection A, paragraph 3.

17 2. The joint legislative income tax credit review committee, the
18 joint legislative budget committee staff and the legislative staff in
19 order to comply with the requirements of section 43-221.

20 I. The department may disclose the aggregate amounts of any tax
21 credit, tax deduction or tax exemption enacted after January 1, 1994.
22 Information subject to disclosure under this subsection shall not be
23 disclosed if a taxpayer demonstrates to the department that such
24 information would give an unfair advantage to competitors.

25 J. Except as provided in section 42-2002, subsection C,
26 confidential information, described in section 42-2001, paragraph 1,
27 subdivision (a), item (ii), may be disclosed to law enforcement agencies
28 for law enforcement purposes.

29 K. The department may provide transaction privilege tax license
30 information to property tax officials in a county for the purpose of
31 identification and verification of the tax status of commercial property.

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

35 M. Except as provided in section 42-2002, subsection D, a court may
36 order the department to disclose confidential information pertaining to a
37 party to an action. An order shall be made only on a showing of good
38 cause and that the party seeking the information has made demand on the
39 taxpayer for the information.

40 N. This section does not prohibit the disclosure by the department
41 of any information or documents submitted to the department by a bingo
42 licensee. Before disclosing the information, the department shall obtain
43 the name and address of the person requesting the information.

1 O. If the department is required or ~~permitted~~ ALLOWED to disclose
2 confidential information, it may charge the person or agency requesting
3 the information for the reasonable cost of its services.

4 P. Except as provided in section 42-2002, subsection D, the
5 department of revenue shall release confidential information as requested
6 by the department of economic security pursuant to section 42-1122 or
7 46-291. Information disclosed under this subsection is limited to the
8 same type of information that the United States internal revenue service
9 is authorized to disclose under section 6103(l)(6) of the internal revenue
10 code.

11 Q. Except as provided in section 42-2002, subsection D, the
12 department shall release confidential information as requested by the
13 courts and clerks of the court pursuant to section 42-1122.

14 R. To comply with the requirements of section 42-5031, the
15 department may disclose to the state treasurer, to the county stadium
16 district board of directors and to any city or town tax official that is
17 part of the county stadium district confidential information attributable
18 to a taxpayer's business activity conducted in the county stadium
19 district.

20 S. The department shall release to the attorney general
21 confidential information as requested by the attorney general for purposes
22 of determining compliance with or enforcing any of the following:

23 1. Any public health control law relating to tobacco sales as
24 provided under title 36, chapter 6, article 14.

25 2. Any law relating to reduced cigarette ignition propensity
26 standards as provided under title 37, chapter 9, article 5.

27 3. Sections 44-7101 and 44-7111, the master settlement agreement
28 referred to in those sections and all agreements regarding disputes under
29 the master settlement agreement.

30 T. For proceedings before the department, the office of
31 administrative hearings, the state board of tax appeals or any state or
32 federal court involving penalties that were assessed against a return
33 preparer, an electronic return preparer or a payroll service company
34 pursuant to section 42-1103.02, 42-1125.01 or 43-419, confidential
35 information may be disclosed only before the judge or administrative law
36 judge adjudicating the proceeding, the parties to the proceeding and the
37 parties' representatives in the proceeding prior to its introduction into
38 evidence in the proceeding. The confidential information may be
39 introduced as evidence in the proceeding only if the taxpayer's name, the
40 names of any dependents listed on the return, all social security numbers,
41 the taxpayer's address, the taxpayer's signature and any attachments
42 containing any of the foregoing information are redacted and if either:

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

1 2. Such a return or the return information relates or may relate to
2 a transactional relationship between a person who is a party to the
3 proceeding and the taxpayer that directly affects the resolution of an
4 issue in the proceeding.

5 3. The method of payment of the taxpayer's withholding tax
6 liability or the method of filing the taxpayer's withholding tax return is
7 an issue for the period.

8 U. The department and attorney general may share the information
9 specified in subsection S of this section with any of the following:

10 1. Federal, state or local agencies located in this state for the
11 purposes of enforcement of the statutes or agreements specified in
12 subsection S of this section or for the purposes of enforcement of
13 corresponding laws of other states.

14 2. Indian tribes located in this state for the purposes of
15 enforcement of the statutes or agreements specified in subsection S of
16 this section.

17 3. A court, arbitrator, data clearinghouse or similar entity for
18 the purpose of assessing compliance with or making calculations required
19 by the master settlement agreement or agreements regarding disputes under
20 the master settlement agreement, and with counsel for the parties or
21 expert witnesses in any such proceeding, if the information otherwise
22 remains confidential.

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

27 W. The department may disclose to an official of any city, town or
28 county in a current agreement or considering a prospective agreement with
29 the department as described in section 42-5032.02, subsection G any
30 information relating to amounts that are subject to distribution and that
31 are required by section 42-5032.02. Information disclosed by the
32 department under this subsection:

33 1. May ~~only~~ be used ONLY by the city, town or county for internal
34 purposes.

35 2. May not be disclosed to the public in any manner that does not
36 comply with confidentiality standards established by the department. The
37 city, town or county must agree with the department in writing that any
38 release of confidential information that violates the confidentiality
39 standards will result in the immediate suspension of any rights of the
40 city, town or county to receive information under this subsection.

41 X. Notwithstanding any other provision of this section, the
42 department may not disclose information provided by an online lodging
43 marketplace, as defined in section 42-5076, without the written consent of
44 the online lodging marketplace, and the information may be disclosed only
45 pursuant to subsection A, paragraphs 1 through 6, 8 and 10, subsection B,

1 paragraphs 1, 2, 7 and 8 and subsections C, D and G of this section. Such
2 information:

3 1. Is not subject to disclosure pursuant to title 39, relating to
4 public records.

5 2. May not be disclosed to any agency of this state or of any
6 county, city, town or other political subdivision of this state.

7 Sec. 3. Section 42-3401, Arizona Revised Statutes, is amended to
8 read:

9 42-3401. Tobacco distributor licenses; application;
10 conditions; revocations and cancellations

11 A. Every person acquiring or possessing for the purpose of making
12 the initial sale or distribution in this state of any tobacco products on
13 which a tax is imposed by this chapter shall obtain from the department a
14 license to sell tobacco products. The application for the license shall
15 be in the form provided by the department and shall be accompanied by a
16 fee of \$25 for each place of business listed in the application. The form
17 shall state that the identity of the applicant will be posted to the
18 department's website for public inspection. The application for a license
19 shall include the applicant's name and address, the applicant's principal
20 place of business, all other places of business where the applicant's
21 business is conducted for the purpose of making the initial sale or
22 distribution of tobacco products in this state, including any location
23 that maintains an inventory of tobacco products, and any other information
24 required by the department. The applicant's principal place of business
25 and other business locations may not include a residential location or
26 post office box address, except as allowed under subsection D,
27 paragraph 2, subdivision (c) of this section. If the applicant is a firm,
28 partnership, limited liability company, limited liability partnership or
29 association, the applicant shall list the name and address of each of the
30 applicant's members. If the applicant is a corporation, the application
31 shall list the name and address of the applicant's officers and any person
32 who directly or indirectly owns an aggregate amount of ten percent or more
33 of the ownership interest in the corporation. If a licensee is a
34 corporation, firm, partnership, limited liability company, limited
35 liability partnership or association, the licensee under this subsection
36 shall notify the department in writing within thirty days after any change
37 in membership, legal entity status or ownership of more than fifty percent
38 of the total ownership interest in a single transaction. If a licensee
39 changes its business location, the licensee under this subsection shall
40 notify the department within thirty days after a change in location. If
41 the licensee is making a change in its business location by adding or
42 replacing one or more additional places of business that are not currently
43 listed on its application, the licensee must remit a fee of \$25 for each
44 additional place of business.

1 B. For the purposes of subsection A of this section, an applicant
2 with a controlling interest in more than one business engaged in
3 activities as a distributor shall apply for a single license encompassing
4 all such businesses and list each place of business in its application.
5 For the purposes of this subsection, "controlling interest" means direct
6 or indirect ownership of at least eighty percent of the voting shares of a
7 corporation or of the interests in a company, business or person other
8 than a corporation.

9 C. The department shall issue a license authorizing the applicant
10 to acquire or possess tobacco products in this state on the condition that
11 the applicant complies with this chapter and the rules of the department.
12 The license:

13 1. Shall be nontransferable. A licensee may not transfer its
14 license to a new owner when selling its business, and any court-appointed
15 trustee, receiver or other person shall obtain a license in its own name
16 in cases of liquidation, insolvency or bankruptcy or pursuant to a court
17 order if the business remains in operation as a distributor of tobacco
18 products. In cases of liquidation, insolvency or bankruptcy or pursuant
19 to a court order, the department will not consider a business as remaining
20 in operation under this paragraph if the court-appointed trustee, receiver
21 or other person winds up the business within sixty days after the order is
22 issued. A licensee shall apply for a new license if it changes its legal
23 entity status or otherwise changes the legal structure of its business.

24 2. Shall be valid for one year unless earlier canceled or revoked
25 by the department.

26 3. Shall be displayed in a conspicuous place at the licensee's
27 place of business. If the licensee operates from more than one place of
28 business, the licensee must display a copy of its license in a conspicuous
29 place at each location.

30 D. As a condition of licensure under this section, an applicant
31 agrees to the following conditions:

32 1. A person may not hold or store any tobacco products, whether
33 within or outside of this state, for sale or distribution in this state by
34 or on behalf of a distributor at any place other than a location that has
35 been disclosed to the department pursuant to subsection A of this section.
36 This paragraph does not include a person holding or storing tobacco
37 products by or on behalf of the distributor when the tobacco products are
38 in transit to a distributor or retailer as part of a lawful sale.

39 2. All tobacco products held or stored, whether within or outside
40 of this state, for sale or distribution in this state by or on behalf of a
41 distributor:

42 (a) Shall be accessible to the department during normal business
43 hours without a judicial warrant or prior written consent of the
44 distributor.

1 (b) May not be held or stored in a vehicle, except as allowed under
2 section 42-3403, subsection B.

3 (c) May not be held or stored at a residential location, unless the
4 sole luxury for sale or distribution by or on behalf of the distributor is
5 taxed as a cigar under section 42-3052, paragraph 8 or 9 and the product
6 weight of the cigars is not more than five hundred pounds. If the product
7 is held or stored at a residential location, as a condition of licensure,
8 the distributor shall provide written consent and allow access to the
9 department to inspect the stock of luxuries and all books, papers,
10 invoices, records and electronically stored data showing sales, receipts
11 and purchases of luxuries. The distributor shall submit the written
12 consent to the department with the license application or on demand of the
13 department.

14 3. Tobacco products may be sold, transferred or distributed to a
15 retailer located on an Indian reservation in this state only if the
16 retailer is registered with, and has a registration identification number
17 issued by, the department.

18 E. A person who is convicted of an offense described in section
19 42-1127, subsection E is permanently ineligible to hold a license issued
20 under this section.

21 F. The department may not issue or renew a license to an applicant
22 and may revoke a license issued under subsection C of this section if any
23 of the following applies:

24 1. The applicant or licensee owes \$1,000 or more in delinquent
25 taxes imposed on tobacco products under this chapter that are not under
26 protest or subject to a payment agreement. IF A PENALTY COULD HAVE BEEN
27 IMPOSED ON THE TAX LIABILITY UNDER SECTION 42-1125, SUBSECTION D OR E, THE
28 TAXES ARE DELINQUENT WHETHER OR NOT THE PENALTY WAS ACTUALLY IMPOSED.

29 2. The department has revoked any license held by the applicant or
30 licensee within the previous two years.

31 3. The applicant or licensee has been convicted of a crime that
32 relates to stolen or counterfeit cigarettes.

33 4. The applicant or licensee has imported cigarettes into the
34 United States for sale or distribution in violation of 19 United States
35 Code section 1681a.

36 5. The applicant or licensee has imported cigarettes into the
37 United States for sale or distribution without fully complying with the
38 federal cigarette labeling and advertising act (P.L. 89-92; 79 Stat. 282;
39 15 United States Code section 1331).

40 6. The applicant or licensee is in violation of section 13-3711 or
41 section 36-798.06, subsection A.

42 7. Pursuant to section 44-7111, section 6(a), the applicant or
43 licensee is in violation of section 44-7111, section 3(c).

1 8. The civil rights of the applicant or licensee have been
2 suspended under section 13-904. An applicant or licensee whose civil
3 rights have been suspended is ineligible to hold a license for a period of
4 five years following the restoration of the applicant's or licensee's
5 civil rights.

6 G. In addition to any other civil or criminal penalty and except as
7 otherwise provided in this section, the department may deny the issuance
8 or renewal of or revoke a license issued under subsection C of this
9 section if the person violates any requirement under this title more than
10 two times within a three-year period or fails to otherwise maintain the
11 conditions of licensure in this section.

12 H. The department shall publish on its website the names of each
13 person who is issued a license under subsection C of this section,
14 including any trade names or business names used by the licensee. The
15 department shall update the published names at least once each month.

16 I. A person may not apply for or hold a distributor's license if
17 that person does not engage in the activities described in subsection A of
18 this section. In addition to any other applicable penalty, the department
19 may cancel the license of any licensee that fails to incur any tax
20 liability under this chapter for twelve consecutive months.

21 J. Any revocation, cancellation or denial of a license issued under
22 this section by the department must comply with section 41-1092.11,
23 subsection B.

24 K. Notwithstanding any other law, for the purposes of subsection F,
25 paragraphs 1 and 2 of this section, section 42-1127, subsection C and
26 section 42-3461, subsection B, if a distributor has listed in its
27 application more than one place of business, any revocation, cancellation,
28 denial or nonrenewal of the distributor's license shall apply only with
29 effect to remove the place of business or business location at which the
30 activity occurred from the distributor's license. If such a removal
31 occurs, the distributor shall be subject to restrictions that the
32 department prescribes by rule.

33 Sec. 4. Section 42-5075, Arizona Revised Statutes, is amended to
34 read:

35 42-5075. Prime contracting classification; exemptions;
36 definitions

37 A. The prime contracting classification is comprised of the
38 business of prime contracting and the business of manufactured building
39 dealer. Sales for resale to another manufactured building dealer are not
40 subject to tax. Sales for resale do not include sales to a lessor of
41 manufactured buildings. The sale of a used manufactured building is not
42 taxable under this chapter. The prime contracting classification does not
43 include any work or operation performed by a person that is not required
44 to be licensed by the registrar of contractors pursuant to section
45 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
33 revenue. This paragraph shall apply for ten full consecutive calendar or
34 fiscal 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 or
16 use of ancillary structures such as maintenance sheds, offices or storage
17 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. 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" ~~has the same meaning prescribed in section~~
36 ~~41-1511~~ MEANS USABLE ENERGY, INCLUDING ELECTRICITY, FUELS, GAS AND HEAT,
37 PRODUCED THROUGH THE CONVERSION OF ENERGY PROVIDED BY SUNLIGHT, WATER,
38 WIND, GEOTHERMAL, HEAT, BIOMASS, BIOGAS, LANDFILL GAS OR OTHER NONFOSSIL
39 RENEWABLE RESOURCE.

40 C. Entitlement to the deduction pursuant to subsection B, paragraph
41 7 of this section is subject to the following provisions:

42 1. A prime contractor may establish entitlement to the deduction by
43 both:

1 (a) Marking the invoice for the transaction to indicate that the
2 gross proceeds of sales or gross income derived from the transaction was
3 deducted from the base.

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

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

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

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

38 D. Subcontractors or others who perform modification activities are
39 not subject to tax if they can demonstrate that the job was within the
40 control of a prime contractor or contractors or a dealership of
41 manufactured buildings and that the prime contractor or dealership is
42 liable for the tax on the gross income, gross proceeds of sales or gross
43 receipts attributable to the job and from which the subcontractors or
44 others were paid.

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

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

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

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

34 I. The gross proceeds of sales or gross income derived from a
35 contract for lawn maintenance services is not subject to tax under this
36 section if the contract does not include landscaping activities. Lawn
37 maintenance service is a service pursuant to section 42-5061, subsection
38 A, paragraph 1, and includes lawn mowing and edging, weeding, repairing
39 sprinkler heads or drip irrigation heads, seasonal replacement of flowers,
40 refreshing gravel, lawn dethatching, seeding winter lawns, leaf and debris
41 collection and removal, tree or shrub pruning or clipping, garden and
42 gravel raking and applying pesticides, as defined in section 3-361, and
43 fertilizer materials, as defined in section 3-262.

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

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

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

20 M. The following apply in determining the taxable situs of sales of
21 manufactured buildings:

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

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

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

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

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

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

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

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

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

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

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

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

27 (e) Inspection to determine the dates of substantial completion or
28 final completion.

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

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

38 (i) Master schedule updates.

39 (ii) Modification work cash flow projection updates.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (vi) Any bond and insurance premiums.

44 (vii) Any applicable taxes.

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

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

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

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

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

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

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

37 P. Notwithstanding subsection 0 of this section, a contract that
38 primarily involves surface or subsurface improvements to land and that is
39 subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 is
40 taxable under this section, even if the contract also includes vertical
41 improvements. Agencies that are subject to procurement processes under
42 those provisions shall include in the request for proposals a notice to
43 bidders when those projects are subject to this section. This subsection
44 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 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. 5. Section 42-12006, Arizona Revised Statutes, is amended to
7 read:

8 42-12006. Class six property

9 For THE purposes of taxation, class six is established consisting
10 of:

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

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

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

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

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

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

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

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

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

43 (b) Any addition or improvement to property already classified
44 under this paragraph qualifies separately for classification under this

1 subdivision for an additional twenty tax years from the date placed in
2 service.

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

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

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

22 (a) Monitoring, assessing or evaluating the release or threatened
23 release.

24 (b) Excavating, removing, transporting, treating and disposing of
25 contaminated soil.

26 (c) Pumping and treating contaminated water.

27 (d) ~~Treatment, containment or removal~~ TREATING, CONTAINING OR
28 REMOVING of contaminants in groundwater or soil.

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

36 (a) Property may be initially classified under this paragraph only
37 in valuation years 2005 through 2024.

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

40 (c) Any new addition or improvement, constructed or installed from
41 and after December 31, 2004 through December 31, 2024, to property already
42 classified under this paragraph qualifies separately for classification
43 and assessment under this paragraph for not more than five years.

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

1 7. Real and personal property and improvements to the property that
2 are used specifically and solely to manufacture from and after December
3 31, 2006 through December 31, 2023 biodiesel fuel that is one hundred ~~per~~
4 ~~cent~~ PERCENT biodiesel and its by-products or motor vehicle biofuel and
5 its by-products and that are valued at full cash value. This paragraph
6 applies only to the portion of property that is used specifically for
7 manufacturing and processing one hundred per cent biodiesel fuel, or its
8 related by-products, or motor vehicle biofuel, or its related by-products,
9 from raw feedstock obtained from off-site sources, including necessary
10 on-site storage facilities that are intrinsically associated with the
11 manufacturing process. Any other commercial or industrial use
12 disqualifies the entire property from classification under this
13 paragraph. For the purposes of this paragraph, "motor vehicle biofuel"
14 means a solid, liquid or gaseous fuel that is derived from biological
15 material such as plant or animal matter, excluding organic material that
16 has been transformed by geological processes into substances such as coal
17 or petroleum or derivatives thereof, and that:

18 (a) Contains fuel additives in compliance with federal and state
19 law.

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

21 8. Real and personal property and improvements ~~that are certified~~
22 ~~pursuant to section 41-1511, subsection C, paragraph 2 and~~ that are used
23 for renewable energy manufacturing or headquarters operations as provided
24 by section 42-12057. This paragraph applies only to property that is used
25 in manufacturing and headquarters operations of renewable energy
26 companies, including necessary on-site research and development, testing
27 and storage facilities that are associated with the manufacturing process.
28 Up to ten ~~per cent~~ PERCENT of the aggregate full cash value of the
29 property may be derived from uses that are ancillary to and intrinsically
30 associated with the manufacturing process or headquarters operation. Any
31 additional ancillary property is not qualified for classification under
32 this paragraph. No new properties may be classified pursuant to this
33 paragraph from and after December 31, 2014. ~~Classification under this~~
34 ~~paragraph is limited to the time periods determined by the Arizona~~
35 ~~commerce authority pursuant to section 41-1511, subsection C, paragraph 2,~~
36 ~~subdivision (a) or (b).~~ Property that is classified under this paragraph
37 shall not thereafter be classified under any other paragraph of this
38 section.

39 Sec. 6. Section 42-12057, Arizona Revised Statutes, is amended to
40 read:

41 42-12057. Criteria for renewable energy property

42 A. To qualify for the classification as class six pursuant to
43 section 42-12006, paragraph 8, the owner of a manufacturing facility or
44 headquarters facility ~~must be certified pursuant to section 41-1511,~~
45 ~~subdivision C and~~ must provide documentation to the county assessor each

1 year that the facility is primarily dedicated to renewable energy
2 manufacturing or regional, national or global renewable energy business
3 headquarters operations.

4 B. For the purposes of this section, renewable energy operations
5 are limited to manufacturers of, and headquarters for, systems and
6 components that are used or useful in manufacturing renewable energy
7 equipment for ~~the generation, storage~~ GENERATING, STORING, testing and
8 research and development, ~~transmission~~ TRANSMITTING or ~~distribution of~~
9 DISTRIBUTING electricity from renewable resources, including specialized
10 crates necessary to package the renewable energy equipment manufactured at
11 the facility.

12 Sec. 7. Section 43-222, Arizona Revised Statutes, is amended to
13 read:

14 43-222. Income tax credit review schedule

15 The joint legislative income tax credit review committee shall
16 review the following income tax credits:

17 1. For years ending in 0 and 5, sections 43-1079.01, 43-1088,
18 43-1089.04, 43-1167.01 and 43-1175.

19 2. For years ending in 1 and 6, sections 43-1072.02, 43-1074.02,
20 43-1075, 43-1076.01, 43-1077, 43-1078, 43-1083, 43-1083.02, 43-1162,
21 43-1164.03 and 43-1183.

22 3. For years ending in 2 and 7, sections 43-1073, 43-1085, 43-1086,
23 43-1089, 43-1089.01, 43-1089.02, 43-1089.03, 43-1164, ~~43-1169~~ and 43-1181.

24 4. For years ending in 3 and 8, sections 43-1074.01, ~~43-1081,~~
25 43-1168, 43-1170 and 43-1178.

26 5. For years ending in 4 and 9, sections 43-1073.01, ~~43-1076,~~
27 43-1081.01, 43-1083.03, 43-1084, 43-1164.04, 43-1164.05 and 43-1184.

28 Sec. 8. Section 43-405, Arizona Revised Statutes, is amended to
29 read:

30 43-405. Extension of withholding to gambling winnings

31 A. For the purposes of this title, payments of prize winnings that
32 are subject to federal withholding pursuant to section 1441 or section
33 3402(q) of the internal revenue code by any of the following shall be
34 treated as if they were payments of wages by an employer to employees for
35 a payroll period:

36 1. The Arizona state lottery commission under title 5, chapter 5.1.

37 2. A permittee conducting horse or dog racing under title 5,
38 chapter 1.

39 3. A FANTASY SPORTS CONTEST OPERATOR UNDER TITLE 5, CHAPTER 10.

40 4. AN EVENT WAGERING OPERATOR UNDER TITLE 5, CHAPTER 11.

41 B. The ~~lottery commission and permittees~~ ENTITIES LISTED IN
42 SUBSECTION A OF THIS SECTION shall deduct and withhold from each payment
43 of prize winnings made to an individual an amount equal to twenty percent
44 of the amount withheld pursuant to section 1441 or section 3402(q) of the

1 internal revenue code and pay that amount to the department pursuant to
2 this article.

3 Sec. 9. Section 43-1014, Arizona Revised Statutes, is amended to
4 read:

5 43-1014. Entity-level tax election; partnerships; S corporations

6 A. For taxable years beginning from and after December 31, 2021,
7 the partners or shareholders of a business that is treated as a
8 partnership or S corporation for federal income tax purposes may consent
9 to be taxed at the entity level at a rate of four and one-half percent of
10 the entire portion of its taxable income that is attributable to its
11 resident partners or shareholders and the portion of its taxable income
12 derived from sources within this state that is attributable to its
13 nonresident partners or shareholders for that taxable year. The election
14 under this subsection must be made on or before the due date or extended
15 due date of the business's return under this title.

16 B. If the election is made under subsection A of this section, all
17 of the following apply:

18 1. The taxable income of the partnership or S corporation ~~shall be~~
19 ~~computed under this chapter or chapter 14 of this title, as applicable IS~~
20 ~~AS FOLLOWS:~~

21 (a) FOR A PARTNERSHIP, THE ARIZONA TAXABLE INCOME DETERMINED UNDER
22 CHAPTER 14 OF THIS TITLE.

23 (b) FOR AN S CORPORATION, THE TOTAL OF ALL DISTRIBUTIVE INCOME
24 PASSED THROUGH TO THE SHAREHOLDERS UNDER SECTION 43-1126, SUBSECTION B.

25 2. If the partnership or S corporation does not pay the amount owed
26 to the department as a result of the election under this section, the
27 department may collect the amount from the partners or shareholders based
28 on the proportionate share of income that is attributable to each partner
29 or shareholder for Arizona tax purposes.

30 3. The partnership or S corporation shall pay estimated tax
31 pursuant to section 43-581 as necessary.

32 C. The election under subsection A of this section does not apply
33 to the following:

34 1. Partners or shareholders that are not individuals, estates or
35 trusts. The portion of the taxable income attributable to a partner or
36 shareholder that is not an individual, estate or trust is not included in
37 the entity-level tax under subsection A of this section.

38 2. Partners or shareholders who are individuals, estates or trusts
39 and who opt out ~~or waive the right to opt out~~ of the election pursuant to
40 subsection D of this section. The portion of the taxable income
41 attributable to a partner or shareholder who is an individual, estate or
42 trust and who opts out ~~or waives the right to opt out~~ of the election
43 pursuant to subsection D of this section is not included in the
44 entity-level tax under subsection A of this section.

1 D. A partnership or S corporation that intends to make the election
2 under subsection A of this section shall notify all partners or
3 shareholders who are individuals, estates or trusts of the intent to make
4 the election and that each partner or shareholder who is an individual,
5 estate or trust has the right to opt out of the election. The notice
6 shall allow each partner or shareholder who is an individual, estate or
7 trust at least sixty days after receiving the notice to notify the
8 partnership or S corporation that the partner or shareholder who is an
9 individual, estate or trust is exercising the partner's or shareholder's
10 right to opt out of the election. If the partner or shareholder who is an
11 individual, estate or trust does not respond within the sixty-day period
12 or waives the right to opt out, the partner or shareholder will be
13 included in the election.

14 E. The department shall adopt rules and prescribe forms and
15 procedures as necessary to administer this section.

16 Sec. 10. Section 43-1021, Arizona Revised Statutes, is amended to
17 read:

18 43-1021. Addition to Arizona gross income

19 In computing Arizona adjusted gross income, the following amounts
20 shall be added to Arizona gross income:

21 1. A beneficiary's share of the fiduciary adjustment to the extent
22 that the amount determined by section 43-1333 increases the beneficiary's
23 Arizona gross income.

24 2. An amount equal to the ordinary income portion of a lump sum
25 distribution that was excluded from federal adjusted gross income pursuant
26 to the special rule for individuals who attained fifty years of age before
27 January 1, 1986 under Public Law 99-514, section 1122(h)(3).

28 3. The amount of interest income received on obligations of any
29 state, territory or possession of the United States, or any political
30 subdivision thereof, located outside the state of Arizona, reduced, for
31 taxable years beginning from and after December 31, 1996, by the amount of
32 any interest on indebtedness and other related expenses that were incurred
33 or continued to purchase or carry those obligations and that are not
34 otherwise deducted or subtracted in arriving at Arizona gross income.

35 4. The excess of a partner's share of partnership taxable income
36 required to be included under chapter 14, article 2 of this title over the
37 income required to be reported under section 702(a)(8) of the internal
38 revenue code.

39 5. The excess of a partner's share of partnership losses determined
40 pursuant to section 702(a)(8) of the internal revenue code over the losses
41 allowable under chapter 14, article 2 of this title.

42 6. Any amount of agricultural water conservation expenses that were
43 deducted pursuant to the internal revenue code for which a credit is
44 claimed under section 43-1084.

1 7. The amount by which the depreciation or amortization computed
2 under the internal revenue code with respect to property for which a
3 credit was taken under ~~either~~ section ~~43-1081~~ or 43-1081.01 OR THAT IS
4 POLLUTION CONTROL EQUIPMENT FOR WHICH A CREDIT WAS TAKEN BEFORE TAXABLE
5 YEAR 2022 exceeds the amount of depreciation or amortization computed
6 pursuant to the internal revenue code on the Arizona adjusted basis of the
7 property.

8 8. The amount by which the adjusted basis computed under the
9 internal revenue code with respect to property for which a credit was
10 claimed under section 43-1074.02, ~~43-1081~~ or 43-1081.01 OR THAT IS
11 POLLUTION CONTROL EQUIPMENT FOR WHICH A CREDIT WAS TAKEN BEFORE TAXABLE
12 YEAR 2022 and that is sold or otherwise disposed of during the taxable
13 year exceeds the adjusted basis of the property computed under section
14 43-1074.02, ~~43-1081~~ or 43-1081.01 OR FOR POLLUTION CONTROL EQUIPMENT, THE
15 SECTION IN WHICH THE CREDIT WAS TAKEN, as applicable.

16 9. The deduction referred to in section 1341(a)(4) of the internal
17 revenue code for restoration of a substantial amount held under a claim of
18 right.

19 10. The amount by which a net operating loss carryover or capital
20 loss carryover allowable pursuant to section 1341(b)(5) of the internal
21 revenue code exceeds the net operating loss carryover or capital loss
22 carryover allowable pursuant to section 43-1029, subsection F.

23 11. The amount of any depreciation allowance allowed pursuant to
24 section 167(a) of the internal revenue code to the extent not previously
25 added.

26 12. The amount of a nonqualified withdrawal, as defined in section
27 15-1871, from a college savings plan established pursuant to section 529
28 of the internal revenue code that is made to a distributee to the extent
29 the amount is not included in computing federal adjusted gross income,
30 except that the amount added under this paragraph shall not exceed the
31 difference between the amount subtracted under section 43-1022 in prior
32 taxable years and the amount added under this section in any prior taxable
33 years.

34 13. If a subtraction is or has been taken by the taxpayer under
35 section 43-1024, in the current or a prior taxable year for the full
36 amount of eligible access expenditures paid or incurred to comply with the
37 requirements of the Americans with disabilities act of 1990 (P.L. 101-336)
38 or title 41, chapter 9, article 8, any amount of eligible access
39 expenditures that is recognized under the internal revenue code, including
40 any amount that is amortized according to federal amortization schedules,
41 and that is included in computing taxable income for the current taxable
42 year.

43 14. For taxable years beginning from and after December 31, 2017,
44 the amount of any net capital loss included in Arizona gross income for
45 the taxable year that is derived from the exchange of one kind of legal

1 tender for another kind of legal tender. For the purposes of this
2 paragraph:

3 (a) "Legal tender" means a medium of exchange, including specie,
4 that is authorized by the United States Constitution or Congress to pay
5 debts, public charges, taxes and dues.

6 (b) "Specie" means coins having precious metal content.

7 15. For taxable years beginning from and after December 31, 2021,
8 the amount deducted by the partnership or S corporation pursuant to the
9 internal revenue code for the amount paid to this state under section
10 43-1014 and for taxes that the department determines are substantially
11 similar to the tax imposed under section 43-1014. This amount shall be
12 reflected in the partner's or shareholder's Arizona gross income and the
13 partnership's or S corporation's Arizona taxable income.

14 Sec. 11. Section 43-1022, Arizona Revised Statutes, is amended to
15 read:

16 43-1022. Subtractions from Arizona gross income

17 In computing Arizona adjusted gross income, the following amounts
18 shall be subtracted from Arizona gross income:

19 1. The amount of exemptions allowed by section 43-1023.

20 2. Benefits, annuities and pensions in an amount totaling not more
21 than \$2,500 received from one or more of the following:

22 (a) The United States government service retirement and disability
23 fund, the United States foreign service retirement and disability system
24 and any other retirement system or plan established by federal law, except
25 retired or retainer pay of the uniformed services of the United States
26 that qualifies for a subtraction under paragraph 26 of this section.

27 (b) The Arizona state retirement system, the corrections officer
28 retirement plan, the public safety personnel retirement system, the
29 elected officials' retirement plan, an optional retirement program
30 established by the Arizona board of regents under section 15-1628, an
31 optional retirement program established by a community college district
32 board under section 15-1451 or a retirement plan established for employees
33 of a county, city or town in this state.

34 3. A beneficiary's share of the fiduciary adjustment to the extent
35 that the amount determined by section 43-1333 decreases the beneficiary's
36 Arizona gross income.

37 4. Interest income received on obligations of the United States,
38 minus any interest on indebtedness, or other related expenses, and
39 deducted in arriving at Arizona gross income, that were incurred or
40 continued to purchase or carry such obligations.

41 5. The excess of a partner's share of income required to be
42 included under section 702(a)(8) of the internal revenue code over the
43 income required to be included under chapter 14, article 2 of this title.

1 6. The excess of a partner's share of partnership losses determined
2 pursuant to chapter 14, article 2 of this title over the losses allowable
3 under section 702(a)(8) of the internal revenue code.

4 7. The amount allowed by section 43-1025 for contributions during
5 the taxable year of agricultural crops to charitable organizations.

6 8. The portion of any wages or salaries paid or incurred by the
7 taxpayer for the taxable year that is equal to the amount of the federal
8 work opportunity credit, the empowerment zone employment credit, the
9 credit for employer paid social security taxes on employee cash tips and
10 the Indian employment credit that the taxpayer received under sections
11 45A, 45B, 51(a) and 1396 of the internal revenue code.

12 9. The amount of exploration expenses that is determined pursuant
13 to section 617 of the internal revenue code, that has been deferred in a
14 taxable year ending before January 1, 1990 and for which a subtraction has
15 not previously been made. The subtraction shall be made on a ratable
16 basis as the units of produced ores or minerals discovered or explored as
17 a result of this exploration are sold.

18 10. The amount included in federal adjusted gross income pursuant
19 to section 86 of the internal revenue code, relating to taxation of social
20 security and railroad retirement benefits.

21 11. To the extent not already excluded from Arizona gross income
22 under the internal revenue code, compensation received for active service
23 as a member of the reserves, the national guard or the armed forces of the
24 United States, including compensation for service in a combat zone as
25 determined under section 112 of the internal revenue code.

26 12. The amount of unreimbursed medical and hospital costs, adoption
27 counseling, legal and agency fees and other nonrecurring costs of adoption
28 not to exceed \$3,000. In the case of a husband and wife who file separate
29 returns, the subtraction may be taken by either taxpayer or may be divided
30 between them, but the total subtractions allowed both husband and wife may
31 not exceed \$3,000. The subtraction under this paragraph may be taken for
32 the costs that are described in this paragraph and that are incurred in
33 prior years, but the subtraction may be taken only in the year during
34 which the final adoption order is granted.

35 13. The amount authorized by section 43-1027 for the taxable year
36 relating to qualified wood stoves, wood fireplaces or gas fired
37 fireplaces.

38 14. The amount by which a net operating loss carryover or capital
39 loss carryover allowable pursuant to section 43-1029, subsection F exceeds
40 the net operating loss carryover or capital loss carryover allowable
41 pursuant to section 1341(b)(5) of the internal revenue code.

42 15. Any amount of qualified educational expenses that is
43 distributed from a qualified state tuition program determined pursuant to
44 section 529 of the internal revenue code and that is included in income in
45 computing federal adjusted gross income.

1 16. Any item of income resulting from an installment sale that has
2 been properly subjected to income tax in another state in a previous
3 taxable year and that is included in Arizona gross income in the current
4 taxable year.

5 17. For property placed in service:

6 (a) In taxable years beginning before December 31, 2012, an amount
7 equal to the depreciation allowable pursuant to section 167(a) of the
8 internal revenue code for the taxable year computed as if the election
9 described in section 168(k) of the internal revenue code had been made for
10 each applicable class of property in the year the property was placed in
11 service.

12 (b) In taxable years beginning from and after December 31, 2012
13 through December 31, 2013, an amount determined in the year the asset was
14 placed in service based on the calculation in subdivision (a) of this
15 paragraph. In the first taxable year beginning from and after
16 December 31, 2013, the taxpayer may elect to subtract the amount necessary
17 to make the depreciation claimed to date for the purposes of this title
18 the same as it would have been if subdivision (c) of this paragraph had
19 applied for the entire time the asset was in service. Subdivision (c) of
20 this paragraph applies for the remainder of the asset's life. If the
21 taxpayer does not make the election under this subdivision, subdivision
22 (a) of this paragraph applies for the remainder of the asset's life.

23 (c) In taxable years beginning from and after December 31, 2013
24 through December 31, 2015, an amount equal to the depreciation allowable
25 pursuant to section 167(a) of the internal revenue code for the taxable
26 year as computed as if the additional allowance for depreciation had been
27 ten percent of the amount allowed pursuant to section 168(k) of the
28 internal revenue code.

29 (d) In taxable years beginning from and after December 31, 2015
30 through December 31, 2016, an amount equal to the depreciation allowable
31 pursuant to section 167(a) of the internal revenue code for the taxable
32 year as computed as if the additional allowance for depreciation had been
33 fifty-five percent of the amount allowed pursuant to section 168(k) of the
34 internal revenue code.

35 (e) In taxable years beginning from and after December 31, 2016, an
36 amount equal to the depreciation allowable pursuant to section 167(a) of
37 the internal revenue code for the taxable year as computed as if the
38 additional allowance for depreciation had been the full amount allowed
39 pursuant to section 168(k) of the internal revenue code.

40 18. With respect to property that is sold or otherwise disposed of
41 during the taxable year by a taxpayer that complied with section 43-1021,
42 paragraph 11 with respect to that property, the amount of depreciation
43 that has been allowed pursuant to section 167(a) of the internal revenue
44 code to the extent that the amount has not already reduced Arizona taxable
45 income in the current or prior taxable years.

1 19. The amount contributed during the taxable year to college
2 savings plans established pursuant to section 529 of the internal revenue
3 code on behalf of the designated beneficiary to the extent that the
4 contributions were not deducted in computing federal adjusted gross
5 income. The amount subtracted may not exceed:

6 (a) \$2,000 per beneficiary for a single individual or a head of
7 household.

8 (b) \$4,000 per beneficiary for a married couple filing a joint
9 return. In the case of a husband and wife who file separate returns, the
10 subtraction may be taken by either taxpayer or may be divided between
11 them, but the total subtractions allowed both husband and wife may not
12 exceed \$4,000 per beneficiary.

13 20. The portion of the net operating loss carryforward that would
14 have been allowed as a deduction in the current year pursuant to section
15 172 of the internal revenue code if the election described in section
16 172(b)(1)(H) of the internal revenue code had not been made in the year of
17 the loss that exceeds the actual net operating loss carryforward that was
18 deducted in arriving at federal adjusted gross income. This subtraction
19 only applies to taxpayers who made an election under section 172(b)(1)(H)
20 of the internal revenue code as amended by section 1211 of the American
21 recovery and reinvestment act of 2009 (P.L. 111-5) or as amended by
22 section 13 of the worker, homeownership, and business assistance act of
23 2009 (P.L. 111-92).

24 21. For taxable years beginning from and after December 31, 2013,
25 the amount of any net capital gain included in federal adjusted gross
26 income for the taxable year derived from investment in a qualified small
27 business as determined by the Arizona commerce authority pursuant to
28 section 41-1518.

29 22. An amount of any net long-term capital gain included in federal
30 adjusted gross income for the taxable year that is derived from an
31 investment in an asset acquired after December 31, 2011, as follows:

32 (a) For taxable years beginning from and after December 31, 2012
33 through December 31, 2013, ten percent of the net long-term capital gain
34 included in federal adjusted gross income.

35 (b) For taxable years beginning from and after December 31, 2013
36 through December 31, 2014, twenty percent of the net long-term capital
37 gain included in federal adjusted gross income.

38 (c) For taxable years beginning from and after December 31, 2014,
39 twenty-five percent of the net long-term capital gain included in federal
40 adjusted gross income. For the purposes of this paragraph, a transferee
41 that receives an asset by gift or at the death of a transferor is
42 considered to have acquired the asset when the asset was acquired by the
43 transferor. If the date an asset is acquired cannot be verified, a
44 subtraction under this paragraph is not allowed.

1 23. If an individual is not claiming itemized deductions pursuant
2 to section 43-1042, the amount of premium costs for long-term care
3 insurance, as defined in section 20-1691.

4 24. The amount of eligible access expenditures paid or incurred
5 during the taxable year to comply with the requirements of the Americans
6 with disabilities act of 1990 (P.L. 101-336) or title 41, chapter 9,
7 article 8 as provided by section 43-1024.

8 25. For taxable years beginning from and after December 31, 2017,
9 the amount of any net capital gain included in Arizona gross income for
10 the taxable year that is derived from the exchange of one kind of legal
11 tender for another kind of legal tender. For the purposes of this
12 paragraph:

13 (a) "Legal tender" means a medium of exchange, including specie,
14 that is authorized by the United States Constitution or Congress to pay
15 debts, public charges, taxes and dues.

16 (b) "Specie" means coins having precious metal content.

17 26. Benefits, annuities and pensions received as retired or
18 retainer pay of the uniformed services of the United States in amounts as
19 follows:

20 (a) For taxable years through December 31, 2018, an amount totaling
21 not more than \$2,500.

22 (b) For taxable years beginning from and after December 31, 2018
23 through December 31, 2020, an amount totaling not more than \$3,500.

24 (c) For taxable years beginning from and after December 31, 2020,
25 the full amount received.

26 27. For taxable years beginning from and after December 31, 2020,
27 the amount contributed during the taxable year to an achieving a better
28 life experience account established pursuant to section 529A of the
29 internal revenue code on behalf of the designated beneficiary to the
30 extent that the contributions were not deducted in computing federal
31 adjusted gross income. The amount subtracted may not exceed:

32 (a) \$2,000 per beneficiary for a single individual or a head of
33 household.

34 (b) \$4,000 per beneficiary for a married couple filing a joint
35 return. In the case of a husband and wife who file separate returns, the
36 subtraction may be taken by either taxpayer or may be divided between
37 them, but the total subtractions allowed both husband and wife may not
38 exceed \$4,000 per beneficiary.

39 28. For taxable years beginning from and after December 31, 2020,
40 Arizona small business ~~adjusted~~ gross income, but only if an individual
41 taxpayer has elected to separately report and pay tax on the taxpayer's
42 Arizona small business adjusted gross income on the Arizona small business
43 income tax return.

1 Sec. 12. Title 43, chapter 10, article 3, Arizona Revised Statutes,
2 is amended by adding section 43-1026, to read:

3 43-1026. Additions and subtractions filed on Arizona small
4 business income tax returns

5 A TAXPAYER WHO ELECTS TO FILE AN ARIZONA SMALL BUSINESS INCOME TAX
6 RETURN UNDER SECTION 43-302 FOR THE TAXABLE YEAR MAY NOT MAKE THE
7 ADDITIONS OR SUBTRACTIONS UNDER SECTION 43-1021 OR 43-1022 TO THE
8 TAXPAYER'S INDIVIDUAL INCOME TAX RETURN FOR AMOUNTS THAT ARE CORRECTLY
9 MADE AS ADDITIONS OR SUBTRACTIONS ON THE TAXPAYER'S ARIZONA SMALL BUSINESS
10 INCOME TAX RETURN UNDER SECTION 43-1721.

11 Sec. 13. Section 43-1073, Arizona Revised Statutes, is amended to
12 read:

13 43-1073. Family income tax credit

14 A. Subject to the conditions prescribed by this section, a credit
15 is allowed against the taxes imposed by this chapter for a taxable year
16 for taxpayers whose Arizona adjusted gross income, plus the amount
17 subtracted for exemptions under section 43-1023 AND THE AMOUNT SUBTRACTED
18 FOR ARIZONA SMALL BUSINESS GROSS INCOME UNDER SECTION 43-1022, PARAGRAPH
19 28, is:

20 1. \$20,000 or less in the case of a married couple filing a joint
21 return with not more than one dependent or a single person who is a head
22 of a household with not more than one dependent.

23 2. \$23,600 or less in the case of a married couple filing a joint
24 return with two dependents.

25 3. \$27,300 or less in the case of a married couple filing a joint
26 return with three dependents.

27 4. \$31,000 or less in the case of a married couple filing a joint
28 return with four or more dependents.

29 5. \$20,135 or less in the case of a single person who is a head of
30 a household with two dependents.

31 6. \$23,800 or less in the case of a single person who is a head of
32 a household with three dependents.

33 7. \$25,200 or less in the case of a single person who is a head of
34 a household with four dependents.

35 8. \$26,575 or less in the case of a single person who is a head of
36 a household with five or more dependents.

37 9. \$10,000 or less in the case of a single person or a married
38 person filing separately.

39 B. The amount of the credit is equal to \$40 for each person who is
40 a resident of this state and who is either the taxpayer, the taxpayer's
41 spouse who does not file a return or a dependent but may not exceed:

42 1. \$240 in the case of a married couple filing a joint return or a
43 single person who is a head of a household.

44 2. \$120 in the case of a single person or a married couple filing
45 separately.

1 3. For any taxpayer, the amount of taxes due under this chapter for
2 the taxable year.

3 Sec. 14. Repeal

4 Sections 43-1076 and 43-1081, Arizona Revised Statutes, are
5 repealed.

6 Sec. 15. Section 43-1081.01, Arizona Revised Statutes, is amended
7 to read:

8 43-1081.01. Credit for agricultural pollution control
9 equipment

10 A. A credit is allowed against the taxes imposed by this title for
11 expenses that a taxpayer, involved in the commercial production of
12 livestock, livestock products or agricultural, horticultural, viticultural
13 or floricultural crops or products, incurred during the taxable year to
14 purchase tangible personal property that is primarily used in the
15 taxpayer's trade or business in this state to control or prevent
16 pollution. The amount of the credit is equal to twenty-five percent of
17 the cost of the real or personal property. The maximum credit that a
18 taxpayer may claim under this section is \$25,000 in a taxable year.

19 B. Property that qualifies for the credit under this section
20 includes the portion of a structure, building, installation, excavation,
21 machine, equipment or device and any attachment or addition to or
22 reconstruction, replacement or improvement of that property that is
23 directly used, constructed or installed in this state to prevent, monitor,
24 control or reduce air, water or land pollution.

25 C. Amounts that qualify for a credit under this section must be
26 includible in the taxpayer's adjusted basis for the property. The
27 adjusted basis of any property with respect to which the taxpayer has
28 claimed a credit shall be reduced by the amount of credit claimed with
29 respect to that asset. This credit does not affect the deductibility for
30 depreciation or amortization of the remaining adjusted basis of the asset.

31 D. Co-owners of a business, including individual partners in a
32 partnership, may each claim only the pro rata share of the credit allowed
33 under this section based on the ownership interest. The total of the
34 credits allowed all such owners may not exceed the amount that would have
35 been allowed a sole owner.

36 E. If the allowable tax credit exceeds the taxes otherwise due
37 under this title on the claimant's income, or if there are no taxes due
38 under this title, the amount of the claim not used to offset the taxes
39 under this title may be carried forward to the next five consecutive
40 taxable years as a credit against subsequent years' income tax liability.

41 ~~F. A taxpayer who claims a credit for pollution control equipment~~
42 ~~under this section shall not claim a credit under section 43-1081 for the~~
43 ~~same equipment or expense.~~

1 Sec. 16. Section 43-1121, Arizona Revised Statutes, is amended to
2 read:

3 43-1121. Additions to Arizona gross income; corporations

4 In computing Arizona taxable income for a corporation, the following
5 amounts shall be added to Arizona gross income:

6 1. The amount of interest income received on obligations of any
7 state, territory or possession of the United States, or any political
8 subdivision thereof, located outside this state, reduced, for taxable
9 years beginning from and after December 31, 1996, by the amount of any
10 interest on indebtedness and other related expenses that were incurred or
11 continued to purchase or carry those obligations and that are not
12 otherwise deducted or subtracted in arriving at Arizona gross income.

13 2. The excess of a partner's share of partnership taxable income
14 required to be included under chapter 14, article 2 of this title over the
15 income required to be reported under section 702(a)(8) of the internal
16 revenue code.

17 3. The excess of a partner's share of partnership losses determined
18 pursuant to section 702(a)(8) of the internal revenue code over the losses
19 allowable under chapter 14, article 2 of this title.

20 4. The amount of any depreciation allowance allowed pursuant to
21 section 167(a) of the internal revenue code to the extent not previously
22 added.

23 5. The amount of dividend income received from corporations and
24 allowed as a deduction pursuant to sections 243, 245, 245A and
25 250(a)(1)(B) of the internal revenue code.

26 6. Taxes that are based on income paid to states, local governments
27 or foreign governments and that were deducted in computing federal taxable
28 income.

29 7. Expenses and interest relating to tax-exempt income on
30 indebtedness incurred or continued to purchase or carry obligations the
31 interest on which is wholly exempt from the tax imposed by this title.
32 Financial institutions, as defined in section 6-101, shall be governed by
33 section 43-961, paragraph 2.

34 8. Commissions, rentals and other amounts paid or accrued to a
35 domestic international sales corporation controlled by the payor
36 corporation if the domestic international sales corporation is not
37 required to report its taxable income to this state because its income is
38 not derived from or attributable to sources within this state. If the
39 domestic international sales corporation is subject to article 4 of this
40 chapter, the department shall prescribe by rule the method of determining
41 the portion of the commissions, rentals and other amounts that are paid or
42 accrued to the controlled domestic international sales corporation and
43 that shall be deducted by the payor. For the purposes of this paragraph,
44 "control" means direct or indirect ownership or control of fifty percent

1 or more of the voting stock of the domestic international sales
2 corporation by the payor corporation.

3 9. The amount of net operating loss taken pursuant to section 172
4 of the internal revenue code.

5 10. The amount of exploration expenses determined pursuant to
6 section 617 of the internal revenue code to the extent that they exceed
7 \$75,000 and to the extent that the election is made to defer those
8 expenses not in excess of \$75,000.

9 11. Amortization of costs incurred to install pollution control
10 devices and deducted pursuant to the internal revenue code or the amount
11 of deduction for depreciation taken pursuant to the internal revenue code
12 on pollution control devices for which an election is made pursuant to
13 section 43-1129.

14 12. The amount of depreciation or amortization of costs of child
15 care facilities deducted pursuant to section 167 or 188 of the internal
16 revenue code for which an election is made to amortize pursuant to section
17 43-1130.

18 13. The loss of an insurance company that is exempt under section
19 43-1201 to the extent that it is included in computing Arizona gross
20 income on a consolidated return pursuant to section 43-947.

21 ~~14. The amount by which the depreciation or amortization computed~~
22 ~~under the internal revenue code with respect to property for which a~~
23 ~~credit was taken under section 43-1169 exceeds the amount of depreciation~~
24 ~~or amortization computed pursuant to the internal revenue code on the~~
25 ~~Arizona adjusted basis of the property.~~

26 ~~15. The amount by which the adjusted basis computed under the~~
27 ~~internal revenue code with respect to property for which a credit was~~
28 ~~claimed under section 43-1169 and that is sold or otherwise disposed of~~
29 ~~during the taxable year exceeds the adjusted basis of the property~~
30 ~~computed under section 43-1169.~~

31 ~~16.~~ 14. The amount by which the depreciation or amortization
32 computed under the internal revenue code with respect to property for
33 which a credit was taken under section 43-1170 exceeds the amount of
34 depreciation or amortization computed pursuant to the internal revenue
35 code on the Arizona adjusted basis of the property.

36 ~~17.~~ 15. The amount by which the adjusted basis computed under the
37 internal revenue code with respect to property for which a credit was
38 claimed under section 43-1170 and that is sold or otherwise disposed of
39 during the taxable year exceeds the adjusted basis of the property
40 computed under section 43-1170.

41 ~~18.~~ 16. The deduction referred to in section 1341(a)(4) of the
42 internal revenue code for restoration of a substantial amount held under a
43 claim of right.

1 ~~19.~~ 17. The amount by which a capital loss carryover allowable
2 pursuant to section 1341(b)(5) of the internal revenue code exceeds the
3 capital loss carryover allowable pursuant to section 43-1130.01,
4 subsection F.

5 ~~20.~~ 18. Any wage expenses deducted pursuant to the internal
6 revenue code for which a credit is claimed under section 43-1175 and
7 representing net increases in qualified employment positions for
8 employment of temporary assistance for needy families recipients.

9 ~~21.~~ 19. Any amount of expenses that were deducted pursuant to the
10 internal revenue code and for which a credit is claimed under section
11 43-1178.

12 ~~22.~~ 20. Any amount deducted pursuant to section 170 of the
13 internal revenue code representing contributions to a school tuition
14 organization for which a credit is claimed under section 43-1183 or
15 43-1184.

16 ~~23.~~ 21. If a subtraction is or has been taken by the taxpayer
17 under section 43-1124, in the current or a prior taxable year for the full
18 amount of eligible access expenditures paid or incurred to comply with the
19 requirements of the Americans with disabilities act of 1990 (P.L. 101-336)
20 or title 41, chapter 9, article 8, any amount of eligible access
21 expenditures that is recognized under the internal revenue code, including
22 any amount that is amortized according to federal amortization schedules,
23 and that is included in computing Arizona taxable income for the current
24 taxable year.

25 ~~24.~~ 22. For taxable years beginning from and after December 31,
26 2017, the amount of any net capital loss included in Arizona gross income
27 for the taxable year that is derived from the exchange of one kind of
28 legal tender for another kind of legal tender. For the purposes of this
29 paragraph:

30 (a) "Legal tender" means a medium of exchange, including specie,
31 that is authorized by the United States Constitution or Congress to pay
32 debts, public charges, taxes and dues.

33 (b) "Specie" means coins having precious metal content.

34 ~~25.~~ 23. The amount of any deduction that is claimed in computing
35 Arizona gross income and that represents a donation of a school site for
36 which a credit is claimed under section 43-1181.

37 Sec. 17. Section 43-1130.01, Arizona Revised Statutes, is amended
38 to read:

39 43-1130.01. Restoration of a substantial amount held under
40 claim of right; computation of tax

41 A. This section applies if:

42 1. An item of income was included in gross income for a prior
43 taxable year or years because it appeared that the taxpayer had an
44 unrestricted right to the item.

1 2. A deduction would be allowable under the internal revenue code
2 or this title for the taxable year, without application of section
3 1341(b)(3) of the internal revenue code or section 43-1121,
4 paragraph ~~18~~ 16, because after the close of the prior taxable year or
5 years it was established that the taxpayer did not have an unrestricted
6 right to all or part of the item.

7 3. The amount of the deduction exceeds \$3,000.

8 B. If all of the conditions in subsection A of this section apply,
9 the tax imposed by this chapter for the taxable year is an amount equal to
10 the tax for the taxable year computed without the deduction, minus the
11 decrease in tax under this chapter for the prior taxable year or years
12 that would result solely from excluding the item or portion of the item
13 from gross income for the prior taxable year or years.

14 C. If the decrease in tax exceeds the tax imposed by this chapter
15 for the taxable year, computed without the deduction, the excess is
16 considered to be a payment of tax on the last day prescribed by law for
17 the payment of tax for the taxable year and shall be refunded or credited
18 in the same manner as if it were an overpayment for the taxable year.

19 D. Subsection B of this section does not apply to any deduction
20 that is allowable with respect to an item that was included in gross
21 income by reason of the sale or other disposition of stock in trade of the
22 taxpayer, or other property of a kind that would properly have been
23 included in the inventory of the taxpayer on hand at the close of the
24 prior taxable year, or property that is held by the taxpayer primarily for
25 sale to customers in the ordinary course of the taxpayer's trade or
26 business. This subsection does not apply if the deduction arises out of
27 refunds or repayments with respect to rates made by a regulated public
28 utility that is listed in section 7701(a)(33)(A) through (H) of the
29 internal revenue code, if the refunds or repayments are:

30 1. Required to be made by the government, political subdivision,
31 agency or instrumentality referred to in that section.

32 2. Required to be made by an order of a court.

33 3. Made in settlement of litigation or under threat or imminence of
34 litigation.

35 E. If the exclusion under subsection B of this section results in:

36 1. A net operating loss for the prior taxable year or years for
37 purposes of computing the decrease in tax for the prior year or years
38 under subsection B of this section:

39 (a) The loss shall be carried over under this chapter to the same
40 extent and in the same manner as provided under section 43-1123, and under
41 prior law.

42 (b) A carryover beyond the taxable year may not be taken into
43 account.

1 2. A capital loss for the prior taxable year or years, for purposes
2 of computing the decrease in tax for the prior taxable year or years under
3 subsection B of this section:

4 (a) The loss shall be:

5 (i) Carried over under this chapter to the same extent and in the
6 same manner as was provided under prior law for taxable years beginning on
7 or before December 31, 1987.

8 (ii) Carried back and carried over to the same extent and in the
9 same manner as provided under section 1212 of the internal revenue code
10 for taxable years beginning from and after December 31, 1987.

11 (b) A carryover beyond the taxable year may not be taken into
12 account.

13 F. In computing Arizona taxable income for taxable years subsequent
14 to the current taxable year, the net operating loss or capital loss
15 determined in subsection E of this section shall be taken into account to
16 the same extent and in the same manner as a net operating loss or capital
17 loss sustained for prior taxable years.

18 Sec. 18. Repeal

19 Section 43-1169, Arizona Revised Statutes, is repealed.

20 Sec. 19. Section 43-1170, Arizona Revised Statutes, is amended to
21 read:

22 43-1170. Credit for pollution control equipment

23 A. A credit is allowed against the taxes imposed by this title for
24 expenses that the taxpayer incurred during the taxable year to purchase
25 real or personal property that is used in the taxpayer's trade or business
26 in this state to control or prevent pollution. The amount of the credit
27 is equal to ten ~~percent~~ PERCENT of the purchase price.

28 B. Property that qualifies for the credit under this section
29 includes that portion of a structure, building, installation, excavation,
30 machine, equipment or device and any attachment or addition to or
31 reconstruction, replacement or improvement of that property that is
32 directly used, constructed or installed in this state for the purpose of
33 meeting or exceeding rules or regulations adopted by the United States
34 environmental protection agency, the department of environmental quality
35 or a political subdivision of this state to prevent, monitor, control or
36 reduce air, water or land pollution that results from the taxpayer's
37 direct operating activities in conducting a trade or business in this
38 state.

39 C. The credit allowed pursuant to this section does not apply to:

40 1. The purchase of any personal property that is attached to a
41 motor vehicle.

42 2. Any property that has a substantial use for a purpose other than
43 the purposes described in subsection B.

1 3. Any portion of pollution control property that is included as a
2 standard and integral part of another property.

3 D. Amounts that qualify for a credit under this section must be
4 includible in the taxpayer's adjusted basis for the property. The
5 adjusted basis of any property with respect to which the taxpayer has
6 claimed a credit shall be reduced by the amount of credit claimed with
7 respect to that asset. This credit does not affect the deductibility for
8 depreciation or amortization of the remaining adjusted basis of the asset.

9 E. Co-owners of a business, including corporate partners in a
10 partnership, may each claim only the pro rata share of the credit allowed
11 under this section based on the ownership interest. **PARTNERS IN A**
12 **PARTNERSHIP THAT IS NOT A CORPORATION MAY NOT CLAIM A SHARE OF THE CREDIT.**
13 The total of the credits allowed all such owners may not exceed the amount
14 that would have been allowed a sole owner.

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

20 G. The maximum credit that a taxpayer may claim under this section
21 is ~~five hundred thousand dollars~~ **\$500,000** in a taxable year.

22 Sec. 20. Section 43-1311, Arizona Revised Statutes, is amended to
23 read:

24 43-1311. Tax imposed on estates and trusts; rates; annual
25 adjustment

26 A. Except for trusts that are taxable as partnerships or
27 corporations under the internal revenue code, the income of estates or of
28 any kind of property held in trust is subject only to the income tax
29 imposed by subsection B of this section.

30 B. There shall be levied, collected and paid for each taxable year
31 on the entire taxable income of every resident trust of this state and on
32 the entire taxable income of nonresident trust that is derived from
33 sources within this state taxes determined in the following manner:

34 1. For taxable years beginning from and after December 31, 2020
35 through December 31, 2021:

<u>If taxable income is:</u>	<u>The tax is:</u>
36 \$0 – \$27,272	2.59% of taxable income
37 \$27,273 – \$54,544	\$686, plus 3.34% of the amount 38 over \$27,272
39 \$54,545 – \$163,632	\$1,571, plus 4.17% of the 40 amount over \$54,544
41 \$163,633 and over	\$5,991, plus 4.50% of the amount 42 over \$163,632
43	

1 2. Subject to subsection C of this section, for taxable years
2 beginning from and after December 31, 2021 through December 31 of the year
3 in which notice is provided to the department pursuant to section 43-244,
4 subsection A or subsection B, paragraph 1:

<u>If taxable income is:</u>	<u>The tax is:</u>
\$0 – \$27,272	2.55% of taxable income
\$27,273 and over	\$695, plus 2.98% of the amount over \$27,272

9 3. Subject to subsection C of this section, for taxable years
10 beginning from and after December 31 of the year in which notice is
11 provided to the department pursuant to section 43-244, subsection A or
12 subsection B, paragraph 1 through December 31 of the year in which notice
13 is provided to the department pursuant to section 43-244, subsection B,
14 paragraph 2:

<u>If taxable income is:</u>	<u>The tax is:</u>
\$0 – \$27,272	2.53% of taxable income
\$27,273 and over	\$690, plus 2.75% of the amount over \$27,272

19 4. For taxable years beginning from and after December 31 of the
20 year in which notice is provided to the department pursuant to section
21 43-244, subsection B, paragraph 2, the tax is 2.5% of taxable income.

22 C. For each taxable year beginning from and after December 31,
23 ~~2020~~ 2021, the department shall adjust the income dollar amount for each
24 rate bracket prescribed by subsection B, paragraphs 2 and 3 of this
25 section, as applicable, according to the average annual change in the
26 metropolitan Phoenix consumer price index published by the United States
27 department of labor, bureau of labor statistics. The revised dollar
28 amounts shall be raised to the nearest whole dollar. The income dollar
29 amounts for each rate bracket may not be revised below the amounts
30 prescribed in the prior taxable year.

31 Sec. 21. Title 43, chapter 13, article 6, Arizona Revised Statutes,
32 is amended by adding section 43-1382, to read:

33 43-1382. Credit for entity-level income tax

34 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2021, A
35 CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR A TAXPAYER
36 WHO IS A PARTNER IN A PARTNERSHIP OR A SHAREHOLDER OF AN S CORPORATION
37 THAT ELECTS TO PAY THE TAX UNDER SECTION 43-1014.

38 B. THE AMOUNT OF THE TAX PAID BY THE PARTNERSHIP OR S CORPORATION
39 UNDER SECTION 43-1014 THAT IS ATTRIBUTABLE TO THE PARTNER'S OR
40 SHAREHOLDER'S SHARE OF INCOME TAXABLE IN THIS STATE.

41 C. THE ESTATE OR TRUST AND ITS NONCORPORATE BENEFICIARIES SHALL
42 APPORTION THE CREDIT UNDER THIS SECTION IN THE SAME PROPORTION AS THEIR
43 RESPECTIVE SHARES OF THE FEDERAL DISTRIBUTABLE NET INCOME OF THE ESTATE OR
44 TRUST FROM THE PARTNERSHIP OR S CORPORATION. THE NONCORPORATE

1 BENEFICIARIES SHALL TREAT THEIR SHARE OF THE CREDIT UNDER THIS SECTION AS
2 A CREDIT UNDER SECTION 43-1077.

3 D. IF THE ALLOWABLE CREDIT EXCEEDS THE TAXES DUE UNDER THIS TITLE
4 ON THE CLAIMANT'S INCOME, OR IF THERE ARE NOT TAXES DUE UNDER THIS TITLE,
5 THE AMOUNT OF THE CLAIM NOT USED TO OFFSET TAXES DUE UNDER THIS TITLE MAY
6 BE CARRIED FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE YEARS AS A
7 CREDIT AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY.

8 Sec. 22. Additions to Arizona gross income; corporations;
9 depreciation, amortization and adjusted bases for
10 qualified environmental technology facilities

11 In computing Arizona taxable income for a corporation pursuant to
12 section 43-1121, Arizona Revised Statutes, as amended by this act, the
13 following amounts shall be added to Arizona gross income as long as
14 applicable:

15 1. The amount by which the depreciation or amortization computed
16 under the internal revenue code with respect to property for which a
17 credit was taken under section 43-1169, Arizona Revised Statutes, as
18 repealed by this act, exceeds the amount of depreciation or amortization
19 computed pursuant to the internal revenue code on the Arizona adjusted
20 basis of the property.

21 2. The amount by which the adjusted basis computed under the
22 internal revenue code with respect to property for which a credit was
23 claimed under section 43-1169, Arizona Revised Statutes, as repealed by
24 this act, and that is sold or otherwise disposed of during the taxable
25 year exceeds the adjusted basis of the property computed under section
26 43-1169, Arizona Revised Statutes, as repealed by this act.

27 Sec. 23. Retroactivity

28 A. Section 43-1311, Arizona Revised Statutes, as amended by this
29 act, applies retroactively to taxable years beginning from and after
30 December 31, 2020.

31 B. Section 43-1382, Arizona Revised Statutes, as added by this act,
32 applies retroactively to taxable years beginning from and after December
33 31, 2021.

34 Sec. 24. Saving clause

35 The repeal of the income tax credits by this act does not affect the
36 continuing validity of any amount of the credit carried forward from
37 previous taxable years for application against subsequent tax liabilities
38 as allowed by prior law.