

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 326

HOUSE BILL 2549

AN ACT

AMENDING SECTION 9-801, ARIZONA REVISED STATUTES; AMENDING TITLE 9, CHAPTER 7, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-806; AMENDING SECTIONS 11-861, 37-621 AND 37-622, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1516; AMENDING TITLE 41, CHAPTER 16, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-2148; AMENDING SECTIONS 42-5061, 42-5071, 42-5075, 42-5159 AND 43-222, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1076; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1162; RELATING TO HEALTHY FOREST MANAGEMENT ZONES.

(TEXT OF BILL BEGINS ON NEXT PAGE)



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

2 Section 1. Section 9-801, Arizona Revised Statutes, is amended to
3 read:

4 9-801. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Code" means a published compilation of rules or regulations
7 prepared by a technical trade association and includes any building code,
8 electrical wiring code, health or sanitation code, fire prevention code,
9 URBAN-WILDLAND INTERFACE CODE, inflammable liquids code, code for
10 slaughtering, processing and selling meat and meat products or for
11 production, pasteurizing and sale of milk and milk products, or other code
12 which embraces rules and regulations pertinent to a subject which is a proper
13 subject of municipal legislation.

14 2. "Municipality" means a city or town organized in accordance with
15 law, including a home rule or charter city.

16 3. "Public record" includes a statute, rule or regulation of the
17 United States, this state or the municipality which is desired to be adopted
18 by reference.

19 4. "Published" means printed, lithographed, multigraphed, mimeographed
20 or otherwise reproduced.

21 5. "State plumbing code" means the code adopted by the Arizona uniform
22 plumbing code commission ESTABLISHED BY SECTION 41-619.

23 Sec. 2. Title 9, chapter 7, article 1, Arizona Revised Statutes, is
24 amended by adding section 9-806, to read:

25 9-806. Urban-wildland interface code

26 A. A CITY OR TOWN MAY ADOPT A CURRENT URBAN-WILDLAND INTERFACE
27 CODE. THE CODE MAY BE ADAPTED FROM A MODEL CODE ADOPTED BY A NATIONAL OR
28 INTERNATIONAL ORGANIZATION OR ASSOCIATION FOR MITIGATING THE HAZARD TO LIFE
29 AND PROPERTY.

30 B. A CITY OR TOWN MUST FOLLOW WRITTEN PUBLIC PROCEDURES IN THE
31 DEVELOPMENT AND ADOPTION OF THE CODE AND ANY REVISIONS TO THE CODE TO PROVIDE
32 EFFECTIVE, EARLY AND CONTINUOUS PUBLIC PARTICIPATION THROUGH:

33 1. THE BROAD DISSEMINATION AND PUBLICITY OF THE PROPOSED CODE AND ANY
34 REVISIONS TO THE CODE.

35 2. THE OPPORTUNITY FOR SUBMISSION AND CONSIDERATION OF WRITTEN PUBLIC
36 COMMENTS.

37 3. OPEN DISCUSSIONS, COMMUNICATIONS PROGRAMS AND INFORMATION SERVICES.

38 4. CONSULTATION WITH FEDERAL AGENCIES AND STATE AND LOCAL OFFICIALS.

39 Sec. 3. Section 11-861, Arizona Revised Statutes, is amended to read:

40 11-861. Adoption of codes by reference; limitations; method of
41 adoption

42 A. In any county which has adopted zoning pursuant to this chapter,
43 the board of supervisors may adopt and enforce, for the unincorporated areas
44 of the county so zoned, a building code and other related codes to regulate
45 the quality, type of material and workmanship of all aspects of construction

1 of buildings or structures, except that the board may authorize that areas
2 zoned rural or unclassified may be exempt from the provisions of the code
3 adopted. Such codes may be adopted by reference after notice and hearings
4 before the county planning and zoning commission and board of supervisors as
5 provided in this chapter for amendments to the zoning ordinance of the
6 county.

7 B. The board of supervisors may adopt a fire prevention code in the
8 unincorporated areas of the county in which a fire district has not adopted
9 the uniform fire code pursuant to section 48-805. Any fire code adopted by
10 a board of supervisors pursuant to this subsection shall remain in effect
11 until a fire district is established and adopts a code applicable within the
12 boundaries of the district.

13 C. For the purpose of this article, codes authorized by the provisions
14 SUBSECTIONS A AND B of this section shall be limited to the following:

15 1. Any building, electrical or mechanical code that has been
16 promulgated by any national organization or association that is organized and
17 conducted for the purpose of developing codes or that has been adopted by the
18 largest city in that county. If the board of supervisors adopts a city code,
19 it shall adopt, within ninety days after receiving a written notification of
20 a change to the city code, the same change or shall terminate the adopted
21 city code.

22 2. Any fire prevention code that has been adopted by a national
23 organization or association organized or conducted for the purpose of
24 developing fire prevention codes and that is as stringent as the state fire
25 code adopted pursuant to section 41-2146.

26 D. THE BOARD OF SUPERVISORS MAY ADOPT A CURRENT URBAN-WILDLAND
27 INTERFACE CODE. THE CODE MAY BE ADAPTED FROM A MODEL CODE ADOPTED BY A
28 NATIONAL OR INTERNATIONAL ORGANIZATION OR ASSOCIATION FOR MITIGATING THE
29 HAZARD TO LIFE AND PROPERTY. THE BOARD MUST FOLLOW WRITTEN PUBLIC PROCEDURES
30 IN THE DEVELOPMENT AND ADOPTION OF THE CODE AND ANY REVISIONS TO THE CODE TO
31 PROVIDE EFFECTIVE, EARLY AND CONTINUOUS PUBLIC PARTICIPATION THROUGH:

32 1. THE BROAD DISSEMINATION AND PUBLICITY OF THE PROPOSED CODE AND ANY
33 REVISIONS TO THE CODE.

34 2. THE OPPORTUNITY FOR SUBMISSION AND CONSIDERATION OF WRITTEN PUBLIC
35 COMMENTS.

36 3. OPEN DISCUSSIONS, COMMUNICATIONS PROGRAMS AND INFORMATION SERVICES.

37 4. CONSULTATION WITH FEDERAL AGENCIES AND STATE AND LOCAL OFFICIALS.

38 Sec. 4. Section 37-621, Arizona Revised Statutes, is amended to read:
39 37-621. State forester; qualifications

40 ~~A. The state land commissioner shall be the state forester.~~

41 ~~B. The state land commissioner shall appoint a deputy state forester~~
42 ~~to act on his behalf in the discharge of the duties of the state forester as~~
43 ~~contained in this chapter. The compensation of the deputy state forester~~
44 ~~shall be as determined pursuant to section 38-611.~~

1 A. THE GOVERNOR SHALL APPOINT A STATE FORESTER PURSUANT TO SECTION
2 38-211. THE STATE FORESTER SERVES AT THE PLEASURE OF THE GOVERNOR.

3 ~~C.~~ B. The qualifications of the deputy state forester shall be EITHER
4 OF THE FOLLOWING:

5 1. Graduation from a full four-year college course with a bachelor's
6 degree, with a major in forestry including five years of technical experience
7 in the forestry-land management field. ~~or~~

8 2. Ten years of successful and progressive technical experience in
9 forestry and land management activities of such a nature as to enable the
10 applicant to perform his duties successfully at the professional level.

11 Sec. 5. Section 37-622, Arizona Revised Statutes, is amended to read:

12 37-622. Duties of state forester; acceptance of federal law

13 A. The state forester is designated as the agent of the state of
14 Arizona and shall administer the provisions of this chapter. IN ADDITION,
15 THE STATE FORESTER SHALL:

16 1. PERFORM ALL MANAGEMENT AND ADMINISTRATIVE FUNCTIONS ASSIGNED OR
17 DELEGATED TO THIS STATE BY THE UNITED STATES RELATING TO FORESTRY AND
18 FINANCIAL ASSISTANCE AND GRANTS RELATING TO FORESTRY.

19 2. IDENTIFY SOURCES OF INFORMATION RELATING TO FOREST MANAGEMENT,
20 INCLUDING WILDFIRE SUPPRESSION AND RECOVERY AND ADMINISTRATIVE AND JUDICIAL
21 APPEALS AND LITIGATION WITH RESPECT TO TIMBER SALES AND FOREST THINNING
22 PROJECTS IN THIS STATE AND DEVELOP PROCEDURES FOR COMPILING AND TRANSFERRING
23 THAT INFORMATION TO THE STATE FORESTER.

24 3. TAKE NECESSARY ACTION TO MAXIMIZE STATE FIRE ASSISTANCE GRANTS,
25 INCLUDING ESTABLISHING TIMELINES FOR USING GRANT MONIES AND REALLOCATING
26 LAPSED GRANT MONIES TO OTHER PROJECTS.

27 4. CONDUCT EDUCATION AND OUTREACH IN FOREST COMMUNITIES EXPLAINING THE
28 WILDFIRE THREAT TO PRIVATE PROPERTY CAUSED BY LACK OF TIMBER HARVESTING AND
29 THINNING.

30 5. MONITOR FORESTRY PROJECTS AND WILDFIRE ACTIVITIES.

31 6. INTERVENE ON BEHALF OF THIS STATE AND ITS CITIZENS IN
32 ADMINISTRATIVE AND JUDICIAL APPEALS AND LITIGATION THAT CHALLENGE
33 GOVERNMENTAL EFFORTS SUPPORTED BY THE STATE FORESTER IF THE STATE FORESTER
34 DETERMINES THAT INTERVENTION IS IN THE BEST INTERESTS OF THIS STATE.

35 B. During the first regular session of each legislature, the state
36 forester shall present information to the legislative committees with
37 jurisdiction over forestry issues. The state forester shall collaborate
38 with, and invite the participation of, relevant state, federal and local
39 governmental officers and agencies. A written report is not required, but
40 the presentation shall include information concerning:

41 1. Forestry management, including the current conditions of the
42 forests in this state on federal, state and private property as affected by
43 federal, state and local public policies, climatic conditions, wildfire
44 hazards, pest infestations, overgrowth and overgrowth control policies and

1 methods and the effects of current federal policy on forest management and
2 impacts on forest land management.

3 2. The wildland-urban interface, including the effects of county and
4 municipal zoning policies and wildfire hazards on public and private
5 property.

6 3. Wildfire emergency management issues, including:

7 (a) Intergovernmental and interagency primacy, cooperation,
8 coordination, roles and training of federal, state and local forestry,
9 firefighting and law enforcement agencies.

10 (b) Channels and methods of communicating emergency information to the
11 public.

12 (c) The roles of governmental and nongovernmental disaster relief
13 agencies and organizations.

14 (d) The level of federal, state and local emergency funding.

15 C. The state forester may:

16 1. Furnish technical advice to the people of the state on forestry
17 matters.

18 2. Do all other acts necessary to take advantage of and carry out the
19 provisions of the act of Congress described in subsection D.

20 D. This state accepts the provisions of the cooperative forestry
21 assistance act of 1978 (P.L. 95-313; 92 Stat. 365; 16 United States Code
22 chapter 41) providing for federal forestry assistance programs to states.

23 Sec. 6. Title 41, chapter 10, article 1, Arizona Revised Statutes, is
24 amended by adding section 41-1516, to read:

25 41-1516. Healthy forest enterprise incentives; definitions

26 A. THE DEPARTMENT OF COMMERCE SHALL IDENTIFY AND CERTIFY TO THE
27 DEPARTMENT OF REVENUE THE NAMES AND RELEVANT INFORMATION RELATING TO
28 QUALIFIED BUSINESSES FOR THE PURPOSES OF AVAILABLE TAX INCENTIVES FOR
29 ECONOMIC ENTERPRISES THAT PROMOTE FOREST HEALTH IN THIS STATE.

30 B. TO QUALIFY FOR TAX INCENTIVES PURSUANT TO THIS SECTION, A BUSINESS:

31 1. MUST BE PRIMARILY ENGAGED IN HARVESTING, TRANSPORTING OR THE
32 INITIAL PROCESSING OF FOREST PRODUCTS, INCLUDING BIOMASS, INTO A PRODUCT
33 HAVING COMMERCIAL VALUE AS FOLLOWS:

34 (a) AT LEAST ONE-HALF OF THE FOREST PRODUCT, BY VOLUME, MUST BE FROM
35 BIOMASS SOURCES, AND AT LEAST ONE-HALF OF THE BIOMASS MUST BE HARVESTED FROM
36 SOURCES IN THIS STATE.

37 (b) FOR THE PURPOSES OF SECTION 42-5061, SUBSECTION B, PARAGRAPH 22,
38 SECTION 42-5071, SUBSECTION B, PARAGRAPH 2, SUBDIVISION (b) AND SECTION
39 42-5159, SUBSECTION B, PARAGRAPH 22, THE QUALIFYING EQUIPMENT MUST BE FOR THE
40 PURPOSES OF HARVESTING, TRANSPORTING OR THE INITIAL PROCESSING OF BIOMASS.

41 (c) THE BUSINESS MUST EMPLOY AT LEAST TEN PERMANENT FULL-TIME
42 EMPLOYEES.

43 (d) THE BUSINESS OPERATION MUST ENHANCE OR SUSTAIN FOREST HEALTH,
44 SUSTAIN OR RECOVER WATERSHED OR IMPROVE PUBLIC SAFETY.

1 2. MUST AGREE WITH THE DEPARTMENT OF COMMERCE TO FURNISH INFORMATION
2 RELATING TO THE AMOUNT OF TAX BENEFITS THAT THE BUSINESS RECEIVES EACH
3 YEAR. THE DEPARTMENT OF COMMERCE SHALL IMMEDIATELY REVOKE THE BUSINESS'S
4 CERTIFICATION AND NOTIFY THE DEPARTMENT OF REVENUE IF:

5 (a) THE BUSINESS FAILS TO PROVIDE THE REQUIRED INFORMATION WITHIN
6 THIRTY DAYS AFTER A FORMAL REQUEST FROM THE DEPARTMENT.

7 (b) THE BUSINESS NO LONGER MEETS THE TERMS AND CONDITIONS REQUIRED FOR
8 QUALIFICATION FOR THE APPLICABLE TAX INCENTIVES.

9 3. MUST AGREE TO DISCLOSURE IN COMPOSITE FORM, WITHOUT SPECIFIC
10 IDENTIFICATION OF THE TAXPAYER, OF THE AMOUNT OF TAX BENEFITS RECEIVED EACH
11 YEAR.

12 4. MUST ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE DEPARTMENT
13 OF COMMERCE CONTAINING:

14 (a) EMPLOYMENT GOALS. EACH YEAR THE BUSINESS MUST REPORT IN WRITING
15 TO THE DEPARTMENT OF COMMERCE ITS PERFORMANCE IN ACHIEVING THE GOALS.

16 (b) A COMMITMENT TO CONTINUE IN BUSINESS AND USE THE QUALIFYING
17 EQUIPMENT FOR THE PURPOSES OF PROMOTING FOREST HEALTH IN THIS STATE AS
18 CONTEMPLATED IN PROVIDING THE TAX INCENTIVES PURSUANT TO THIS SECTION, OTHER
19 THAN FOR REASONS BEYOND THE CONTROL OF THE BUSINESS. THE DEPARTMENT OF
20 COMMERCE SHALL CONSULT WITH THE DEPARTMENT OF REVENUE IN DESIGNING THE
21 MEMORANDUM OF UNDERSTANDING TO INCORPORATE THE LEGAL QUALIFICATIONS FOR THE
22 TAX BENEFITS AND SHALL INCLUDE THE REQUIREMENT THAT ANY QUALIFYING EQUIPMENT
23 THAT IS PURCHASED OR LEASED FREE OF TRANSACTION PRIVILEGE OR USE TAX MUST
24 CONTINUE TO BE USED FOR THE TERM OF THE MEMORANDUM OF UNDERSTANDING OR THE
25 DURATION OF ITS OPERATIONAL LIFE, WHICHEVER IS SHORTER.

26 (c) THE AUTHORIZATION FOR THE DEPARTMENT OF COMMERCE TO TERMINATE,
27 ADJUST OR RECAPTURE ALL OR PART OF THE TAX BENEFITS PROVIDED TO THE BUSINESS
28 ON NONCOMPLIANCE WITH THE LAW OR THE TERMS OF THE MEMORANDUM. THE DEPARTMENT
29 OF COMMERCE SHALL NOTIFY THE DEPARTMENT OF REVENUE OF THE CONDITIONS OF
30 NONCOMPLIANCE. THE DEPARTMENT OF REVENUE MAY ALSO TERMINATE THE
31 CERTIFICATION IF IT OBTAINS INFORMATION INDICATING A FAILURE TO QUALIFY AND
32 COMPLY. THE DEPARTMENT OF REVENUE MAY REQUIRE THE BUSINESS TO FILE
33 APPROPRIATE AMENDED TAX RETURNS REFLECTING THE RECAPTURE OF THE TAX BENEFITS.

34 5. MUST SUBMIT A COPY OF THE CERTIFICATION TO THE DEPARTMENT OF
35 REVENUE FOR APPROVAL BEFORE USING THE CERTIFICATION FOR PURPOSES OF ANY TAX
36 INCENTIVE. THE DEPARTMENT OF REVENUE SHALL REVIEW AND APPROVE OR DENY THE
37 CERTIFICATION IN A TIMELY MANNER. A FAILURE TO APPROVE OR DENY THE
38 CERTIFICATION WITHIN SIXTY DAYS AFTER THE DATE THE BUSINESS SUBMITS IT TO THE
39 DEPARTMENT CONSTITUTES APPROVAL OF THE CERTIFICATION.

40 C. FOR THE PURPOSES OF SECTION 42-5075, SUBSECTION B, PARAGRAPH 19,
41 THE DEPARTMENT OF COMMERCE SHALL CERTIFY PRIME CONTRACTORS THAT CONTRACT FOR
42 THE CONSTRUCTION OF ANY BUILDING, OR OTHER STRUCTURE, PROJECT, DEVELOPMENT
43 OR IMPROVEMENT OWNED BY A QUALIFIED BUSINESS FOR HARVESTING, TRANSPORTING OR
44 THE INITIAL PROCESSING OF FOREST PRODUCTS, INCLUDING BIOMASS, AS PROVIDED BY
45 THIS SECTION.

1 D. TO OBTAIN AND MAINTAIN CERTIFICATION UNDER THIS SECTION, A BUSINESS
2 MUST:

3 1. APPLY TO THE DEPARTMENT OF COMMERCE.

4 2. SUBMIT AND RETAIN COPIES OF ALL REQUIRED INFORMATION, INCLUDING
5 INFORMATION RELATING TO THE ACTUAL OR PROJECTED NUMBER OF EMPLOYEES IN THIS
6 STATE.

7 3. ALLOW INSPECTIONS AND AUDITS TO VERIFY THE QUALIFICATION AND
8 ACCURACY OF INFORMATION SUBMITTED TO THE DEPARTMENT OF COMMERCE.

9 E. WITHIN SIXTY DAYS AFTER RECEIVING A COMPLETE AND CORRECT
10 APPLICATION AND ALL REQUIRED INFORMATION AS PRESCRIBED BY THIS SECTION, THE
11 DEPARTMENT OF COMMERCE SHALL GRANT OR DENY CERTIFICATION AND GIVE WRITTEN
12 NOTICE BY CERTIFIED MAIL TO THE APPLICANT. THE APPLICANT IS CERTIFIED AS A
13 QUALIFIED BUSINESS ON THE DATE THE NOTICE OF CERTIFICATION IS DELIVERED TO
14 THE APPLICANT. A FAILURE TO RESPOND WITHIN SIXTY DAYS AFTER RECEIVING A
15 COMPLETE AND CORRECT APPLICATION CONSTITUTES APPROVAL OF THE APPLICATION.

16 F. THE CERTIFICATION SHALL STATE AN EFFECTIVE DATE WITH RESPECT TO
17 EACH AUTHORIZED TAX INCENTIVE WHICH, IN EACH CASE, MUST BE AT THE START OF
18 A TAXABLE YEAR OR TAXABLE PERIOD.

19 G. FOR THE PURPOSES OF THIS SECTION:

20 1. "BIOMASS" MEANS DEAD STANDING AND FALLEN TIMBER, AND FOREST
21 THINNINGS ASSOCIATED WITH THE HARVEST OF SMALL DIAMETER TIMBER, SLASH, BRUSH
22 AND OTHER WOODY VEGETATION, REMOVED FROM FEDERAL, STATE AND OTHER PUBLIC
23 FOREST LAND AND FROM PRIVATE FOREST LAND.

24 2. "FOREST HEALTH" MEANS THE DEGREE TO WHICH THE INTEGRITY OF THE
25 FOREST IS SUSTAINED, INCLUDING REDUCING THE RISK OF CATASTROPHIC WILDFIRE AND
26 DESTRUCTIVE INSECT INFESTATION, BENEFITING WILDLAND HABITATS, WATERSHEDS AND
27 COMMUNITIES.

28 3. "INITIAL PROCESSING" MEANS THE FIRST CHANGE, AFTER HARVEST, IN THE
29 PHYSICAL STRUCTURE OF BIOMASS INTO A MARKETABLE PRODUCT OR COMPONENT OF A
30 PRODUCT THAT HAS COMMERCIAL VALUE TO A CONSUMER OR PURCHASER AND THAT IS
31 READY TO BE USED WITH OR WITHOUT FURTHER ALTERING ITS FORM. INITIAL
32 PROCESSING DOES NOT INCLUDE CONSUMPTIVE USE OR BURNING.

33 4. "QUALIFYING EQUIPMENT" INCLUDES:

34 (a) FOREST THINNING AND RESIDUE REMOVAL EQUIPMENT, INCLUDING MULCHING
35 AND MASTICATING EQUIPMENT, FELLER-BUNCHERS, SKIDDERS, LOG LOADERS, PORTABLE
36 CHIPPERS AND GRINDERS, SLASH BUNDLERS, LOG TRUCKS, CHIP TRUCKS AND DELIMBERS.

37 (b) FOREST RESIDUE RECEIVING AND HANDLING EQUIPMENT, INCLUDING TRUCK
38 DUMPERS, LOG UNLOADERS, SCALES, LOG DECKING FACILITIES AND EQUIPMENT AND CHIP
39 PILE FACILITIES.

40 (c) SORTING AND PROCESSING EQUIPMENT, INCLUDING PORTABLE AND
41 STATIONARY LOG LOADERS, FRONT END LOADERS, FORK LIFTS AND CRANES, CHIPPERS
42 AND GRINDERS, SCREENS, DECKS AND DEBARKERS, SAWS AND SAWMILL EQUIPMENT,
43 FIREWOOD PROCESSING, WOOD RESIDUE BALING AND BAGGING EQUIPMENT, KILNS,
44 PLANING AND MOLDING EQUIPMENT AND LAMINATING AND JOINING EQUIPMENT.

1 (d) FOREST WASTE AND RESIDUE DISPOSAL AND PROCESSING EQUIPMENT,
2 INCLUDING:

3 (i) PROCESSING AND SIZING EQUIPMENT, HOGS, CHIPPERS, SCREENS,
4 PELLETIZERS AND WOOD SPLITTERS.

5 (ii) TRANSPORTING AND HANDLING EQUIPMENT, INCLUDING LOADERS,
6 CONVEYORS, BLOWERS, RECEIVING HOPPERS, TRUCK DUMPERS AND DOZERS.

7 (iii) WASTE USE EQUIPMENT, INCLUDING FUEL FEED, STORAGE BINS, BOILERS
8 AND COMBUSTORS.

9 (iv) WASTE PROJECT USE EQUIPMENT, INCLUDING GENERATORS, SWITCHGEAR AND
10 SUBSTATIONS AND ON-SITE DISTRIBUTION SYSTEMS.

11 (v) GENERATED WASTE DISPOSAL EQUIPMENT, INCLUDING ASH SILOS, ASH
12 TRUCKS AND WASTEWATER TREATMENT AND DISPOSAL EQUIPMENT.

13 (vi) SHOP AND MAINTENANCE EQUIPMENT AND MAJOR SPARES HAVING A VALUE
14 OF MORE THAN FIVE THOUSAND DOLLARS EACH.

15 Sec. 7. Title 41, chapter 16, article 1, Arizona Revised Statutes, is
16 amended by adding section 41-2148, to read:

17 41-2148. State urban-wildland fire safety committee; definition

18 A. THE STATE URBAN-WILDLAND FIRE SAFETY COMMITTEE IS ESTABLISHED
19 CONSISTING OF TWELVE MEMBERS APPOINTED FOR THREE YEAR TERMS AS FOLLOWS:

20 1. FOUR MEMBERS WHO ARE APPOINTED BY THE GOVERNOR AS FOLLOWS:

21 (a) A FIRE CHIEF OR FIRE MARSHAL OF A PAID MUNICIPAL FIRE DEPARTMENT
22 OF A CITY WITH A POPULATION OF FIFTY THOUSAND PERSONS OR MORE.

23 (b) THE STATE FORESTER OR THE STATE FORESTER'S DESIGNEE.

24 (c) A MEMBER OF THE ARIZONA FIRE CHIEFS' ASSOCIATION.

25 (d) A CITY OR TOWN PLANNING AND ZONING OFFICIAL FROM A MUNICIPALITY
26 WITH A HIGH RISK URBAN-WILDLAND INTERFACE AREA WITH A POPULATION OF FIFTY
27 THOUSAND PERSONS OR MORE.

28 2. FOUR MEMBERS WHO ARE APPOINTED BY THE PRESIDENT OF THE SENATE AS
29 FOLLOWS:

30 (a) A RESIDENT OF, AND PROPERTY OWNER IN, A CITY, TOWN OR COUNTY WITH
31 A HIGH RISK URBAN-WILDLAND INTERFACE AREA.

32 (b) A PERSON WHO OWNS PROPERTY AND SERVES AS A FIREFIGHTER FOR A FIRE
33 DISTRICT IN AN AREA AT HIGH RISK FROM WILDLAND FIRE.

34 (c) A WATERSHED MANAGEMENT EXPERT.

35 (d) A MEMBER IN A LIAISON CAPACITY WITH THIS STATE'S CONGRESSIONAL
36 DELEGATION. THIS MEMBER MAY BE APPOINTED FROM NOMINEES SOLICITED BY THE
37 PRESIDENT OF THE SENATE FROM ONE OR MORE MEMBERS OF CONGRESS.

38 3. FOUR MEMBERS WHO ARE APPOINTED BY THE SPEAKER OF THE HOUSE OF
39 REPRESENTATIVES AS FOLLOWS:

40 (a) A WILDLAND FIRE SCIENCE EXPERT FROM REGION 3 OF THE UNITED STATES
41 FOREST SERVICE WHO RESIDES IN THIS STATE.

42 (b) A PERSON WHO HOLDS A PROFESSIONAL POSITION IN FOREST ECOLOGY AND
43 WHO IS KNOWLEDGEABLE ABOUT THE EFFECTS OF FOREST THINNING ON THE BIOLOGICAL
44 DIVERSITY OF FORESTS.

1 (c) A PROPERTY OWNER FROM A COUNTY WITH A POPULATION OF LESS THAN FIVE
2 HUNDRED THOUSAND PERSONS WHO HAS KNOWLEDGE AND EXPERTISE IN PROPERTY
3 DEVELOPMENT IN WILDLAND AREAS.

4 (d) A REGISTERED ARCHITECT WITH EXPERTISE IN DESIGNING RESIDENTIAL
5 DWELLINGS.

6 B. THE COMMITTEE SHALL ANNUALLY SELECT A CHAIRPERSON FROM ITS
7 MEMBERSHIP. THE COMMITTEE SHALL MEET AT THE CALL OF THE CHAIRPERSON OR ON
8 THE REQUEST OF AT LEAST FOUR MEMBERS OF THE COMMITTEE. MEMBERS OF THE
9 COMMITTEE ARE NOT ELIGIBLE TO RECEIVE COMPENSATION FOR THEIR SERVICE ON THE
10 COMMITTEE BUT ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES PURSUANT TO TITLE
11 38, CHAPTER 4, ARTICLE 2.

12 C. THE COMMITTEE SHALL DEVELOP RECOMMENDATIONS FOR MINIMUM STANDARDS
13 FOR:

14 1. SAFEGUARDING LIFE AND PROPERTY FROM WILDLAND FIRE AND FIRE HAZARDS.
15 2. PREVENTING WILDLAND FIRES AND ALLEVIATION OF FIRE HAZARDS.
16 3. STORAGE, SALE, DISTRIBUTION AND USE OF DANGEROUS CHEMICALS,
17 COMBUSTIBLES, FLAMMABLE LIQUIDS, EXPLOSIVES AND RADIOACTIVE MATERIALS IN
18 URBAN-WILDLAND INTERFACE AREAS.

19 4. FIRE EVACUATION ROUTES AND COMMUNITY ALERT SYSTEMS.
20 5. THE CREATION OF DEFENSIBLE SPACES IN AND AROUND URBAN-WILDLAND
21 INTERFACE AREAS AS AUTHORIZED BY EXISTING COUNTY AND MUNICIPAL LAWS AND
22 ORDINANCES.

23 6. THE APPLICATION OF ADAPTIVE MANAGEMENT PRACTICES TO USE IN
24 MONITORING DATA FROM TREATMENT PROGRAMS TO ASSESS THE EFFECTIVENESS OF THOSE
25 PROGRAMS IN MEETING FOREST HEALTH OBJECTIVES.

26 7. OTHER MATTERS RELATING TO URBAN-WILDLAND FIRE PREVENTION AND
27 CONTROL THAT THE COMMITTEE CONSIDERS TO BE NECESSARY.

28 D. THE COMMITTEE SHALL ISSUE AN ANNUAL REPORT WITH RECOMMENDATIONS TO
29 THE GOVERNOR AND THE LEGISLATURE BY DECEMBER 31 OF EACH YEAR. THE COMMITTEE
30 SHALL PROVIDE A COPY OF THE REPORT TO THE SECRETARY OF STATE AND THE DIRECTOR
31 OF THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS.

32 E. FOR THE PURPOSES OF THIS SECTION, "URBAN-WILDLAND INTERFACE" MEANS
33 A GEOGRAPHICAL AREA WHERE RESIDENTIAL OR COMMERCIAL STRUCTURES MEET OR
34 INTERMINGLE WITH FEDERAL, STATE, TRIBAL OR OTHER PUBLIC LAND THAT IS
35 UNDEVELOPED, OTHER THAN TRANSPORTATION OR UTILITY INFRASTRUCTURE.

36 Sec. 8. Section 42-5061, Arizona Revised Statutes, is amended to read:
37 42-5061. Retail classification; definitions

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

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

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

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

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

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

13 6. Business activity which is properly included in any other business
14 classification which is taxable under article 1 of this chapter.

15 7. The sale of stocks and bonds.

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

20 9. Prosthetic appliances as defined in section 23-501 prescribed or
21 recommended by a health professional licensed pursuant to title 32, chapter
22 7, 8, 11, 13, 14, 15, 16, 17 or 29.

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

24 11. Prescription eyeglasses or contact lenses.

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

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

33 14. Sales to nonresidents of this state for use outside this state if
34 the vendor ships or delivers the tangible personal property out of this
35 state.

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

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

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

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

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

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

12 21. The sale of precious metal bullion and monetized bullion to the
13 ultimate consumer, but the sale of coins or other forms of money for
14 manufacture into jewelry or works of art is subject to the tax. In this
15 paragraph:

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

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

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

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

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

35 25. Tangible personal property sold to:

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

37 (b) A qualifying health care organization as defined in section
38 42-5001 if the tangible personal property is used by the organization solely
39 to provide health and medical related educational and charitable services.

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

1 (d) A qualifying community health center as defined in section
2 42-5001.

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

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

14 26. Magazines or other periodicals or other publications by this state
15 to encourage tourist travel.

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

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

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

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

30 28. The sale of a motor vehicle to:

31 (a) A nonresident of this state if the purchaser's state of residence
32 does not allow a corresponding use tax exemption to the tax imposed by
33 article 1 of this chapter and if the nonresident has secured a special
34 thirty-day nonresident registration of the vehicle by applying according to
35 section 28-2154.

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

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

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

1 league baseball team or a national touring professional golfing association
2 and no part of the organization's net earnings inures to the benefit of any
3 private shareholder or individual.

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

9 32. Sales of tangible personal property by a nonprofit organization
10 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
11 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
12 sponsors or operates a rodeo featuring primarily farm and ranch animals and
13 no part of the organization's net earnings inures to the benefit of any
14 private shareholder or individual.

15 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
16 propagative material to persons who use those items to commercially produce
17 agricultural, horticultural, viticultural or floricultural crops in this
18 state.

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

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

27 36. Sales of natural gas or liquefied petroleum gas used to propel a
28 motor vehicle.

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

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

43 39. Sales of liquid, solid or gaseous chemicals used in manufacturing,
44 processing, fabricating, mining, refining, metallurgical operations, research
45 and development and, beginning on January 1, 1999, printing, if using or

1 consuming the chemicals, alone or as part of an integrated system of
2 chemicals, involves direct contact with the materials from which the product
3 is produced for the purpose of causing or permitting a chemical or physical
4 change to occur in the materials as part of the production process. This
5 paragraph does not include chemicals that are used or consumed in activities
6 such as packaging, storage or transportation but does not affect any
7 deduction for such chemicals that is otherwise provided by this section. For
8 purposes of this paragraph, "printing" means a commercial printing operation
9 and includes job printing, engraving, embossing, copying and bookbinding.

10 40. Through December 31, 1994, personal property liquidation
11 transactions, conducted by a personal property liquidator. From and after
12 December 31, 1994, personal property liquidation transactions shall be
13 taxable under this section provided that nothing in this subsection shall be
14 construed to authorize the taxation of casual activities or transactions
15 under this chapter. In this paragraph:

16 (a) "Personal property liquidation transaction" means a sale of
17 personal property made by a personal property liquidator acting solely on
18 behalf of the owner of the personal property sold at the dwelling of the
19 owner or upon the death of any owner, on behalf of the surviving spouse, if
20 any, any devisee or heir or the personal representative of the estate of the
21 deceased, if one has been appointed.

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

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

28 42. A motor vehicle and any repair and replacement parts and tangible
29 personal property becoming a part of such motor vehicle sold to a motor
30 carrier who is subject to a fee prescribed in title 28, chapter 16, article
31 4 and who is engaged in the business of leasing or renting such property.

32 43. Livestock and poultry feed, salts, vitamins and other additives for
33 livestock or poultry consumption that are sold to persons who are engaged in
34 producing livestock, poultry, or livestock or poultry products or who are
35 engaged in feeding livestock or poultry commercially. For purposes of this
36 paragraph, "poultry" includes ratites.

37 44. Sales of implants used as growth promotants and injectable
38 medicines, not already exempt under paragraph 8 of this subsection, for
39 livestock or poultry owned by or in possession of persons who are engaged in
40 producing livestock, poultry, or livestock or poultry products or who are
41 engaged in feeding livestock or poultry commercially. For purposes of this
42 paragraph, "poultry" includes ratites.

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

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

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

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

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

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

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

28 50. Sales of alternative fuel vehicles, ~~as defined in section 43-1086,~~
29 if the vehicle was manufactured as a diesel fuel vehicle and converted to
30 operate on alternative fuel and equipment that is installed in a conventional
31 diesel fuel motor vehicle to convert the vehicle to operate on an alternative
32 fuel, as defined in section 1-215.

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

36 52. Sales of tangible personal property to be incorporated or installed
37 as part of environmental response or remediation activities under section
38 42-5075, subsection B, paragraph 6.

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

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

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

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

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

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

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

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

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

33 7. Aircraft, navigational and communication instruments and other
34 accessories and related equipment sold to:

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

41 (b) Any foreign government for use by such government outside of this
42 state.

43 (c) Persons who are not residents of this state and who will not use
44 such property in this state other than in removing such property from this
45 state. This subdivision also applies to corporations that are not

1 incorporated in this state, regardless of maintaining a place of business in
2 this state, if the principal corporate office is located outside this state
3 and the property will not be used in this state other than in removing the
4 property from this state.

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

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

11 10. Machinery or equipment used directly to drill for oil or gas or
12 used directly in the process of extracting oil or gas from the earth for
13 commercial purposes.

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

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

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

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

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

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

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

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

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

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

22 (a) Any direct broadcast satellite television or data transmission
23 service that operates pursuant to 47 Code of Federal Regulations parts 25 and
24 100.

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

27 (i) Over two-thirds of the transmissions, measured in megabytes,
28 transmitted by the facility during the test period were transmitted to or on
29 behalf of one or more direct broadcast satellite television or data
30 transmission services that operate pursuant to 47 Code of Federal Regulations
31 parts 25 and 100.

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

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

41 17. Clean rooms that are used for manufacturing, processing,
42 fabrication or research and development, as defined in paragraph 14 of this
43 subsection, of semiconductor products. For purposes of this paragraph,
44 "clean room" means all property that comprises or creates an environment
45 where humidity, temperature, particulate matter and contamination are

1 precisely controlled within specified parameters, without regard to whether
2 the property is actually contained within that environment or whether any of
3 the property is affixed to or incorporated into real property. Clean room:

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

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

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

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

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

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

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

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

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

1 22. QUALIFYING EQUIPMENT THAT IS PURCHASED FROM AND AFTER JUNE 30, 2004
2 THROUGH JUNE 30, 2014 BY A QUALIFIED BUSINESS FOR HARVESTING, TRANSPORTING
3 OR THE INITIAL PROCESSING OF FOREST PRODUCTS, INCLUDING BIOMASS, AS PROVIDED
4 IN SECTION 41-1516. TO QUALIFY FOR THIS DEDUCTION, THE QUALIFIED BUSINESS
5 AT THE TIME OF PURCHASE MUST PRESENT ITS CERTIFICATION APPROVED BY THE
6 DEPARTMENT.

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

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

13 2. Janitorial equipment and hand tools.

14 3. Office equipment, furniture and supplies.

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

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

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

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

25 D. In addition to the deductions from the tax base prescribed by
26 subsection A of this section, there shall be deducted from the tax base the
27 gross proceeds of sales or gross income derived from sales of machinery,
28 equipment, materials and other tangible personal property used directly and
29 predominantly to construct a qualified environmental technology
30 manufacturing, producing or processing facility as described in section
31 41-1514.02. This subsection applies for ten full consecutive calendar or
32 fiscal years after the start of initial construction.

33 E. In computing the tax base, gross proceeds of sales or gross income
34 from retail sales of heavy trucks and trailers does not include any amount
35 attributable to federal excise taxes imposed by 26 United States Code section
36 4051.

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

41 G. If a person is engaged in an occupation or business to which
42 subsection A of this section applies, the person's books shall be kept so as
43 to show separately the gross proceeds of sales of tangible personal property
44 and the gross income from sales of services, and if not so kept the tax shall

1 be imposed on the total of the person's gross proceeds of sales of tangible
2 personal property and gross income from services.

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

9 I. A person who engages in manufacturing, baling, crating, boxing,
10 barreling, canning, bottling, sacking, preserving, processing or otherwise
11 preparing for sale or commercial use any livestock, agricultural or
12 horticultural product or any other product, article, substance or commodity
13 and who sells the product of such business at retail in this state is deemed,
14 as to such sales, to be engaged in business classified under the retail
15 classification. This subsection does not apply to businesses classified
16 under the:

- 17 1. Transporting classification.
- 18 2. Utilities classification.
- 19 3. Telecommunications classification.
- 20 4. Pipeline classification.
- 21 5. Private car line classification.
- 22 6. Publication classification.
- 23 7. Job printing classification.
- 24 8. Prime contracting classification.
- 25 9. Owner builder sales classification.
- 26 10. Restaurant classification.

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

- 29 1. Sales made directly to the United States government or its
30 departments or agencies by a manufacturer, modifier, assembler or repairer.
- 31 2. Sales made directly to a manufacturer, modifier, assembler or
32 repairer if such sales are of any ingredient or component part of products
33 sold directly to the United States government or its departments or agencies
34 by the manufacturer, modifier, assembler or repairer.
- 35 3. Overhead materials or other tangible personal property that is used
36 in performing a contract between the United States government and a
37 manufacturer, modifier, assembler or repairer, including property used in
38 performing a subcontract with a government contractor who is a manufacturer,
39 modifier, assembler or repairer, to which title passes to the government
40 under the terms of the contract or subcontract.
- 41 4. Sales of overhead materials or other tangible personal property to
42 a manufacturer, modifier, assembler or repairer if the gross proceeds of
43 sales or gross income derived from the property by the manufacturer,
44 modifier, assembler or repairer will be exempt under paragraph 3 of this
45 subsection.

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

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

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

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

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

15 N. There shall be deducted from the tax base the amount received from
16 sales of solar energy devices, but the deduction shall not exceed five
17 thousand dollars for each solar energy device. Before deducting any amount
18 under this subsection, the retailer shall register with the department as a
19 solar energy retailer. By registering, the retailer acknowledges that it
20 will make its books and records relating to sales of solar energy devices
21 available to the department for examination.

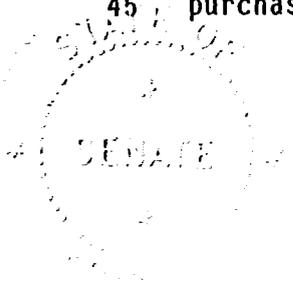
22 O. In computing the tax base in the case of the sale or transfer of
23 wireless telecommunications equipment as an inducement to a customer to enter
24 into or continue a contract for telecommunications services that are taxable
25 under section 42-5064, gross proceeds of sales or gross income does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

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

34 Q. Retail sales of prepaid calling cards or prepaid authorization
35 numbers for telecommunications services, including sales of reauthorization
36 of a prepaid card or authorization number, are subject to tax under this
37 section.

38 R. For the purposes of this section, the diversion of gas from a
39 pipeline by a person engaged in the business of operating a natural or
40 artificial gas pipeline, for the sole purpose of fueling compressor equipment
41 to pressurize the pipeline, is not a sale of the gas to the operator of the
42 pipeline.

43 S. If a seller is entitled to a deduction pursuant to subsection B,
44 paragraph 16, subdivision (b) of this section, the department may require the
45 purchaser to establish that the requirements of subsection B, paragraph 16,



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

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

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

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

22 U. For the purposes of this section:

23 1. "Aircraft" includes:

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

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

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

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

38 V. For purposes of subsection J of this section:

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

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

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

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

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

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

22 Sec. 9. Section 42-5071, Arizona Revised Statutes, is amended to read:

23 42-5071. Personal property rental classification

24 A. The personal property rental classification is comprised of the
25 business of leasing or renting tangible personal property for a
26 consideration. The tax does not apply to:

27 1. Leasing or renting films, tapes or slides used by theaters or
28 movies, which are engaged in business under the amusement classification, or
29 used by television stations or radio stations.

30 2. Activities engaged in by the Arizona exposition and state fair
31 board or county fair commissions in connection with events sponsored by such
32 entities.

33 3. Leasing or renting tangible personal property by a parent
34 corporation to a subsidiary corporation or by a subsidiary corporation to
35 another subsidiary of the same parent corporation if taxes were paid under
36 this chapter on the gross proceeds or gross income accruing from the initial
37 sale of the tangible personal property. For the purposes of this paragraph,
38 "subsidiary" means a corporation of which at least eighty per cent of the
39 voting shares are owned by the parent corporation.

40 4. Operating coin operated washing, drying and dry cleaning machines
41 or coin operated car washing machines at establishments for the use of such
42 machines.

43 5. Leasing or renting tangible personal property for incorporation
44 into or comprising any part of a qualified environmental technology facility
45 as described in section 41-1514.02. This paragraph shall apply for ten full

1 consecutive calendar or fiscal years following the initial lease or rental
2 by each qualified environmental technology manufacturer, producer or
3 processor.

4 6. Leasing or renting aircraft, flight simulators or similar training
5 equipment to students or staff by nonprofit, accredited educational
6 institutions that offer associate or baccalaureate degrees in aviation or
7 aerospace related fields.

8 7. Leasing or renting photographs, transparencies or other creative
9 works used by this state on internet web sites, in magazines or in other
10 publications that encourage tourism.

11 B. The tax base for the personal property rental classification is the
12 gross proceeds of sales or gross income derived from the business, but the
13 gross proceeds of sales or gross income derived from the following shall be
14 deducted from the tax base:

15 1. Reimbursements by the lessee to the lessor of a motor vehicle for
16 payments by the lessor of the applicable fees and taxes imposed by sections
17 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15,
18 article 2 and article IX, section 11, Constitution of Arizona, to the extent
19 such amounts are separately identified as such fees and taxes and are billed
20 to the lessee.

21 2. Leases or rentals of tangible personal property which, if it had
22 been purchased instead of leased or rented by the lessee, would have been
23 exempt under:

24 (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29 or
25 50.

26 (b) Section 42-5061, subsection B, except that a lease or rental of
27 new machinery or equipment is not exempt pursuant to:

28 (i) Section 42-5061, subsection B, paragraph 13 if the lease is for
29 less than two years.

30 (ii) SECTION 42-5061, SUBSECTION B, PARAGRAPH 22 IF THE LEASE IS FOR
31 LESS THAN FIVE YEARS.

32 (c) Section 42-5061, subsection J, paragraph 1.

33 (d) Section 42-5061, subsection N.

34 3. Motor vehicle fuel and use fuel that are subject to a tax imposed
35 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
36 valid single trip use fuel tax permit issued under section 28-5739 and sales
37 of aviation fuel that are subject to the tax imposed under section 28-8344.

38 4. Leasing or renting a motor vehicle subject to and upon which the
39 fee has been paid under title 28, chapter 16, article 4.

40 C. Sales of tangible personal property to be leased or rented to a
41 person engaged in a business classified under the personal property rental
42 classification are deemed to be resale sales.

43 D. In computing the tax base, the gross proceeds of sales or gross
44 income from the lease or rental of a motor vehicle does not include any

1 amount attributable to the car rental surcharge under section 28-5810 or
2 48-4234.

3 E. Until December 31, 1988, leasing or renting animals for
4 recreational purposes is exempt from the tax imposed by this section.
5 Beginning January 1, 1989, the gross proceeds or gross income from leasing
6 or renting animals for recreational purposes is subject to taxation under
7 this section. Tax liabilities, penalties and interest paid for taxable
8 periods before January 1, 1989 shall not be refunded unless the taxpayer
9 requesting the refund provides proof satisfactory to the department that the
10 monies paid as taxes will be returned to the customer.

11 Sec. 10. Section 42-5075, Arizona Revised Statutes, is amended to
12 read:

13 42-5075. Prime contracting classification; exemptions;
14 definitions

15 A. The prime contracting classification is comprised of the business
16 of prime contracting and dealership of manufactured buildings. The sale of
17 a used manufactured building is not taxable under this chapter.

18 B. The tax base for the prime contracting classification is sixty-five
19 per cent of the gross proceeds of sales or gross income derived from the
20 business. The following amounts shall be deducted from the gross proceeds
21 of sales or gross income before computing the tax base:

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

24 2. Sales and installation of groundwater measuring devices required
25 under section 45-604 and groundwater monitoring wells required by law,
26 including monitoring wells installed for acquiring information for a permit
27 required by law.

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

33 4. The gross proceeds of sales or gross income received from a
34 contract entered into for the construction, alteration, repair, addition,
35 subtraction, improvement, movement, wrecking or demolition of any building,
36 highway, road, railroad, excavation, manufactured building or other
37 structure, project, development or improvement located in a military reuse
38 zone for providing aviation or aerospace services or for a manufacturer,
39 assembler or fabricator of aviation or aerospace products within five years
40 after the zone is initially established or renewed under section 41-1531. To
41 qualify for this deduction, before beginning work under the contract the
42 prime contractor must obtain a letter of qualification from the department
43 of revenue.

44 5. The gross proceeds of sales or gross income derived from a contract
45 to construct a qualified environmental technology manufacturing, producing

1 or processing facility, as described in section 41-1514.02, and from
2 subsequent construction and installation contracts that begin within ten
3 years after the start of initial construction. To qualify for this
4 deduction, before beginning work under the contract the prime contractor must
5 obtain a letter of qualification from the department of revenue. This
6 paragraph shall apply for ten full consecutive calendar or fiscal years after
7 the start of initial construction.

8 6. The gross proceeds of sales or gross income from a contract to
9 provide for one or more of the following actions, or a contract for site
10 preparation, constructing, furnishing or installing machinery, equipment or
11 other tangible personal property, including structures necessary to protect
12 exempt incorporated materials or installed machinery or equipment, and
13 tangible personal property incorporated into the project, to perform one or
14 more of the following actions in response to a release or suspected release
15 of a hazardous substance, pollutant or contaminant from a facility to the
16 environment, unless the release was authorized by a permit issued by a
17 governmental authority:

18 (a) Actions to monitor, assess and evaluate such a release or a
19 suspected release.

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

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

25 (d) Pumping and treatment or in situ treatment of contaminated
26 groundwater or surface water to reduce the concentration or toxicity of a
27 contaminant.

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

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

37 7. The gross proceeds of sales or gross income that is derived from
38 a contract entered into for the installation, assembly, repair or maintenance
39 of machinery, equipment or other tangible personal property that is deducted
40 from the tax base of the retail classification pursuant to section 42-5061,
41 subsection B, or that is exempt from use tax pursuant to section 42-5159,
42 subsection B, and that does not become a permanent attachment to a building,
43 highway, road, railroad, excavation or manufactured building or other
44 structure, project, development or improvement. If the ownership of the
45 realty is separate from the ownership of the machinery, equipment or tangible

1 personal property, the determination as to permanent attachment shall be made
2 as if the ownership were the same. The deduction provided in this paragraph
3 does not include gross proceeds of sales or gross income from that portion
4 of any contracting activity which consists of the development of, or
5 modification to, real property in order to facilitate the installation,
6 assembly, repair, maintenance or removal of machinery, equipment or other
7 tangible personal property that is deducted from the tax base of the retail
8 classification pursuant to section 42-5061, subsection B or that is exempt
9 from use tax pursuant to section 42-5159, subsection B. For purposes of this
10 paragraph, "permanent attachment" means at least one of the following:

11 (a) To be incorporated into real property.

12 (b) To become so affixed to real property that it becomes a part of
13 the real property.

14 (c) To be so attached to real property that removal would cause
15 substantial damage to the real property from which it is removed.

16 8. The gross proceeds of sales or gross income received from a
17 contract for constructing any lake facility development in a commercial
18 enhancement reuse district that is designated pursuant to section 9-499.08
19 if the prime contractor maintains the following records in a form
20 satisfactory to the department and to the city or town in which the property
21 is located:

22 (a) The certificate of qualification of the lake facility development
23 issued by the city or town pursuant to section 9-499.08, subsection D.

24 (b) All state and local transaction privilege tax returns for the
25 period of time during which the prime contractor received gross proceeds of
26 sales or gross income from a contract to construct a lake facility
27 development in a designated commercial enhancement reuse district, showing
28 the amount exempted from state and local taxation.

29 (c) Any other information that the department considers to be
30 necessary.

31 9. The gross proceeds of sales or gross income attributable to the
32 purchase of machinery, equipment or other tangible personal property that is
33 exempt from or deductible from transaction privilege and use tax under:

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

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

36 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b),
37 (c), (d), (e), (f), (i) or (j).

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

39 10. The gross proceeds of sales or gross income received from a
40 contract for the construction of an environmentally controlled facility for
41 the raising of poultry for the production of eggs and the sorting, cooling
42 and packaging of eggs.

43 11. The gross proceeds of sales or gross income that is derived from
44 a contract entered into with a person who is engaged in the commercial
45 production of livestock, livestock products or agricultural, horticultural,

1 viticultural or floricultural crops or products in this state for the
2 construction, alteration, repair, improvement, movement, wrecking or
3 demolition or addition to or subtraction from any building, highway, road,
4 excavation, manufactured building or other structure, project, development
5 or improvement used directly and primarily to prevent, monitor, control or
6 reduce air, water or land pollution.

7 12. The gross proceeds of sales or gross income that is derived from
8 the installation, assembly, repair or maintenance of clean rooms that are
9 deducted from the tax base of the retail classification pursuant to section
10 42-5061, subsection B, paragraph 17.

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

17 14. For taxable periods beginning from and after December 31, 1996 and
18 ending before January 1, 2011, the gross proceeds of sales or gross income
19 derived from a contract to provide and install a solar energy device. The
20 deduction shall not exceed five thousand dollars for each contract. Before
21 deducting any amount under this paragraph, the contractor shall register with
22 the department as a solar energy contractor. By registering, the contractor
23 acknowledges that it will make its books and records relating to sales of
24 solar energy devices available to the department for examination.

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

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

32 17. The gross proceeds of sales or gross income derived from contracts
33 to perform postconstruction treatment of real property for termite and
34 general pest control, including wood destroying organisms.

35 18. The gross proceeds of sales or gross income received from contracts
36 entered into before July 1, 2006 for constructing a state university research
37 infrastructure project if the project has been reviewed by the joint
38 committee on capital review before the university enters into the
39 construction contract for the project. For the purposes of this paragraph,
40 "research infrastructure" has the same meaning prescribed in section 15-1670.

41 19. THE GROSS PROCEEDS OF SALES OR GROSS INCOME RECEIVED FROM A
42 CONTRACT FOR THE CONSTRUCTION OF ANY BUILDING, OR OTHER STRUCTURE, PROJECT,
43 DEVELOPMENT OR IMPROVEMENT OWNED BY A QUALIFIED BUSINESS FOR HARVESTING,
44 TRANSPORTING OR THE INITIAL PROCESSING OF FOREST PRODUCTS, INCLUDING BIOMASS,
45 AS PROVIDED IN SECTION 41-1516 IF ACTUAL CONSTRUCTION BEGINS BEFORE JANUARY

1 1, 2010. TO QUALIFY FOR THIS DEDUCTION, THE PRIME CONTRACTOR MUST OBTAIN A
2 LETTER OF QUALIFICATION FROM THE DEPARTMENT OF COMMERCE BEFORE BEGINNING WORK
3 UNDER THE CONTRACT.

4 C. Entitlement to the deduction pursuant to subsection B, paragraph
5 7 of this section is subject to the following provisions:

6 1. A prime contractor may establish entitlement to the deduction by
7 both:

8 (a) Marking the invoice for the transaction to indicate that the gross
9 proceeds of sales or gross income derived from the transaction was deducted
10 from the base.

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

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

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

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

1 D. Subcontractors or others who perform services in respect to any
2 improvement, building, highway, road, railroad, excavation, manufactured
3 building or other structure, project, development or improvement are not
4 subject to tax if they can demonstrate that the job was within the control
5 of a prime contractor or contractors or a dealership of manufactured
6 buildings and that the prime contractor or dealership is liable for the tax
7 on the gross income, gross proceeds of sales or gross receipts attributable
8 to the job and from which the subcontractors or others were paid.

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

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

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

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

42 I. The gross proceeds of sales or gross income derived from
43 landscaping activities are subject to tax under this section. Landscaping
44 includes installing lawns, grading or leveling ground, installing gravel or
45 boulders, planting trees and other plants, felling trees, removing or

1 mulching tree stumps, removing other imbedded plants, building or modifying
2 irrigation berms, repairing sprinkler or watering systems, installing
3 railroad ties and installing underground sprinkler or watering systems.

4 J. For THE purposes of this section:

5 1. "Contracting" means engaging in business as a contractor.

6 2. "Contractor" is synonymous with the term "builder" and means any
7 person, firm, partnership, corporation, association or other organization,
8 or a combination of any of them, that undertakes to or offers to undertake
9 to, or purports to have the capacity to undertake to, or submits a bid to,
10 or does personally or by or through others, construct, alter, repair, add to,
11 subtract from, improve, move, wreck or demolish any building, highway, road,
12 railroad, excavation, manufactured building or other structure, project,
13 development or improvement, or to do any part of such a project, including
14 the erection of scaffolding or other structure or works in connection with
15 such a project, and includes subcontractors and specialty contractors. For
16 all purposes of taxation or deduction, this definition shall govern without
17 regard to whether or not such contractor is acting in fulfillment of a
18 contract.

19 3. "Dealership of manufactured buildings" means a dealer who either:

20 (a) Is licensed pursuant to title 41, chapter 16 and who sells at
21 retail manufactured buildings.

22 (b) Supervises, performs or coordinates the excavation and completion
23 of site improvements, setup or moving of a manufactured building including
24 the contracting, if any, with any subcontractor or specialty contractor for
25 the completion of the contract.

26 4. "Manufactured building" means a manufactured home, mobile home or
27 factory-built building, as defined in section 41-2142.

28 5. "Prime contracting" means engaging in business as a prime
29 contractor.

30 6. "Prime contractor" means a contractor who supervises, performs or
31 coordinates the construction, alteration, repair, addition, subtraction,
32 improvement, movement, wreckage or demolition of any building, highway, road,
33 railroad, excavation, manufactured building or other structure, project,
34 development or improvement including the contracting, if any, with any
35 subcontractors or specialty contractors and who is responsible for the
36 completion of the contract.

37 7. "Sale of a used manufactured building" does not include a lease of
38 a used manufactured building.

39 Sec. 11. Section 42-5159, Arizona Revised Statutes, is amended to
40 read:

41 42-5159. Exemptions

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

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

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

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

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

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

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

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

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

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

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

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

5 12. Materials that are purchased by or for publicly funded libraries
6 including school district libraries, charter school libraries, community
7 college libraries, state university libraries or federal, state, county or
8 municipal libraries for use by the public as follows:

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

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

11 13. Tangible personal property purchased by:

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

15 (b) A hospital operated by this state or a political subdivision of
16 this state.

17 (c) A licensed nursing care institution or a licensed residential care
18 institution or a residential care facility operated in conjunction with a
19 licensed nursing care institution or a licensed kidney dialysis center, which
20 provides medical services, nursing services or health related services and
21 is not used or held for profit.

22 (d) A qualifying health care organization, as defined in section
23 42-5001, if the tangible personal property is used by the organization solely
24 to provide health and medical related educational and charitable services.

25 (e) A qualifying health care organization as defined in section
26 42-5001 if the organization is dedicated to providing educational,
27 therapeutic, rehabilitative and family medical education training for blind,
28 visually impaired and multihandicapped children from the time of birth to age
29 twenty-one.

30 (f) A nonprofit charitable organization that has qualified under
31 section 501(c)(3) of the United States internal revenue code and that engages
32 in and uses such property exclusively for training, job placement or
33 rehabilitation programs or testing for mentally or physically handicapped
34 persons.

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

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

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

44 (iii) Incorporated or fabricated by the person into any lake facility
45 development in a commercial enhancement reuse district under conditions

1 prescribed for the deduction allowed by section 42-5075, subsection B,
2 paragraph 8.

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

7 (i) A qualifying community health center as defined in section
8 42-5001.

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

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

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

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

30 15. Tangible personal property sold by:

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

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

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

44 16. Drugs and medical oxygen, including delivery hose, mask or tent,
45 regulator and tank, on the prescription of a member of the medical, dental

1 or veterinarian profession who is licensed by law to administer such
2 substances.

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

7 18. Prescription eyeglasses and contact lenses.

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

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

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

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

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

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

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

29 26. Food, drink or condiment and accessory tangible personal property
30 if they are to be prepared and served to persons for consumption on the
31 premises of a public school in a school district during school hours.

32 27. Lottery tickets or shares purchased pursuant to title 5, chapter
33 5, article 1.

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

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

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

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

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

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

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

11 (b) Public educational institutions.

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

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

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

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

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

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

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

1 39. Overhead materials or other tangible personal property that is used
2 in performing a contract between the United States government and a
3 manufacturer, modifier, assembler or repairer, including property used in
4 performing a subcontract with a government contractor who is a manufacturer,
5 modifier, assembler or repairer, to which title passes to the government
6 under the terms of the contract or subcontract. For purposes of this
7 paragraph:

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

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

25 40. Through December 31, 1994, tangible personal property sold pursuant
26 to a personal property liquidation transaction, as defined in section
27 42-5061. From and after December 31, 1994, tangible personal property sold
28 pursuant to a personal property liquidation transaction, as defined in
29 section 42-5061, if the gross proceeds of the sales were included in the
30 measure of the tax imposed by article 1 of this chapter or if the personal
31 property liquidation was a casual activity or transaction.

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

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

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

1 44. Alternative fuel vehicles, as defined in section 43-1086, if the
2 vehicle was manufactured as a diesel fuel vehicle and converted to operate
3 on alternative fuel and equipment that is installed in a conventional diesel
4 fuel motor vehicle to convert the vehicle to operate on an alternative fuel,
5 as defined in section 1-215.

6 45. Gas diverted from a pipeline, by a person engaged in the business
7 of operating a natural or artificial gas pipeline, and used or consumed for
8 the sole purpose of fueling compressor equipment that pressurizes the
9 pipeline.

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

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

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

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

23 1. Machinery, or equipment, used directly in manufacturing,
24 processing, fabricating, job printing, refining or metallurgical operations.
25 The terms "manufacturing", "processing", "fabricating", "job printing",
26 "refining" and "metallurgical" as used in this paragraph refer to and include
27 those operations commonly understood within their ordinary meaning.
28 "Metallurgical operations" includes leaching, milling, precipitating,
29 smelting and refining.

30 2. Machinery, or equipment, used directly in the process of extracting
31 ores or minerals from the earth for commercial purposes, including equipment
32 required to prepare the materials for extraction and handling, loading or
33 transporting such extracted material to the surface. "Mining" includes
34 underground, surface and open pit operations for extracting ores and
35 minerals.

36 3. Tangible personal property sold to persons engaged in business
37 classified under the telecommunications classification under section 42-5064
38 and consisting of central office switching equipment, switchboards, private
39 branch exchange equipment, microwave radio equipment and carrier equipment
40 including optical fiber, coaxial cable and other transmission media which are
41 components of carrier systems.

42 4. Machinery, equipment or transmission lines used directly in
43 producing or transmitting electrical power, but not including distribution.
44 Transformers and control equipment used at transmission substation sites
45 constitute equipment used in producing or transmitting electrical power.

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

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

8 7. Aircraft, navigational and communication instruments and other
9 accessories and related equipment sold to:

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

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

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

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

26 10. Machinery or equipment used directly to drill for oil or gas or
27 used directly in the process of extracting oil or gas from the earth for
28 commercial purposes.

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

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

37 13. New machinery and equipment consisting of tractors, tractor-drawn
38 implements, self-powered implements, machinery and equipment necessary for
39 extracting milk, and machinery and equipment necessary for cooling milk and
40 livestock, and drip irrigation lines not already exempt under paragraph 6 of
41 this subsection and that are used for commercial production of agricultural,
42 horticultural, viticultural and floricultural crops and products in this
43 state. In this paragraph:

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

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

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

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

25 (a) "Motion picture, multimedia or interactive video production"
26 includes products for theatrical and television release, educational
27 presentations, electronic retailing, documentaries, music videos, industrial
28 films, CD-ROM, video game production, commercial advertising and television
29 episode production and other genres that are introduced through developing
30 technology.

31 (b) "Soundstage complex" means a facility of multiple stages including
32 production offices, construction shops and related areas, prop and costume
33 shops, storage areas, parking for production vehicles and areas that are
34 leased to businesses that complement the production needs and orientation of
35 the overall facility.

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

39 (a) Any direct broadcast satellite television or data transmission
40 service that operates pursuant to 47 Code of Federal Regulations parts 25 and
41 100.

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

44 (i) Over two-thirds of the transmissions, measured in megabytes,
45 transmitted by the facility during the test period were transmitted to or on

1 behalf of one or more direct broadcast satellite television or data
2 transmission services that operate pursuant to 47 Code of Federal Regulations
3 parts 25 and 100.

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

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

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

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

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

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

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

43 20. Machinery and equipment that are used in the commercial production
44 of livestock, livestock products or agricultural, horticultural, viticultural
45 or floricultural crops or products in this state and that are used directly

1 and primarily to prevent, monitor, control or reduce air, water or land
2 pollution.

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

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

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

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

17 22. QUALIFYING EQUIPMENT THAT IS PURCHASED FROM AND AFTER JUNE 30, 2004
18 THROUGH JUNE 30, 2014 BY A QUALIFIED BUSINESS FOR HARVESTING, TRANSPORTING
19 OR THE INITIAL PROCESSING OF FOREST PRODUCTS, INCLUDING BIOMASS, AS PROVIDED
20 IN SECTION 41-1516. TO QUALIFY FOR THIS EXEMPTION, THE QUALIFIED BUSINESS
21 MUST OBTAIN AND PRESENT ITS CERTIFICATION FROM THE DEPARTMENT OF COMMERCE AT
22 THE TIME OF PURCHASE.

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

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

29 2. Janitorial equipment and hand tools.

30 3. Office equipment, furniture and supplies.

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

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

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

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

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

43 1. Revenues received from sales of ancillary services, electric
44 distribution services, electric generation services, electric transmission
45 services and other services related to providing electricity to a retail

1 electric customer who is located outside this state for use outside this
2 state if the electricity is delivered to a point of sale outside this state.

3 2. Revenues received from providing electricity, including ancillary
4 services, electric distribution services, electric generation services,
5 electric transmission services and other services related to providing
6 electricity with respect to which the transaction privilege tax imposed under
7 section 42-5063 has been paid.

8 E. The tax levied by this article does not apply to:

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

15 2. The purchase of electricity by a qualified environmental technology
16 manufacturer, producer or processor as defined in section 41-1514.02 that is
17 used directly in environmental technology manufacturing, producing or
18 processing. This paragraph shall apply for fifteen full consecutive calendar
19 or fiscal years from the date the first paper manufacturing machine is placed
20 in service. In the case of an environmental technology manufacturer,
21 producer or processor who does not manufacture paper, the time period shall
22 begin with the date the first manufacturing, processing or production
23 equipment is placed in service.

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

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

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

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

37 1. "Aircraft" includes:

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

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

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

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

8 Sec. 12. Section 43-222, Arizona Revised Statutes, is amended to read:
9 43-222. Income tax credit review schedule

10 Each year the joint legislative income tax credit review committee
11 shall review the following income tax credits:

12 1. In 2003, sections 43-1074.01, 43-1081, 43-1085, 43-1168, 43-1170,
13 43-1173 and 43-1178.

14 2. In 2004, sections 43-1081.01, 43-1083, 43-1084 and 43-1170.01.

15 3. In 2005, sections 43-1087, 43-1088 and 43-1175.

16 4. In 2006, sections 43-1073, 43-1089, 43-1089.01, 43-1089.02,
17 43-1090, 43-1176 and 43-1181.

18 5. In 2007, sections 43-1077, 43-1078, 43-1079, 43-1080, 43-1165,
19 43-1166, 43-1167 and 43-1169.

20 6. IN 2009, SECTIONS 43-1076 AND 43-1162.

21 Sec. 13. Title 43, chapter 10, article 5, Arizona Revised Statutes,
22 is amended by adding section 43-1076, to read:

23 43-1076. Credit for employment by a healthy forest enterprise

24 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2004
25 THROUGH DECEMBER 31, 2014, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY
26 THIS TITLE FOR NET INCREASES IN QUALIFIED EMPLOYMENT POSITIONS BY A QUALIFIED
27 BUSINESS THAT IS CERTIFIED BY THE DEPARTMENT OF COMMERCE AS A HEALTHY FOREST
28 ENTERPRISE PURSUANT TO SECTION 41-1516.

29 B. SUBJECT TO SUBSECTION E OF THIS SECTION, THE AMOUNT OF THE CREDIT
30 IS EQUAL TO:

31 1. ONE-FOURTH OF THE TAXABLE WAGES PAID TO AN EMPLOYEE IN A QUALIFIED
32 EMPLOYMENT POSITION, NOT TO EXCEED FIVE HUNDRED DOLLARS PER QUALIFIED
33 EMPLOYMENT POSITION, IN THE FIRST YEAR OR PARTIAL YEAR OF EMPLOYMENT.

34 2. ONE-THIRD OF THE TAXABLE WAGES PAID TO AN EMPLOYEE IN A QUALIFIED
35 EMPLOYMENT POSITION, NOT TO EXCEED ONE THOUSAND DOLLARS PER QUALIFIED
36 EMPLOYMENT POSITION, IN THE SECOND YEAR OF CONTINUOUS EMPLOYMENT.

37 3. ONE-HALF OF THE TAXABLE WAGES PAID TO AN EMPLOYEE IN A QUALIFIED
38 EMPLOYMENT POSITION, NOT TO EXCEED ONE THOUSAND FIVE HUNDRED DOLLARS PER
39 QUALIFIED EMPLOYMENT POSITION, IN THE THIRD YEAR OF CONTINUOUS EMPLOYMENT.

40 C. TO QUALIFY FOR A CREDIT UNDER THIS SECTION:

41 1. THE BUSINESS MUST EMPLOY AT LEAST TEN NEW EMPLOYEES IN QUALIFIED
42 EMPLOYMENT POSITIONS IN THE FIRST TAXABLE YEAR IN WHICH THE CREDIT IS
43 CLAIMED.

44 2. ALL OF THE EMPLOYEES WITH RESPECT TO WHOM A CREDIT IS CLAIMED MUST
45 RESIDE IN THIS STATE ON THE DATE OF HIRE.

1 3. A QUALIFIED EMPLOYMENT POSITION MUST MEET ALL OF THE FOLLOWING
2 REQUIREMENTS:

3 (a) THE POSITION MUST BE A MINIMUM OF ONE THOUSAND SEVEN HUNDRED FIFTY
4 HOURS PER YEAR OF FULL-TIME AND PERMANENT EMPLOYMENT.

5 (b) THE JOB DUTIES MUST PRIMARILY INVOLVE OR DIRECTLY SUPPORT THE
6 HARVESTING, TRANSPORTING OR THE INITIAL PROCESSING OF FOREST PRODUCTS,
7 INCLUDING BIOMASS AS DEFINED IN SECTION 41-1516, INTO A PRODUCT HAVING
8 COMMERCIAL VALUE.

9 (c) THE EMPLOYMENT MUST INCLUDE HEALTH INSURANCE COVERAGE FOR THE
10 EMPLOYEE FOR WHICH THE EMPLOYER PAYS AT LEAST FIFTY PER CENT OF THE PREMIUM
11 OR MEMBERSHIP COST. IF THE TAXPAYER IS SELF-INSURED, THE TAXPAYER MUST PAY
12 AT LEAST FIFTY PER CENT OF A PREDETERMINED FIXED COST PER EMPLOYEE FOR AN
13 INSURANCE PROGRAM THAT IS PAYABLE WHETHER OR NOT THE EMPLOYEE HAS FILED
14 CLAIMS.

15 (d) THE EMPLOYER MUST PAY COMPENSATION AT LEAST EQUAL TO THE WAGE
16 OFFER BY COUNTY AS COMPUTED ANNUALLY BY THE DEPARTMENT OF ECONOMIC SECURITY
17 RESEARCH ADMINISTRATION DIVISION.

18 (e) THE EMPLOYEE MUST HAVE BEEN EMPLOYED FOR AT LEAST NINETY DAYS
19 DURING THE FIRST TAXABLE YEAR. AN EMPLOYEE WHO IS HIRED DURING THE LAST
20 NINETY DAYS OF THE TAXABLE YEAR SHALL BE CONSIDERED A NEW EMPLOYEE DURING THE
21 NEXT TAXABLE YEAR. A QUALIFIED EMPLOYMENT POSITION THAT IS FILLED DURING THE
22 LAST NINETY DAYS OF THE TAXABLE YEAR IS CONSIDERED TO BE A NEW QUALIFIED
23 EMPLOYMENT POSITION FOR THE NEXT TAXABLE YEAR.

24 (f) THE EMPLOYEE HAS NOT BEEN PREVIOUSLY EMPLOYED BY THE TAXPAYER
25 WITHIN TWELVE MONTHS BEFORE THE CURRENT DATE OF HIRE.

26 D. A CREDIT IS ALLOWED FOR EMPLOYMENT IN THE SECOND AND THIRD YEAR
27 ONLY FOR QUALIFIED EMPLOYMENT POSITIONS FOR WHICH A CREDIT WAS ALLOWED AND
28 CLAIMED BY THE TAXPAYER ON THE ORIGINAL FIRST AND SECOND YEAR TAX RETURNS.

29 E. THE NET INCREASE IN THE NUMBER OF QUALIFIED EMPLOYMENT POSITIONS
30 IS THE LESSER OF THE TOTAL NUMBER OF FILLED QUALIFIED EMPLOYMENT POSITIONS
31 CREATED DURING THE TAXABLE YEAR OR THE DIFFERENCE BETWEEN THE AVERAGE NUMBER
32 OF FULL-TIME EMPLOYEES IN THE CURRENT TAXABLE YEAR AND THE AVERAGE NUMBER OF
33 FULL-TIME EMPLOYEES DURING THE IMMEDIATELY PRECEDING TAXABLE YEAR. THE NET
34 INCREASE IN THE NUMBER OF QUALIFIED EMPLOYMENT POSITIONS COMPUTED UNDER THIS
35 SUBSECTION MAY NOT EXCEED TWO HUNDRED QUALIFIED EMPLOYMENT POSITIONS PER
36 TAXPAYER EACH YEAR.

37 F. A TAXPAYER WHO CLAIMS A CREDIT UNDER SECTION 43-1074, 43-1077 OR
38 43-1079 MAY NOT CLAIM A CREDIT UNDER THIS SECTION WITH RESPECT TO THE SAME
39 EMPLOYEES.

40 G. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE INCOME TAXES OTHERWISE DUE
41 ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO STATE INCOME TAXES DUE ON THE
42 CLAIMANT'S INCOME, THE AMOUNT OF THE CLAIM NOT USED AS AN OFFSET AGAINST
43 INCOME TAXES MAY BE CARRIED FORWARD AS A TAX CREDIT AGAINST SUBSEQUENT YEARS'
44 INCOME TAX LIABILITY FOR THE PERIOD NOT TO EXCEED FIVE TAXABLE YEARS,
45 PROVIDED THE BUSINESS MAINTAINS ITS CERTIFICATION UNDER SECTION 41-1516.

1 H. CO-OWNERS OF A BUSINESS, INCLUDING PARTNERS IN A PARTNERSHIP AND
2 SHAREHOLDERS OF AN S CORPORATION AS DEFINED IN SECTION 1361 OF THE INTERNAL
3 REVENUE CODE, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED
4 UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS
5 ALLOWED ALL SUCH OWNERS OF THE BUSINESS MAY NOT EXCEED THE AMOUNT THAT WOULD
6 HAVE BEEN ALLOWED FOR A SOLE OWNER OF THE BUSINESS.

7 I. IF A QUALIFIED BUSINESS CHANGES OWNERSHIP THROUGH REORGANIZATION,
8 STOCK PURCHASE OR MERGER, THE NEW TAXPAYER MAY CLAIM FIRST YEAR CREDITS ONLY
9 FOR ONE OR MORE QUALIFIED EMPLOYMENT POSITIONS THAT IT CREATED AND FILLED
10 WITH AN ELIGIBLE EMPLOYEE AFTER THE PURCHASE OR REORGANIZATION WAS COMPLETE.
11 IF A PERSON PURCHASES A BUSINESS THAT HAD QUALIFIED FOR FIRST OR SECOND YEAR
12 CREDITS OR CHANGES OWNERSHIP THROUGH REORGANIZATION, STOCK PURCHASE OR
13 MERGER, THE NEW TAXPAYER MAY CLAIM THE SECOND OR THIRD YEAR CREDITS IF IT
14 MEETS THE OTHER ELIGIBILITY REQUIREMENTS OF THIS SECTION. CREDITS FOR WHICH
15 A TAXPAYER QUALIFIED BEFORE THE CHANGES DESCRIBED IN THIS SUBSECTION ARE
16 TERMINATED AND LOST AT THE TIME THE CHANGES ARE IMPLEMENTED.

17 J. IF, WITHIN FIVE TAXABLE YEARS AFTER FIRST RECEIVING A CREDIT
18 PURSUANT TO THIS SECTION, THE CERTIFICATION OF QUALIFICATION OF A BUSINESS
19 IS TERMINATED OR REVOKED UNDER SECTION 41-1516 OTHER THAN FOR REASONS BEYOND
20 THE CONTROL OF THE BUSINESS AS DETERMINED BY THE DEPARTMENT OF COMMERCE, THE
21 CREDITS ALLOWED THE BUSINESS PURSUANT TO THIS SECTION ARE SUBJECT TO
22 RECAPTURE BY ADDING AN IMPUTED TAX LIABILITY IN THE NEXT TAXABLE YEAR AS
23 PROVIDED BY THIS SUBSECTION. THE IMPUTED TAX LIABILITY IS IMPOSED AND IS DUE
24 REGARDLESS OF WHETHER ANY OTHER TAX AMOUNT IS DUE UNDER THIS TITLE. THE
25 AMOUNT OF THE IMPUTED TAX IS DETERMINED BY MULTIPLYING THE FULL AMOUNT OF ALL
26 CREDITS PREVIOUSLY ALLOWED UNDER THIS SECTION BY A PERCENTAGE DETERMINED AS
27 FOLLOWS:

28 1. IF THE INITIAL CREDIT UNDER THIS SECTION WAS ALLOWED FOR THE
29 TAXABLE YEAR IMMEDIATELY PRECEDING THE TAXABLE YEAR IN WHICH THE
30 CERTIFICATION OF QUALIFICATION OF A BUSINESS IS TERMINATED OR REVOKED, ONE
31 HUNDRED PER CENT.

32 2. IF THE INITIAL CREDIT UNDER THIS SECTION WAS ALLOWED TWO TAXABLE
33 YEARS BEFORE THE TAXABLE YEAR IN WHICH THE CERTIFICATION OF QUALIFICATION OF
34 A BUSINESS IS TERMINATED OR REVOKED, EIGHTY PER CENT.

35 3. IF THE INITIAL CREDIT UNDER THIS SECTION WAS ALLOWED THREE TAXABLE
36 YEARS BEFORE THE TAXABLE YEAR IN WHICH THE CERTIFICATION OF QUALIFICATION OF
37 A BUSINESS IS TERMINATED OR REVOKED, SIXTY PER CENT.

38 4. IF THE INITIAL CREDIT UNDER THIS SECTION WAS ALLOWED FOUR TAXABLE
39 YEARS BEFORE THE TAXABLE YEAR IN WHICH THE CERTIFICATION OF QUALIFICATION OF
40 A BUSINESS IS TERMINATED OR REVOKED, FORTY PER CENT.

41 5. IF THE INITIAL CREDIT UNDER THIS SECTION WAS ALLOWED FIVE TAXABLE
42 YEARS BEFORE THE TAXABLE YEAR IN WHICH THE CERTIFICATION OF QUALIFICATION OF
43 A BUSINESS IS TERMINATED OR REVOKED, TWENTY PER CENT.

1 Sec. 14. Title 43, chapter 11, article 6, Arizona Revised Statutes,
2 is amended by adding section 43-1162, to read:

3 43-1162. Credit for employment by a healthy forest enterprise

4 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2004
5 THROUGH DECEMBER 31, 2014, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY
6 THIS TITLE FOR NET INCREASES IN QUALIFIED EMPLOYMENT POSITIONS BY A QUALIFIED
7 BUSINESS THAT IS CERTIFIED BY THE DEPARTMENT OF COMMERCE AS A HEALTHY FOREST
8 ENTERPRISE PURSUANT TO SECTION 41-1516.

9 B. SUBJECT TO SUBSECTION E OF THIS SECTION, THE AMOUNT OF THE CREDIT
10 IS EQUAL TO:

11 1. ONE-FOURTH OF THE TAXABLE WAGES PAID TO AN EMPLOYEE IN A QUALIFIED
12 EMPLOYMENT POSITION, NOT TO EXCEED FIVE HUNDRED DOLLARS PER QUALIFIED
13 EMPLOYMENT POSITION, IN THE FIRST YEAR OR PARTIAL YEAR OF EMPLOYMENT.

14 2. ONE-THIRD OF THE TAXABLE WAGES PAID TO AN EMPLOYEE IN A QUALIFIED
15 EMPLOYMENT POSITION, NOT TO EXCEED ONE THOUSAND DOLLARS PER QUALIFIED
16 EMPLOYMENT POSITION, IN THE SECOND YEAR OF CONTINUOUS EMPLOYMENT.

17 3. ONE-HALF OF THE TAXABLE WAGES PAID TO AN EMPLOYEE IN A QUALIFIED
18 EMPLOYMENT POSITION, NOT TO EXCEED ONE THOUSAND FIVE HUNDRED DOLLARS PER
19 QUALIFIED EMPLOYMENT POSITION, IN THE THIRD YEAR OF CONTINUOUS EMPLOYMENT.

20 C. TO QUALIFY FOR A CREDIT UNDER THIS SECTION:

21 1. THE BUSINESS MUST EMPLOY AT LEAST TEN NEW EMPLOYEES IN QUALIFIED
22 EMPLOYMENT POSITIONS IN THE FIRST TAXABLE YEAR IN WHICH THE CREDIT IS
23 CLAIMED.

24 2. ALL OF THE EMPLOYEES WITH RESPECT TO WHOM A CREDIT IS CLAIMED MUST
25 RESIDE IN THIS STATE ON THE DATE OF HIRE.

26 3. A QUALIFIED EMPLOYMENT POSITION MUST MEET ALL OF THE FOLLOWING
27 REQUIREMENTS:

28 (a) THE POSITION MUST BE A MINIMUM OF ONE THOUSAND SEVEN HUNDRED FIFTY
29 HOURS PER YEAR OF FULL-TIME AND PERMANENT EMPLOYMENT.

30 (b) THE JOB DUTIES MUST PRIMARILY INVOLVE OR DIRECTLY SUPPORT THE
31 HARVESTING, TRANSPORTING OR THE INITIAL PROCESSING OF FOREST PRODUCTS,
32 INCLUDING BIOMASS AS DEFINED IN SECTION 41-1516, INTO A PRODUCT HAVING
33 COMMERCIAL VALUE.

34 (c) THE EMPLOYMENT MUST INCLUDE HEALTH INSURANCE COVERAGE FOR THE
35 EMPLOYEE FOR WHICH THE EMPLOYER PAYS AT LEAST FIFTY PER CENT OF THE PREMIUM
36 OR MEMBERSHIP COST. IF THE TAXPAYER IS SELF-INSURED, THE TAXPAYER MUST PAY
37 AT LEAST FIFTY PER CENT OF A PREDETERMINED FIXED COST PER EMPLOYEE FOR AN
38 INSURANCE PROGRAM THAT IS PAYABLE WHETHER OR NOT THE EMPLOYEE HAS FILED
39 CLAIMS.

40 (d) THE EMPLOYER MUST PAY COMPENSATION AT LEAST EQUAL TO THE WAGE
41 OFFER BY COUNTY AS COMPUTED ANNUALLY BY THE DEPARTMENT OF ECONOMIC SECURITY
42 RESEARCH ADMINISTRATION DIVISION.

43 (e) THE EMPLOYEE MUST HAVE BEEN EMPLOYED FOR AT LEAST NINETY DAYS
44 DURING THE FIRST TAXABLE YEAR. AN EMPLOYEE WHO IS HIRED DURING THE LAST
45 NINETY DAYS OF THE TAXABLE YEAR SHALL BE CONSIDERED A NEW EMPLOYEE DURING THE

1 NEXT TAXABLE YEAR. A QUALIFIED EMPLOYMENT POSITION THAT IS FILLED DURING THE
2 LAST NINETY DAYS OF THE TAXABLE YEAR IS CONSIDERED TO BE A NEW QUALIFIED
3 EMPLOYMENT POSITION FOR THE NEXT TAXABLE YEAR.

4 (f) THE EMPLOYEE HAS NOT BEEN PREVIOUSLY EMPLOYED BY THE TAXPAYER
5 WITHIN TWELVE MONTHS BEFORE THE CURRENT DATE OF HIRE.

6 D. A CREDIT IS ALLOWED FOR EMPLOYMENT IN THE SECOND AND THIRD YEAR
7 ONLY FOR QUALIFIED EMPLOYMENT POSITIONS FOR WHICH A CREDIT WAS ALLOWED AND
8 CLAIMED BY THE TAXPAYER ON THE ORIGINAL FIRST AND SECOND YEAR TAX RETURNS.

9 E. THE NET INCREASE IN THE NUMBER OF QUALIFIED EMPLOYMENT POSITIONS
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13 FULL-TIME EMPLOYEES DURING THE IMMEDIATELY PRECEDING TAXABLE YEAR. THE NET
14 INCREASE IN THE NUMBER OF QUALIFIED EMPLOYMENT POSITIONS COMPUTED UNDER THIS
15 SUBSECTION MAY NOT EXCEED TWO HUNDRED QUALIFIED EMPLOYMENT POSITIONS PER
16 TAXPAYER EACH YEAR.

17 F. A TAXPAYER WHO CLAIMS A CREDIT UNDER SECTION 43-1161, 43-1165 OR
18 43-1167 MAY NOT CLAIM A CREDIT UNDER THIS SECTION WITH RESPECT TO THE SAME
19 EMPLOYEES.

20 G. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE INCOME TAXES OTHERWISE DUE
21 ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO STATE INCOME TAXES DUE ON THE
22 CLAIMANT'S INCOME, THE AMOUNT OF THE CLAIM NOT USED AS AN OFFSET AGAINST
23 INCOME TAXES MAY BE CARRIED FORWARD AS A TAX CREDIT AGAINST SUBSEQUENT YEARS'
24 INCOME TAX LIABILITY FOR THE PERIOD NOT TO EXCEED FIVE TAXABLE YEARS,
25 PROVIDED THE BUSINESS MAINTAINS ITS CERTIFICATION UNDER SECTION 41-1516.

26 H. CO-OWNERS OF A BUSINESS, INCLUDING PARTNERS IN A PARTNERSHIP, MAY
27 EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED UNDER THIS SECTION
28 BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH
29 OWNERS OF THE BUSINESS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN ALLOWED
30 FOR A SOLE OWNER OF THE BUSINESS.

31 I. IF A QUALIFIED BUSINESS CHANGES OWNERSHIP THROUGH REORGANIZATION,
32 STOCK PURCHASE OR MERGER, THE NEW TAXPAYER MAY CLAIM FIRST YEAR CREDITS ONLY
33 FOR ONE OR MORE QUALIFIED EMPLOYMENT POSITIONS THAT IT CREATED AND FILLED
34 WITH AN ELIGIBLE EMPLOYEE AFTER THE PURCHASE OR REORGANIZATION WAS COMPLETE.
35 IF A PERSON PURCHASES A BUSINESS THAT HAD QUALIFIED FOR FIRST OR SECOND YEAR
36 CREDITS OR CHANGES OWNERSHIP THROUGH REORGANIZATION, STOCK PURCHASE OR
37 MERGER, THE NEW TAXPAYER MAY CLAIM THE SECOND OR THIRD YEAR CREDITS IF IT
38 MEETS THE OTHER ELIGIBILITY REQUIREMENTS OF THIS SECTION. CREDITS FOR WHICH
39 A TAXPAYER QUALIFIED BEFORE THE CHANGES DESCRIBED IN THIS SUBSECTION ARE
40 TERMINATED AND LOST AT THE TIME THE CHANGES ARE IMPLEMENTED.

41 J. IF, WITHIN FIVE TAXABLE YEARS AFTER FIRST RECEIVING A CREDIT
42 PURSUANT TO THIS SECTION, THE CERTIFICATION OF QUALIFICATION OF A BUSINESS
43 IS TERMINATED OR REVOKED UNDER SECTION 41-1516 OTHER THAN FOR REASONS BEYOND
44 THE CONTROL OF THE BUSINESS AS DETERMINED BY THE DEPARTMENT OF COMMERCE, THE
45 CREDITS ALLOWED THE BUSINESS PURSUANT TO THIS SECTION ARE SUBJECT TO

1 RECAPTURE BY ADDING AN IMPUTED TAX LIABILITY IN THE NEXT TAXABLE YEAR AS
2 PROVIDED BY THIS SUBSECTION. THE IMPUTED TAX LIABILITY IS IMPOSED AND IS DUE
3 REGARDLESS OF WHETHER ANY OTHER TAX AMOUNT IS DUE UNDER THIS TITLE. THE
4 AMOUNT OF THE IMPUTED TAX IS DETERMINED BY MULTIPLYING THE FULL AMOUNT OF ALL
5 CREDITS PREVIOUSLY ALLOWED UNDER THIS SECTION BY A PERCENTAGE DETERMINED AS
6 FOLLOWS:

7 1. IF THE INITIAL CREDIT UNDER THIS SECTION WAS ALLOWED FOR THE
8 TAXABLE YEAR IMMEDIATELY PRECEDING THE TAXABLE YEAR IN WHICH THE
9 CERTIFICATION OF QUALIFICATION OF A BUSINESS IS TERMINATED OR REVOKED, ONE
10 HUNDRED PER CENT.

11 2. IF THE INITIAL CREDIT UNDER THIS SECTION WAS ALLOWED TWO TAXABLE
12 YEARS BEFORE THE TAXABLE YEAR IN WHICH THE CERTIFICATION OF QUALIFICATION OF
13 A BUSINESS IS TERMINATED OR REVOKED, EIGHTY PER CENT.

14 3. IF THE INITIAL CREDIT UNDER THIS SECTION WAS ALLOWED THREE TAXABLE
15 YEARS BEFORE THE TAXABLE YEAR IN WHICH THE CERTIFICATION OF QUALIFICATION OF
16 A BUSINESS IS TERMINATED OR REVOKED, SIXTY PER CENT.

17 4. IF THE INITIAL CREDIT UNDER THIS SECTION WAS ALLOWED FOUR TAXABLE
18 YEARS BEFORE THE TAXABLE YEAR IN WHICH THE CERTIFICATION OF QUALIFICATION OF
19 A BUSINESS IS TERMINATED OR REVOKED, FORTY PER CENT.

20 5. IF THE INITIAL CREDIT UNDER THIS SECTION WAS ALLOWED FIVE TAXABLE
21 YEARS BEFORE THE TAXABLE YEAR IN WHICH THE CERTIFICATION OF QUALIFICATION OF
22 A BUSINESS IS TERMINATED OR REVOKED, TWENTY PER CENT.

23 Sec. 15. State contracts for biomass electricity; legislative
24 presentations; definition

25 A. The department of administration shall develop a program to enter
26 into contracts for purchasing electrical energy generated from biomass
27 resources. The goal of the program is to support the development of a
28 sustainable market for electrical energy generated from biomass
29 resources. If the department contracts for such electrical energy:

30 1. The term of the initial contracts shall not exceed ten years.

31 2. The contracts shall include contingency provisions in the case
32 where biomass electrical generation fails to meet predicted generation
33 levels.

34 B. Regardless of whether the department of administration actually
35 contracts for biomass electrical energy pursuant to subsection A, during the
36 first and second regular sessions of the forty-seventh legislature the
37 department of administration shall present reports to the senate committee
38 on natural resources and transportation, or its successor, and the house of
39 representatives committee on natural resources, agriculture, water and Native
40 American affairs, or its successor. The department may request the
41 participation of representatives of biomass electrical generators and other
42 knowledgeable parties in making the presentation to the committees. A
43 written report is not required, but the presentations shall include analyses
44 of:

1 1. The current status of the program described in subsection A and the
2 progress of any contracting activity conducted under subsection A.

3 2. Sources, potential sources and quantities of biomass electrical
4 energy generated in this state and in other states.

5 3. The availability of biomass electrical energy on the public market,
6 including fuel sources and operating and planned generation sources.

7 4. The market demand for biomass electrical energy.

8 5. The relative costs of generating biomass electrical energy and
9 conventional electrical energy.

10 6. The contract price for biomass electrical energy paid pursuant to
11 any contracts under subsection A compared to the price paid by this state for
12 conventionally generated electrical energy.

13 C. For the purposes of this section, "biomass" means dead standing and
14 fallen timber, and forest thinnings associated with the harvest of small
15 diameter timber, slash, brush and other woody vegetation, removed from
16 federal, state and other public forest land and from private forest land.

17 Sec. 16. Repeal

18 Section 15 of this act, relating to biomass electrical energy
19 contracts, is repealed from and after June 30, 2006.

20 Sec. 17. Healthy forest pilot efforts; report

21 The state forester shall:

22 1. Identify potential pilot programs to promote forest health,
23 including large land areas for treatment operations and fuel hazard reduction
24 efforts. The identified land areas must include substantial areas of deep
25 forest as well as the urban interface. The programs must harvest and use the
26 forest products in a manner that is science based and environmentally
27 sensitive and include measures to restore healthy water cycles to forest
28 lands.

29 2. Identify specific public-private partnerships that may be useful
30 in promoting forest health and maximizing local efforts, which may include
31 joint projects with other governments, including Indian tribes.

32 3. Work in partnership with federal agencies to set a pilot program
33 in place.

34 4. Identify necessary steps, including specific regulatory relief,
35 that may be needed in conjunction with the provisions of the healthy forests
36 restoration act (P.L. 108-148).

37 5. Take necessary steps to maximize state fire assistance grants,
38 including the establishment of timelines for the use of grant monies and the
39 reallocation of lapsed grant monies to other projects.

40 6. Submit an interim report to the president of the senate, the
41 speaker of the house of representatives and the governor by November 1, 2004
42 on the progress accomplished to date under federal forest restoration
43 legislation, the status of the state fire assistance grant program, any other
44 federal and state programs that may be used to assist with overall healthy
45 forest management, any necessary federal regulatory relief needed to expedite

1 and optimize performance under the state and federal programs, the costs of
2 these programs and any recommended statutory changes.

3 7. Submit a final report on progress, findings and recommendations to
4 the president of the senate, the speaker of the house of representatives and
5 the governor by November 1, 2005 and shall provide a copy of this report to
6 the secretary of state and the director of the Arizona state library,
7 archives and public records.

8 Sec. 18. Repeal

9 Section 17 of this act, relating to healthy forest pilot efforts, is
10 repealed from and after December 31, 2005.

11 Sec. 19. Income tax credits for employment by a healthy forest
12 enterprise; purpose

13 Pursuant to section 43-222, Arizona Revised Statutes, the legislature
14 enacts sections 43-1076 and 43-1162, Arizona Revised Statutes, as added by
15 this act, to promote the development of commercial enterprises that promote
16 forest health and reduce the risk of catastrophic wildfire and destructive
17 insect infestation in forested areas in this state.

18 Sec. 20. Emergency

19 This act is an emergency measure that is necessary to preserve the
20 public peace, health or safety and is operative immediately as provided by
21 law.

APPROVED BY THE GOVERNOR JUNE 3, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 3, 2004.



Passed the House March 15, 2004

Passed the Senate May 20, 2004

by the following vote: 48 Ayes,

by the following vote: 28 Ayes,

9 Nays, 3 Not Voting

0 Nays, 2 Not Voting

Jake Flake
Speaker of the House

Ken Bennett *With Emergency*
President of the Senate

Norman L. Moore
Chief Clerk of the House

Charmain Bellington
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this
_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State
this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 25, 2004,

by the following vote: 45 Ayes,

12 Nays, 3 Not Voting
With Emergency

Jake Flake
Speaker of the House

Norman L. Moore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

25th day of May, 2004,

at 4:20 o'clock P. M.

Jennifer Harbo
Secretary to the Governor

Approved this 3 day of

June, 2004,

at 3⁴⁵ o'clock P. M.

Jan Brewer
Governor of Arizona

H.B. 2549

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 3 day of June, 2004,

at 4:22 o'clock P. M.

Janice K. Brewer
Secretary of State