

Senate Engrossed House Bill

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

CHAPTER 331

HOUSE BILL 2332

AN ACT

AMENDING SECTIONS 28-5606, 41-1516, 42-5061, 42-5071, 42-5075, 42-5159, 42-12006, 43-222 AND 43-1076, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1076.01; AMENDING SECTION 43-1162, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1162.01; RELATING TO HEALTHY FOREST ENTERPRISE INCENTIVES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-5606, Arizona Revised Statutes, is amended to
3 read:

4 28-5606. Imposition of motor fuel taxes

5 A. In addition to all other taxes provided by law, a tax of eighteen
6 cents per gallon is imposed on motor vehicle fuel possessed, used or consumed
7 in this state.

8 B. To partially compensate this state for the use of its highways:

9 1. A use fuel tax is imposed on use fuel used in the propulsion of a
10 light class motor vehicle on a highway in this state at the same rate per
11 gallon as the motor vehicle fuel tax prescribed in subsection A of this
12 section, except that there is no use fuel tax on alternative fuels.

13 2. A use fuel tax is imposed on use fuel used in the propulsion of a
14 use class motor vehicle on a highway in this state at the rate of twenty-six
15 cents for each gallon, except that there is no use fuel tax on alternative
16 fuels and use class vehicles that are exempt pursuant to section 28-5432 from
17 the weight fee prescribed in section 28-5433 are subject to the use fuel tax
18 imposed by paragraph 1 of this subsection.

19 3. ~~Beginning from and after August 31, 2005~~ Through December 31, 2010
20 2024, a use fuel tax is imposed on use fuel used in the propulsion of a motor
21 vehicle transporting forest products in compliance with the requirements of
22 section 41-1516 on a highway in this state at the rate of ~~thirteen~~ NINE cents
23 for each gallon, except that there is no use fuel tax on alternative fuels.

24 C. The motor vehicle fuel and use fuel taxes imposed pursuant to this
25 section and the aviation fuel taxes imposed pursuant to section 28-8344 are
26 conclusively presumed to be direct taxes on the consumer or user but shall be
27 collected and remitted to the department by suppliers for the purpose of
28 convenience and facility only. Motor vehicle fuel, use fuel and aviation
29 fuel taxes that are collected and paid to the department by a supplier are
30 considered to be advance payments, shall be added to the price of motor
31 vehicle fuel, use fuel or aviation fuel and shall be recovered from the
32 consumer or user.

33 D. Motor vehicle fuel and use fuel taxes imposed pursuant to this
34 section on the use of motor vehicle fuel and use fuel and the aviation fuel
35 taxes imposed pursuant to section 28-8344 on the use of aviation fuel, other
36 than by bulk transfer, arise at the time the motor vehicle, use or aviation
37 fuel either:

38 1. Is imported into this state and is measured by invoiced gallons
39 received outside this state at a refinery, terminal or bulk plant for
40 delivery to a destination in this state.

41 2. Is removed, as measured by invoiced gallons, from the bulk transfer
42 terminal system or from a qualified terminal in this state.

43 3. Is removed, as measured by invoiced gallons, from the bulk transfer
44 terminal system or from a qualified terminal or refinery outside this state
45 for delivery to a destination in this state as represented on the shipping

1 papers if a supplier imports the motor vehicle, use or aviation fuel for the
2 account of the supplier or the supplier has made a tax precollection election
3 pursuant to section 28-5636.

4 E. If motor fuel is removed from the bulk transfer terminal system or
5 from a qualified terminal or is imported into this state, the original
6 removal, transfer or importation of the motor fuel is subject to the
7 collection of the tax. If this motor fuel is transported to another
8 qualified terminal or reenters the bulk transfer terminal system, the
9 subsequent sale of the motor fuel on which tax has been collected is not
10 subject to collection of an additional tax if proper documentation is
11 retained to support the transaction.

12 Sec. 2. Section 41-1516, Arizona Revised Statutes, is amended to read:
13 41-1516. Healthy forest enterprise incentives; definitions

14 A. The Arizona commerce authority shall:

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

18 2. Identify and certify to the department of revenue the names of and
19 relevant information relating to qualified businesses for the purposes of
20 available state tax incentives for economic enterprises that promote forest
21 health in this state.

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

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

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

29 (b) If the qualifying forest product is on federal land, the business
30 shall submit a letter from the federal agency administering the land, or
31 official records or documents produced in connection with the project,
32 stating that the business is primarily engaged in the business of harvesting
33 or ~~initial~~ processing of qualifying forest products for commercial use as
34 follows:

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

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

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

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

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

3 (d) If the business is engaged in transporting qualifying forest
4 products, it must submit a letter from the state forester or United States
5 forest service, or official records or documents produced in connection with
6 the project, stating that all of the qualifying forest products it transports
7 are harvested from areas in this state. In addition, the business must
8 submit evidence to the authority that at least seventy-five per cent of the
9 mileage traveled by its units each year are for transporting qualifying
10 forest products from or to qualifying projects described in subdivision (b)
11 or (c) of this paragraph, unless a lower mileage is due to forest closures or
12 weather conditions that are beyond the control of the business.

13 2. Must employ at least ~~three~~ ONE permanent full-time employees
14 EMPLOYEE.

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

17 4. Must enter into a memorandum of understanding with the authority
18 containing:

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

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

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

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

1 appropriate use tax returns reflecting the recapture of the direct or
2 indirect tax benefits.

3 5. Must submit a copy of the certification to the department of
4 revenue for approval before using the certification for purposes of any tax
5 incentive. The department of revenue shall review and approve the
6 certification in a timely manner if the business is in good standing with the
7 department and is not delinquent in the payment of any tax collected by the
8 department. A failure to approve or deny the certification within sixty days
9 after the date the business submits it to the department constitutes approval
10 of the certification.

11 C. For the purposes of section 42-5075, subsection B, paragraph 19,
12 the authority shall certify prime contractors that contract for the
13 construction of any building, or other structure, project, development or
14 improvement owned by a qualified business for purposes of a qualifying
15 project described in subsection B, paragraph 1 of this section.

16 D. To obtain and maintain certification under this section, a business
17 must:

18 1. Apply to the authority.

19 2. Submit and retain copies of all required information, including
20 information relating to the actual or projected number of employees in this
21 state.

22 3. Allow inspections and audits to verify the qualification and
23 accuracy of information submitted to the authority.

24 E. Certification under this section is valid for ~~twelve~~ SIXTY calendar
25 months from the date of issuance. A business must apply for recertification
26 at least thirty days before the current certification expires. The
27 application for recertification shall be in a form prescribed by the
28 authority and shall confirm that the business is continuing in a qualifying
29 project and is in compliance with all requirements prescribed for
30 certification.

31 F. Within sixty days after receiving a complete and correct
32 application and all required information as prescribed by this section, the
33 authority shall grant or deny certification and give written notice by
34 certified mail to the applicant. The applicant is certified as a qualified
35 business on the date the notice of certification is delivered to the
36 applicant. A failure to respond within sixty days after receiving a complete
37 and correct application constitutes approval of the application.

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

41 H. On or before March 1 of each year, each qualifying business shall
42 make a report to the authority on all business activity in the preceding
43 calendar year. Business information contained in the reports is confidential
44 and shall not be disclosed to the public except as provided by this section
45 and except that a copy of the report shall be transmitted to the department

- 1 of revenue. The report shall be in a form prescribed by the authority and
2 include:
- 3 1. Information prescribed by the authority with respect to both
4 qualifying projects and other projects and business activity that do not
5 qualify for purposes of this section.
- 6 2. Employment information necessary to confirm eligibility for income
7 tax credits as prescribed by sections 43-1076 and 43-1162.
- 8 3. The quantity, measured by weight, of qualifying forest products
9 harvested, transported or processed.
- 10 I. On or before May 1 of each year, the authority shall report to the
11 joint legislative budget committee:
- 12 1. The quantity, measured by weight, of qualifying forest products
13 reported by harvesters, by transporters and by processors in the preceding
14 calendar year.
- 15 2. The number of new full-time employees hired in qualified employment
16 positions in this state in the preceding calendar year and reported for tax
17 credit purposes.
- 18 3. The total number of all full-time employees employed in qualified
19 employment positions in this state in the preceding calendar year and
20 reported for tax credit purposes.
- 21 J. For purposes of administering and ensuring compliance with this
22 section, agents of the authority may enter, and a qualified business shall
23 allow access to, a qualifying project site at reasonable times and on
24 reasonable notice to:
- 25 1. Inspect the facilities at the site.
- 26 2. Obtain factual data and records pertinent to and required by law to
27 be kept for purposes of tax incentives.
- 28 3. Otherwise ascertain compliance with law and the terms of the
29 memorandum of understanding.
- 30 K. The authority shall revoke the business' certification and notify
31 the department of revenue and county assessor if either:
- 32 1. Within thirty days after a formal request from the authority or the
33 department of revenue the business fails or refuses to provide the
34 information or access for inspections required by this section.
- 35 2. The business no longer meets the terms and conditions required for
36 qualification for the applicable tax incentives.
- 37 L. For the purposes of this section:
- 38 1. "Forest health" means the degree to which the integrity of the
39 forest is sustained, including reducing the risk of catastrophic wildfire and
40 destructive insect infestation, benefiting wildland habitats, watersheds and
41 communities.
- 42 2. "Harvesting" means all operations relating to felling or otherwise
43 removing trees and other forest plant growth and preparing them for transport
44 for subsequent processing.

1 3. "Initial Processing" means:

2 (a) ~~The first~~ ANY change, ~~after harvest~~, in the physical structure of
3 qualifying forest products removed from a qualifying project into a
4 marketable commercial product or component of a product that has commercial
5 value to a consumer or purchaser and that is ready to be used with or without
6 further altering its form.

7 (b) Burning qualifying forest products in the process of commercial
8 electrical generation or commercial thermal energy production for heating or
9 cooling, regardless of the physical structure of the forest product before
10 burning.

11 4. "Qualifying equipment" means equipment used directly in ~~the~~
12 harvesting or ~~initial~~ processing ~~of~~ qualifying forest products removed from a
13 qualifying project. Qualifying equipment does not include self-propelled
14 vehicles required to be licensed by this state, but may include other
15 licensed vehicles as provided by this paragraph. Qualifying equipment
16 includes:

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

22 (b) Forest residue receiving and handling equipment, including truck
23 dumpers, log unloaders, scales, log decking facilities and equipment and chip
24 pile facilities.

25 (c) Sorting and processing equipment, including portable and
26 stationary log loaders, front end loaders, fork lifts and cranes, chippers
27 and grinders, screens, decks and debarkers, saws and sawmill equipment,
28 firewood processing, wood residue baling and bagging equipment, kilns,
29 planing and molding equipment and laminating and joining equipment.

30 (d) Forest waste and residue disposal and processing equipment,
31 including:

32 (i) Processing and sizing equipment, hogs, chippers, screens,
33 pelletizers and wood splitters.

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

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

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

40 (v) Generated waste disposal equipment, including ash silos and
41 wastewater treatment and disposal equipment.

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

44 5. "Qualifying forest products" means dead standing and fallen timber,
45 and forest thinnings associated with the harvest of small diameter timber,

1 slash, wood chips, peelings, brush and other woody vegetation, removed from
2 federal, state and other public forest land and from private forest land.

3 6. "Qualifying project" means harvesting, transporting or ~~the initial~~
4 processing of qualifying forest products as required for certification
5 pursuant to this section.

6 Sec. 3. Section 42-5061, Arizona Revised Statutes, is amended to read:
7 42-5061. Retail classification; definitions

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

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

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

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

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

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

28 6. Business activity which is properly included in any other business
29 classification which is taxable under this article.

30 7. The sale of stocks and bonds.

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

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

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

38 11. Prescription eyeglasses or contact lenses.

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

40 13. Durable medical equipment which has a centers for medicare and
41 medicaid services common procedure code, is designated reimbursable by
42 medicare, is prescribed by a person who is licensed under title 32, chapter
43 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
44 customarily used to serve a medical purpose, is generally not useful to a

1 person in the absence of illness or injury and is appropriate for use in the
2 home.

3 14. Sales to nonresidents of this state for use outside this state if
4 the vendor ships or delivers the tangible personal property out of this
5 state.

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

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

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

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

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

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

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

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

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

37 22. Motor vehicle fuel and use fuel that are subject to a tax imposed
38 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
39 valid single trip use fuel tax permit issued under section 28-5739, sales of
40 aviation fuel that are subject to the tax imposed under section 28-8344 and
41 sales of jet fuel that are subject to the tax imposed under article 8 of this
42 chapter.

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

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

4 25. Tangible personal property sold to:

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

6 (b) A qualifying health care organization as defined in section
7 42-5001 if the tangible personal property is used by the organization solely
8 to provide health and medical related educational and charitable services.

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

14 (d) A qualifying community health center as defined in section
15 42-5001.

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

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

27 26. Magazines or other periodicals or other publications by this state
28 to encourage tourist travel.

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

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

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

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

43 28. The sale of a motor vehicle to:

44 (a) A nonresident of this state if the purchaser's state of residence
45 does not allow a corresponding use tax exemption to the tax imposed by

1 article 1 of this chapter and if the nonresident has secured a special ninety
2 day nonresident registration permit for the vehicle as prescribed by sections
3 28-2154 and 28-2154.01.

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

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

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

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

23 32. Sales of tangible personal property by a nonprofit organization
24 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
25 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
26 sponsors or operates a rodeo featuring primarily farm and ranch animals and
27 no part of the organization's net earnings inures to the benefit of any
28 private shareholder or individual.

29 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
30 propagative material to persons who use those items to commercially produce
31 agricultural, horticultural, viticultural or floricultural crops in this
32 state.

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

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

41 36. Sales of natural gas or liquefied petroleum gas used to propel a
42 motor vehicle.

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

1 38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
2 sold to a qualified environmental technology manufacturer, producer or
3 processor as defined in section 41-1514.02 and directly used or consumed in
4 the generation or provision of on-site power or energy solely for
5 environmental technology manufacturing, producing or processing or
6 environmental protection. This paragraph shall apply for twenty full
7 consecutive calendar or fiscal years from the date the first paper
8 manufacturing machine is placed in service. In the case of an environmental
9 technology manufacturer, producer or processor who does not manufacture
10 paper, the time period shall begin with the date the first manufacturing,
11 processing or production equipment is placed in service.

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

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

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

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

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

43 42. A motor vehicle and any repair and replacement parts and tangible
44 personal property becoming a part of such motor vehicle sold to a motor

1 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4
2 and who is engaged in the business of leasing or renting such property.

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

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

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

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

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

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

31 (a) Printed or photographic materials, beginning August 7, 1985.
32 (b) Electronic or digital media materials, beginning July 17, 1994.

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

41 50. Sales of alternative fuel vehicles if the vehicle was manufactured
42 as a diesel fuel vehicle and converted to operate on alternative fuel and
43 equipment that is installed in a conventional diesel fuel motor vehicle to
44 convert the vehicle to operate on an alternative fuel, as defined in section
45 1-215.

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

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

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

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

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

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

20 (b) "Curriculum design or enhancement" means planning, implementing or
21 reporting on courses of study, lessons, assignments or other learning
22 activities.

23 56. SALES OF MOTOR VEHICLE FUEL AND USE FUEL TO A QUALIFIED BUSINESS
24 UNDER SECTION 41-1516 FOR OFF-ROAD USE IN HARVESTING, PROCESSING OR
25 TRANSPORTING QUALIFYING FOREST PRODUCTS REMOVED FROM QUALIFYING PROJECTS AS
26 DEFINED IN SECTION 41-1516.

27 57. SALES OF REPAIR PARTS INSTALLED IN EQUIPMENT USED DIRECTLY BY A
28 QUALIFIED BUSINESS UNDER SECTION 41-1516 IN HARVESTING, PROCESSING OR
29 TRANSPORTING QUALIFYING FOREST PRODUCTS REMOVED FROM QUALIFYING PROJECTS AS
30 DEFINED IN SECTION 41-1516.

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

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

42 2. Mining machinery, or equipment, used directly in the process of
43 extracting ores or minerals from the earth for commercial purposes, including
44 equipment required to prepare the materials for extraction and handling,
45 loading or transporting such extracted material to the surface. "Mining"

1 includes underground, surface and open pit operations for extracting ores and
2 minerals.

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

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

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

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

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

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

28 (b) Any foreign government.

29 (c) Persons who are not residents of this state and who will not use
30 such property in this state other than in removing such property from this
31 state. This subdivision also applies to corporations that are not
32 incorporated in this state, regardless of maintaining a place of business in
33 this state, if the principal corporate office is located outside this state
34 and the property will not be used in this state other than in removing the
35 property from this state.

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

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

42 10. Machinery or equipment used directly to drill for oil or gas or
43 used directly in the process of extracting oil or gas from the earth for
44 commercial purposes.

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

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

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

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

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

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

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

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

1 (b) "Soundstage complex" means a facility of multiple stages including
2 production offices, construction shops and related areas, prop and costume
3 shops, storage areas, parking for production vehicles and areas that are
4 leased to businesses that complement the production needs and orientation of
5 the overall facility.

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

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

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

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

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

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

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

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

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

43 18. Machinery and equipment used directly in the feeding of poultry,
44 the environmental control of housing for poultry, the movement of eggs within

1 a production and packaging facility or the sorting or cooling of eggs. This
2 exemption does not apply to vehicles used for transporting eggs.

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

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

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

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

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

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

32 22. Qualifying equipment that is purchased from and after June 30, 2004
33 through June 30, ~~2014~~ 2024 by a qualified business under section 41-1516 for
34 harvesting or ~~the initial~~ processing of qualifying forest products removed
35 from qualifying projects as defined in section 41-1516. To qualify for this
36 deduction, the qualified business at the time of purchase must present its
37 certification approved by the department.

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

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

- 1 1. Expendable materials. For the purposes of this paragraph,
2 expendable materials do not include any of the categories of tangible
3 personal property specified in subsection B of this section regardless of the
4 cost or useful life of that property.
- 5 2. Janitorial equipment and hand tools.
- 6 3. Office equipment, furniture and supplies.
- 7 4. Tangible personal property used in selling or distributing
8 activities, other than the telecommunications transmissions described in
9 subsection B, paragraph 16 of this section.
- 10 5. Motor vehicles required to be licensed by this state, except buses
11 or other urban mass transit vehicles specifically exempted pursuant to
12 subsection B, paragraph 11 of this section, without regard to the use of such
13 motor vehicles.
- 14 6. Shops, buildings, docks, depots and all other materials of whatever
15 kind or character not specifically included as exempt.
- 16 7. Motors and pumps used in drip irrigation systems.
- 17 D. In addition to the deductions from the tax base prescribed by
18 subsection A of this section, there shall be deducted from the tax base the
19 gross proceeds of sales or gross income derived from sales of machinery,
20 equipment, materials and other tangible personal property used directly and
21 predominantly to construct a qualified environmental technology
22 manufacturing, producing or processing facility as described in section
23 41-1514.02. This subsection applies for ten full consecutive calendar or
24 fiscal years after the start of initial construction.
- 25 E. In computing the tax base, gross proceeds of sales or gross income
26 from retail sales of heavy trucks and trailers does not include any amount
27 attributable to federal excise taxes imposed by 26 United States Code section
28 4051.
- 29 F. In computing the tax base, gross proceeds of sales or gross income
30 from the sale of use fuel, as defined in section 28-5601, does not include
31 any amount attributable to federal excise taxes imposed by 26 United States
32 Code section 4091.
- 33 G. If a person is engaged in an occupation or business to which
34 subsection A of this section applies, the person's books shall be kept so as
35 to show separately the gross proceeds of sales of tangible personal property
36 and the gross income from sales of services, and if not so kept the tax shall
37 be imposed on the total of the person's gross proceeds of sales of tangible
38 personal property and gross income from services.
- 39 H. If a person is engaged in the business of selling tangible personal
40 property at both wholesale and retail, the tax under this section applies
41 only to the gross proceeds of the sales made other than at wholesale if the
42 person's books are kept so as to show separately the gross proceeds of sales
43 of each class, and if the books are not so kept, the tax under this section
44 applies to the gross proceeds of every sale so made.

1 I. A person who engages in manufacturing, baling, crating, boxing,
2 barreling, canning, bottling, sacking, preserving, processing or otherwise
3 preparing for sale or commercial use any livestock, agricultural or
4 horticultural product or any other product, article, substance or commodity
5 and who sells the product of such business at retail in this state is deemed,
6 as to such sales, to be engaged in business classified under the retail
7 classification. This subsection does not apply to businesses classified
8 under the:

- 9 1. Transporting classification.
- 10 2. Utilities classification.
- 11 3. Telecommunications classification.
- 12 4. Pipeline classification.
- 13 5. Private car line classification.
- 14 6. Publication classification.
- 15 7. Job printing classification.
- 16 8. Prime contracting classification.
- 17 9. Owner builder sales classification.
- 18 10. Restaurant classification.

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

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

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

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

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

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

42 L. The department shall require every person claiming a deduction
43 provided by subsection J or K of this section to file on forms prescribed by
44 the department at such times as the department directs a sworn statement

1 disclosing the name of the purchaser and the exact amount of sales on which
2 the exclusion or deduction is claimed.

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

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

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

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

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

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

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

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

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

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

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

1 section. Payment of the amount under this subsection exempts the purchaser
2 from liability for any tax imposed under article 4 of this chapter and
3 related to the tangible personal property purchased. The amount shall be
4 treated as transaction privilege tax to the purchaser and as tax revenues
5 collected from the seller to designate the distribution base pursuant to
6 section 42-5029.

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

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

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

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

27 V. For the purposes of this section:

28 1. "Aircraft" includes:

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

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

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

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

1 W. For the purposes of subsection J of this section:
2 1. "Assembler" means a person who unites or combines products, wares
3 or articles of manufacture so as to produce a change in form or substance
4 without changing or altering the component parts.
5 2. "Manufacturer" means a person who is principally engaged in the
6 fabrication, production or manufacture of products, wares or articles for use
7 from raw or prepared materials, imparting to those materials new forms,
8 qualities, properties and combinations.
9 3. "Modifier" means a person who reworks, changes or adds to products,
10 wares or articles of manufacture.
11 4. "Overhead materials" means tangible personal property, the gross
12 proceeds of sales or gross income derived from which would otherwise be
13 included in the retail classification, and which are used or consumed in the
14 performance of a contract, the cost of which is charged to an overhead
15 expense account and allocated to various contracts based upon generally
16 accepted accounting principles and consistent with government contract
17 accounting standards.
18 5. "Repairer" means a person who restores or renews products, wares or
19 articles of manufacture.
20 6. "Subcontract" means an agreement between a contractor and any
21 person who is not an employee of the contractor for furnishing of supplies or
22 services that, in whole or in part, are necessary to the performance of one
23 or more government contracts, or under which any portion of the contractor's
24 obligation under one or more government contracts is performed, undertaken or
25 assumed and that includes provisions causing title to overhead materials or
26 other tangible personal property used in the performance of the subcontract
27 to pass to the government or that includes provisions incorporating such
28 title passing clauses in a government contract into the subcontract.
29 Sec. 4. Section 42-5071, Arizona Revised Statutes, is amended to read:
30 42-5071. Personal property rental classification
31 A. The personal property rental classification is comprised of the
32 business of leasing or renting tangible personal property for a
33 consideration. The tax does not apply to:
34 1. Leasing or renting films, tapes or slides used by theaters or
35 movies, which are engaged in business under the amusement classification, or
36 used by television stations or radio stations.
37 2. Activities engaged in by the Arizona exposition and state fair
38 board or county fair commissions in connection with events sponsored by such
39 entities.
40 3. Leasing or renting tangible personal property by a parent
41 corporation to a subsidiary corporation or by a subsidiary corporation to
42 another subsidiary of the same parent corporation if taxes were paid under
43 this chapter on the gross proceeds or gross income accruing from the initial
44 sale of the tangible personal property. For the purposes of this paragraph,

1 "subsidiary" means a corporation of which at least eighty per cent of the
2 voting shares are owned by the parent corporation.

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

6 5. Leasing or renting tangible personal property for incorporation
7 into or comprising any part of a qualified environmental technology facility
8 as described in section 41-1514.02. This paragraph shall apply for ten full
9 consecutive calendar or fiscal years following the initial lease or rental by
10 each qualified environmental technology manufacturer, producer or processor.

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

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

18 B. The tax base for the personal property rental classification is the
19 gross proceeds of sales or gross income derived from the business, but the
20 gross proceeds of sales or gross income derived from the following shall be
21 deducted from the tax base:

22 1. Reimbursements by the lessee to the lessor of a motor vehicle for
23 payments by the lessor of the applicable fees and taxes imposed by sections
24 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15,
25 article 2 and article IX, section 11, Constitution of Arizona, to the extent
26 such amounts are separately identified as such fees and taxes and are billed
27 to the lessee.

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

31 (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29, 50
32 or 55.

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

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

37 (ii) Section 42-5061, subsection B, paragraph 22 ~~if the lease is for~~
38 ~~less than five years.~~

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

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

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

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

3 5. Amounts received by a motor vehicle dealer for the first month of a
4 lease payment if the lease and the lease payment for the first month of the
5 lease are transferred to a third party leasing company.

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

9 D. In computing the tax base, the gross proceeds of sales or gross
10 income from the lease or rental of a motor vehicle does not include any
11 amount attributable to the car rental surcharge under section 28-5810 or
12 48-4234.

13 E. Until December 31, 1988, leasing or renting animals for
14 recreational purposes is exempt from the tax imposed by this section.
15 Beginning January 1, 1989, the gross proceeds or gross income from leasing or
16 renting animals for recreational purposes is subject to taxation under this
17 section. Tax liabilities, penalties and interest paid for taxable periods
18 before January 1, 1989 shall not be refunded unless the taxpayer requesting
19 the refund provides proof satisfactory to the department that the monies paid
20 as taxes will be returned to the customer.

21 Sec. 5. Section 42-5075, Arizona Revised Statutes, is amended to read:
22 42-5075. Prime contracting classification; exemptions;
23 definitions

24 A. The prime contracting classification is comprised of the business
25 of prime contracting and dealership of manufactured buildings. Sales for
26 resale to another dealership of manufactured buildings are not subject to
27 tax. Sales for resale do not include sales to a lessor of manufactured
28 buildings. The sale of a used manufactured building is not taxable under
29 this chapter. The proceeds from alteration and repairs to a used
30 manufactured building are taxable under this section.

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

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

37 2. Sales and installation of groundwater measuring devices required
38 under section 45-604 and groundwater monitoring wells required by law,
39 including monitoring wells installed for acquiring information for a permit
40 required by law.

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

1 4. The gross proceeds of sales or gross income received from a
2 contract entered into for the construction, alteration, repair, addition,
3 subtraction, improvement, movement, wrecking or demolition of any building,
4 highway, road, railroad, excavation, manufactured building or other
5 structure, project, development or improvement located in a military reuse
6 zone for providing aviation or aerospace services or for a manufacturer,
7 assembler or fabricator of aviation or aerospace products within an active
8 military reuse zone after the zone is initially established or renewed under
9 section 41-1531. To be eligible to qualify for this deduction, before
10 beginning work under the contract, the prime contractor must have applied for
11 a letter of qualification from the department of revenue.

12 5. The gross proceeds of sales or gross income derived from a contract
13 to construct a qualified environmental technology manufacturing, producing or
14 processing facility, as described in section 41-1514.02, and from subsequent
15 construction and installation contracts that begin within ten years after the
16 start of initial construction. To qualify for this deduction, before
17 beginning work under the contract, the prime contractor must obtain a letter
18 of qualification from the department of revenue. This paragraph shall apply
19 for ten full consecutive calendar or fiscal years after the start of initial
20 construction.

21 6. The gross proceeds of sales or gross income from a contract to
22 provide for one or more of the following actions, or a contract for site
23 preparation, constructing, furnishing or installing machinery, equipment or
24 other tangible personal property, including structures necessary to protect
25 exempt incorporated materials or installed machinery or equipment, and
26 tangible personal property incorporated into the project, to perform one or
27 more of the following actions in response to a release or suspected release
28 of a hazardous substance, pollutant or contaminant from a facility to the
29 environment, unless the release was authorized by a permit issued by a
30 governmental authority:

31 (a) Actions to monitor, assess and evaluate such a release or a
32 suspected release.

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

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

38 (d) Pumping and treatment or in situ treatment of contaminated
39 groundwater or surface water to reduce the concentration or toxicity of a
40 contaminant.

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

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

6 7. The gross proceeds of sales or gross income that is derived from a
7 contract entered into for the installation, assembly, repair or maintenance
8 of machinery, equipment or other tangible personal property that is deducted
9 from the tax base of the retail classification pursuant to section 42-5061,
10 subsection B, or that is exempt from use tax pursuant to section 42-5159,
11 subsection B, and that does not become a permanent attachment to a building,
12 highway, road, railroad, excavation or manufactured building or other
13 structure, project, development or improvement. If the ownership of the
14 realty is separate from the ownership of the machinery, equipment or tangible
15 personal property, the determination as to permanent attachment shall be made
16 as if the ownership were the same. The deduction provided in this paragraph
17 does not include gross proceeds of sales or gross income from that portion of
18 any contracting activity which consists of the development of, or
19 modification to, real property in order to facilitate the installation,
20 assembly, repair, maintenance or removal of machinery, equipment or other
21 tangible personal property that is deducted from the tax base of the retail
22 classification pursuant to section 42-5061, subsection B or that is exempt
23 from use tax pursuant to section 42-5159, subsection B. For the purposes of
24 this paragraph, "permanent attachment" means at least one of the following:

25 (a) To be incorporated into real property.

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

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

30 8. Through December 31, 2009, the gross proceeds of sales or gross
31 income received from a contract for constructing any lake facility
32 development in a commercial enhancement reuse district ~~that is designated~~
33 ~~pursuant to section 9-499.08~~ if the prime contractor maintains the following
34 records in a form satisfactory to the department and to the city or town in
35 which the property is located:

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

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

43 (c) Any other information that the department considers to be
44 necessary.

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

- 4 (a) Section 42-5061, subsection A, paragraph 25 or 29.
- 5 (b) Section 42-5061, subsection B.
- 6 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b),
7 (c), (d), (e), (f), (i), (j) or (l).
- 8 (d) Section 42-5159, subsection B.

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

13 11. The gross proceeds of sales or gross income that is derived from a
14 contract entered into with a person who is engaged in the commercial
15 production of livestock, livestock products or agricultural, horticultural,
16 viticultural or floricultural crops or products in this state for the
17 construction, alteration, repair, improvement, movement, wrecking or
18 demolition or addition to or subtraction from any building, highway, road,
19 excavation, manufactured building or other structure, project, development or
20 improvement used directly and primarily to prevent, monitor, control or
21 reduce air, water or land pollution.

22 12. The gross proceeds of sales or gross income that is derived from
23 the installation, assembly, repair or maintenance of clean rooms that are
24 deducted from the tax base of the retail classification pursuant to section
25 42-5061, subsection B, paragraph 17.

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

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

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

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

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

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

10 19. The gross proceeds of sales or gross income received from a
11 contract for the construction of any building, or other structure, project,
12 development or improvement owned by a qualified business under section
13 41-1516 for harvesting or ~~the initial~~ processing of qualifying forest
14 products removed from qualifying projects as defined in section 41-1516 if
15 actual construction begins before January 1, ~~2010~~ 2024. To qualify for this
16 deduction, the prime contractor must obtain a letter of qualification from
17 the department of commerce before beginning work under the contract.

18 20. The gross proceeds of sales or gross income received from a
19 contract for the construction of any building or other structure associated
20 with motion picture production in this state. To qualify for the deduction,
21 at the time the contract is entered into the motion picture production
22 company must present to the prime contractor its certificate that is issued
23 pursuant to section 42-5009, subsection H and that establishes its
24 qualification for the deduction.

25 21. Any amount of the gross proceeds of sales or gross income
26 attributable to development fees that are incurred in relation to a contract
27 for construction, development or improvement of real property and that are
28 paid by a prime contractor or subcontractor. For the purposes of this
29 paragraph:

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

32 (b) The attributable amount is equal to the total amount of
33 development fees paid by the prime contractor or subcontractor, and the total
34 development fees credited in exchange for the construction of, contribution
35 to or dedication of real property for providing public infrastructure, public
36 safety or other public services necessary to the development. The real
37 property must be the subject of the development fees.

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

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

44 1. A prime contractor may establish entitlement to the deduction by
45 both:

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

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

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

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

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

36 D. Subcontractors or others who perform services in respect to any
37 improvement, building, highway, road, railroad, excavation, manufactured
38 building or other structure, project, development or improvement are not
39 subject to tax if they can demonstrate that the job was within the control of
40 a prime contractor or contractors or a dealership of manufactured buildings
41 and that the prime contractor or dealership is liable for the tax on the
42 gross income, gross proceeds of sales or gross receipts attributable to the
43 job and from which the subcontractors or others were paid.

44 E. Amounts received by a contractor for a project are excluded from
45 the contractor's gross proceeds of sales or gross income derived from the

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

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

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

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

33 I. The gross proceeds of sales or gross income derived from
34 landscaping activities are subject to tax under this section. Landscaping
35 includes installing lawns, grading or leveling ground, installing gravel or
36 boulders, planting trees and other plants, felling trees, removing or
37 mulching tree stumps, removing other imbedded plants, building or modifying
38 irrigation berms, repairing sprinkler or watering systems, installing
39 railroad ties and installing underground sprinkler or watering systems.

40 J. The portion of gross proceeds of sales or gross income attributable
41 to the actual direct costs of providing architectural or engineering services
42 that are incorporated in a contract is not subject to tax under this section.
43 For the purposes of this subsection, "direct costs" means the portion of the
44 actual costs that are directly expended in providing architectural or
45 engineering services.

1 K. Operating a landfill or a solid waste disposal facility is not
2 subject to taxation under this section, including filling, compacting and
3 creating vehicle access to and from cell sites within the landfill.
4 Constructing roads to a landfill or solid waste disposal facility and
5 constructing cells within a landfill or solid waste disposal facility may be
6 deemed prime contracting under this section.

7 L. The following apply to manufactured buildings:

8 1. For sales in this state where the dealership of manufactured
9 buildings contracts to deliver the building to a setup site or to perform the
10 setup in this state, the taxable situs is the setup site.

11 2. For sales in this state where the dealership of manufactured
12 buildings does not contract to deliver the building to a setup site or does
13 not perform the setup, the taxable situs is the location of the dealership
14 where the building is delivered to the buyer.

15 3. For sales in this state where the dealership of manufactured
16 buildings contracts to deliver the building to a setup site that is outside
17 this state, the situs is outside this state and the transaction is excluded
18 from tax.

19 M. The gross proceeds of sales or gross income attributable to a
20 separate, written design phase services contract or professional services
21 contract, executed before modification begins, is not subject to tax under
22 this section, regardless of whether the services are provided sequential to
23 or concurrent with prime contracting activities that are subject to tax under
24 this section. This subsection does not include the gross proceeds of sales
25 or gross income attributable to construction phase services. For the
26 purposes of this subsection:

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

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

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

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

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

43 (ii) The amount of an adjustment, if any, to the guaranteed maximum
44 price as set in the contract for modification work. For the purposes of this
45 item, "guaranteed maximum price" means the amount guaranteed to be the

- 1 maximum amount due to a prime contractor for the performance of all
2 modification work for the project.
- 3 (iii) The extent of an adjustment, if any, to the contract time of
4 performance set forth in the contract.
- 5 (d) Administration or supervision of any modification performed
6 pursuant to change directives. For the purposes of this subdivision, "change
7 directive" means a written order directing a change in modification work
8 before agreement on an adjustment of the guaranteed maximum price or contract
9 time.
- 10 (e) Inspection to determine the dates of substantial completion or
11 final completion.
- 12 (f) Preparation of any manuals, warranties, as-built drawings, spares
13 or other items the prime contractor must furnish pursuant to the contract for
14 modification work. For the purposes of this subdivision, "as-built drawing"
15 means a drawing that indicates field changes made to adapt to field
16 conditions, field changes resulting from change orders or buried and
17 concealed installation of piping, conduit and utility services.
- 18 (g) Preparation of status reports after modification work has begun
19 detailing the progress of work performed, including preparation of any of the
20 following:
- 21 (i) Master schedule updates.
- 22 (ii) Modification work cash flow projection updates.
- 23 (iii) Site reports made on a periodic basis.
- 24 (iv) Identification of discrepancies, conflicts or ambiguities in
25 modification work documents that require resolution.
- 26 (v) Identification of any health and safety issues that have arisen in
27 connection with the modification work.
- 28 (h) Preparation of daily logs of modification work, including
29 documentation of personnel, weather conditions and on-site occurrences.
- 30 (i) Preparation of any submittals or shop drawings used by the prime
31 contractor to illustrate details of the modification work performed.
- 32 (j) Administration or supervision of any other activities for which a
33 prime contractor receives a certificate for payment or certificate for final
34 payment based on the progress of modification work performed on the project.
- 35 2. "Design phase services" means services for developing and
36 completing a design for a project that are not construction phase services,
37 including the following:
- 38 (a) Evaluating surveys, reports, test results or any other information
39 on-site conditions for the project, including physical characteristics, legal
40 limitations and utility locations for the site.
- 41 (b) Evaluating any criteria or programming objectives for the project
42 to ascertain requirements for the project, such as physical requirements
43 affecting cost or projected utilization of the project.
- 44 (c) Preparing drawings and specifications for architectural program
45 documents, schematic design documents, design development documents,

1 modification work documents or documents that identify the scope of or
2 materials for the project.

3 (d) Preparing an initial schedule for the project, excluding the
4 preparation of updates to the master schedule after modification work has
5 begun.

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

9 (i) Labor, materials, machinery and equipment, tools, water, heat,
10 utilities, transportation and other facilities and services used in the
11 execution and completion of modification work, regardless of whether they are
12 temporary or permanent or whether they are incorporated in the modifications.

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

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

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

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

22 (vi) Any bond and insurance premiums.

23 (vii) Any applicable taxes.

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

26 (f) Reviewing and evaluating cost estimates and project documents to
27 prepare recommendations on site use, site improvements, selection of
28 materials, building systems and equipment, modification feasibility,
29 availability of materials and labor, local modification activity as related
30 to schedules and time requirements for modification work.

31 (g) Preparing the plan and procedures for selection of subcontractors,
32 including any prequalification of subcontractor candidates.

33 3. "Professional services" means architect services, assayer services,
34 engineer services, geologist services, land surveying services or landscape
35 architect services that are within the scope of those services as provided in
36 title 32, chapter 1 and for which gross proceeds of sales or gross income has
37 not otherwise been deducted under subsection J of this section.

38 N. Notwithstanding subsection O, paragraph 8 of this section, a person
39 owning real property who enters into a contract for sale of the real
40 property, who is responsible to the new owner of the property for
41 modifications made to the property in the period subsequent to the transfer
42 of title and who receives a consideration for the modifications is considered
43 a prime contractor solely for purposes of taxing the gross proceeds of sale
44 or gross income received for the modifications made subsequent to the
45 transfer of title. The original owner's gross proceeds of sale or gross

1 income received for the modifications shall be determined according to the
2 following methodology:

3 1. If any part of the contract for sale of the property specifies
4 amounts to be paid to the original owner for the modifications to be made in
5 the period subsequent to the transfer of title, the amounts are included in
6 the original owner's gross proceeds of sale or gross income under this
7 section. Proceeds from the sale of the property that are received after
8 transfer of title and that are unrelated to the modifications made subsequent
9 to the transfer of title are not considered gross proceeds of sale or gross
10 income from the modifications.

11 2. If the original owner enters into an agreement separate from the
12 contract for sale of the real property providing for amounts to be paid to
13 the original owner for the modifications to be made in the period subsequent
14 to the transfer of title to the property, the amounts are included in the
15 original owner's gross proceeds of sale or gross income received for the
16 modifications made subsequent to the transfer of title.

17 3. If the original owner is responsible to the new owner for
18 modifications made to the property in the period subsequent to the transfer
19 of title and derives any gross proceeds of sale or gross income from the
20 project subsequent to the transfer of title other than a delayed disbursement
21 from escrow unrelated to the modifications, it is presumed that the amounts
22 are received for the modifications made subsequent to the transfer of title
23 unless the contrary is established by the owner through its books, records
24 and papers kept in the regular course of business.

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

27 0. For the purposes of this section:

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

29 2. "Contractor" is synonymous with the term "builder" and means any
30 person or organization that undertakes to or offers to undertake to, or
31 purports to have the capacity to undertake to, or submits a bid to, or does
32 personally or by or through others, modify any building, highway, road,
33 railroad, excavation, manufactured building or other structure, project,
34 development or improvement, or to do any part of such a project, including
35 the erection of scaffolding or other structure or works in connection with
36 such a project, and includes subcontractors and specialty contractors. For
37 all purposes of taxation or deduction, this definition shall govern without
38 regard to whether or not such contractor is acting in fulfillment of a
39 contract.

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

41 (a) Is licensed pursuant to title 41, chapter 16 and who sells
42 manufactured buildings to the final consumer.

43 (b) Supervises, performs or coordinates the excavation and completion
44 of site improvements, setup or moving of a manufactured building including

1 the contracting, if any, with any subcontractor or specialty contractor for
2 the completion of the contract.

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

5 5. "Modification" means construction, alteration, repair, addition,
6 subtraction, improvement, movement, wreckage or demolition.

7 6. "Modify" means to construct, alter, repair, add to, subtract from,
8 improve, move, wreck or demolish.

9 7. "Prime contracting" means engaging in business as a prime
10 contractor.

11 8. "Prime contractor" means a contractor who supervises, performs or
12 coordinates the modification of any building, highway, road, railroad,
13 excavation, manufactured building or other structure, project, development or
14 improvement including the contracting, if any, with any subcontractors or
15 specialty contractors and who is responsible for the completion of the
16 contract. Except as provided in subsections E and N of this section, a
17 person who owns real property, who engages one or more contractors to modify
18 that real property and who does not itself modify that real property is not a
19 prime contractor within the meaning of this paragraph regardless of the
20 existence of a contract for sale or the subsequent sale of that real
21 property.

22 9. "Sale of a used manufactured building" does not include a lease of
23 a used manufactured building.

24 Sec. 6. Section 42-5159, Arizona Revised Statutes, is amended to read:
25 42-5159. Exemptions

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

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

32 2. Tangible personal property the sale or use of which has already
33 been subjected to an excise tax at a rate equal to or exceeding the tax
34 imposed by this article under the laws of another state of the United States.
35 If the excise tax imposed by the other state is at a rate less than the tax
36 imposed by this article, the tax imposed by this article is reduced by the
37 amount of the tax already imposed by the other state.

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

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

1 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
2 which in this state is subject to the tax imposed under title 28, chapter 16,
3 article 1, use fuel which is sold to or used by a person holding a valid
4 single trip use fuel tax permit issued under section 28-5739, aviation fuel,
5 the sales, distribution or use of which in this state is subject to the tax
6 imposed under section 28-8344, and jet fuel, the sales, distribution or use
7 of which in this state is subject to the tax imposed under article 8 of this
8 chapter.

9 6. Tangible personal property brought into this state by an individual
10 who was a nonresident at the time the property was purchased for storage, use
11 or consumption by the individual if the first actual use or consumption of
12 the property was outside this state, unless the property is used in
13 conducting a business in this state.

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

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

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

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

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

35 12. Materials that are purchased by or for publicly funded libraries
36 including school district libraries, charter school libraries, community
37 college libraries, state university libraries or federal, state, county or
38 municipal libraries for use by the public as follows:

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

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

41 13. Tangible personal property purchased by:

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

1 (b) A hospital operated by this state or a political subdivision of
2 this state.

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

8 (d) A qualifying health care organization, as defined in section
9 42-5001, if the tangible personal property is used by the organization solely
10 to provide health and medical related educational and charitable services.

11 (e) A qualifying health care organization as defined in section
12 42-5001 if the organization is dedicated to providing educational,
13 therapeutic, rehabilitative and family medical education training for blind,
14 visually impaired and multihandicapped children from the time of birth to age
15 twenty-one.

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

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

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

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

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

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

38 (i) A qualifying community health center as defined in section
39 42-5001.

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

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

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

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

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

16 15. Tangible personal property sold by:

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

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

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

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

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

37 18. Prescription eyeglasses and contact lenses.

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

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

40 21. Durable medical equipment which has a centers for medicare and
41 medicaid services common procedure code, is designated reimbursable by
42 medicare, is prescribed by a person who is licensed under title 32, chapter
43 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
44 used to serve a medical purpose, is generally not useful to a person in the
45 absence of illness or injury and is appropriate for use in the home.

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

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

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

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

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

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

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

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

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

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

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

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

43 (b) Public educational institutions.

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

4 33. Natural gas or liquefied petroleum gas used to propel a motor
5 vehicle.

6 34. Machinery, equipment, technology or related supplies that are only
7 useful to assist a person who is physically disabled as defined in section
8 46-191, has a developmental disability as defined in section 36-551 or has a
9 head injury as defined in section 41-3201 to be more independent and
10 functional.

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

24 36. Food, drink and condiment purchased 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 37. 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 4
31 and who is engaged in the business of leasing or renting such property.

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

35 39. 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. For the purposes of this
41 paragraph:

42 (a) "Overhead materials" means tangible personal property, the gross
43 proceeds of sales or gross income derived from which would otherwise be
44 included in the retail classification, and which are used or consumed in the
45 performance of a contract, the cost of which is charged to an overhead

1 expense account and allocated to various contracts based upon generally
2 accepted accounting principles and consistent with government contract
3 accounting standards.

4 (b) "Subcontract" means an agreement between a contractor and any
5 person who is not an employee of the contractor for furnishing of supplies or
6 services that, in whole or in part, are necessary to the performance of one
7 or more government contracts, or under which any portion of the contractor's
8 obligation under one or more government contracts is performed, undertaken or
9 assumed, and that includes provisions causing title to overhead materials or
10 other tangible personal property used in the performance of the subcontract
11 to pass to the government or that includes provisions incorporating such
12 title passing clauses in a government contract into the subcontract.

13 40. Through December 31, 1994, tangible personal property sold pursuant
14 to a personal property liquidation transaction, as defined in section
15 42-5061. From and after December 31, 1994, tangible personal property sold
16 pursuant to a personal property liquidation transaction, as defined in
17 section 42-5061, if the gross proceeds of the sales were included in the
18 measure of the tax imposed by article 1 of this chapter or if the personal
19 property liquidation was a casual activity or transaction.

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

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

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

34 44. Alternative fuel vehicles if the vehicle was manufactured as a
35 diesel fuel vehicle and converted to operate on alternative fuel and
36 equipment that is installed in a conventional diesel fuel motor vehicle to
37 convert the vehicle to operate on an alternative fuel, as defined in section
38 1-215.

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

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

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

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

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

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

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

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

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

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

28 51. MOTOR VEHICLE FUEL AND USE FUEL TO A QUALIFIED BUSINESS UNDER
29 SECTION 41-1516 FOR OFF-ROAD USE IN HARVESTING, PROCESSING OR TRANSPORTING
30 QUALIFYING FOREST PRODUCTS REMOVED FROM QUALIFYING PROJECTS AS DEFINED IN
31 SECTION 41-1516.

32 52. REPAIR PARTS INSTALLED IN EQUIPMENT USED DIRECTLY BY A QUALIFIED
33 BUSINESS UNDER SECTION 41-1516 IN HARVESTING, PROCESSING OR TRANSPORTING
34 QUALIFYING FOREST PRODUCTS REMOVED FROM QUALIFYING PROJECTS AS DEFINED IN
35 SECTION 41-1516.

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

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

1 2. Machinery, or equipment, used directly in the process of extracting
2 ores or minerals from the earth for commercial purposes, including equipment
3 required to prepare the materials for extraction and handling, loading or
4 transporting such extracted material to the surface. "Mining" includes
5 underground, surface and open pit operations for extracting ores and
6 minerals.

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

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

17 5. Neat animals, horses, asses, sheep, raites, swine or goats used or
18 to be used as breeding or production stock, including sales of breedings or
19 ownership shares in such animals used for breeding or production.

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

24 7. Aircraft, navigational and communication instruments and other
25 accessories and related equipment sold to:

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

32 (b) Any foreign government, or sold to persons who are not residents
33 of this state and who will not use such property in this state other than in
34 removing such property from this state.

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

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

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

44 11. Buses or other urban mass transit vehicles which are used directly
45 to transport persons or property for hire or pursuant to a governmentally

1 adopted and controlled urban mass transportation program and which are sold
2 to bus companies holding a federal certificate of convenience and necessity
3 or operated by any city, town or other governmental entity or by any person
4 contracting with such governmental entity as part of a governmentally adopted
5 and controlled program to provide urban mass transportation.

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

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

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

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

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

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

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

44 (b) "Soundstage complex" means a facility of multiple stages including
45 production offices, construction shops and related areas, prop and costume

1 shops, storage areas, parking for production vehicles and areas that are
2 leased to businesses that complement the production needs and orientation of
3 the overall facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 22. Qualifying equipment that is purchased from and after June 30, 2004
31 through June 30, ~~2014~~ 2024 by a qualified business under section 41-1516 for
32 harvesting or ~~the initial~~ processing of qualifying forest products removed
33 from qualifying projects as defined in section 41-1516. To qualify for this
34 exemption, the qualified business must obtain and present its certification
35 from the Arizona commerce authority at the time of purchase.

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

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

44 1. Expendable materials. For the purposes of this paragraph,
45 expendable materials do not include any of the categories of tangible

1 personal property specified in subsection B of this section regardless of the
2 cost or useful life of that property.

3 2. Janitorial equipment and hand tools.

4 3. Office equipment, furniture and supplies.

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

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

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

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

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

17 1. Revenues received from sales of ancillary services, electric
18 distribution services, electric generation services, electric transmission
19 services and other services related to providing electricity to a retail
20 electric customer who is located outside this state for use outside this
21 state if the electricity is delivered to a point of sale outside this state.

22 2. Revenues received from providing electricity, including ancillary
23 services, electric distribution services, electric generation services,
24 electric transmission services and other services related to providing
25 electricity with respect to which the transaction privilege tax imposed under
26 section 42-5063 has been paid.

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

28 1. The storage, use or consumption in Arizona of machinery, equipment,
29 materials or other tangible personal property if used directly and
30 predominantly to construct a qualified environmental technology
31 manufacturing, producing or processing facility, as described in section
32 41-1514.02. This paragraph applies for ten full consecutive calendar or
33 fiscal years after the start of initial construction.

34 2. The purchase of electricity by a qualified environmental technology
35 manufacturer, producer or processor as defined in section 41-1514.02 that is
36 used directly in environmental technology manufacturing, producing or
37 processing. This paragraph shall apply for twenty full consecutive calendar
38 or fiscal years from the date the first paper manufacturing machine is placed
39 in service. In the case of an environmental technology manufacturer,
40 producer or processor who does not manufacture paper, the time period shall
41 begin with the date the first manufacturing, processing or production
42 equipment is placed in service.

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

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

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

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

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

14 1. "Aircraft" includes:

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

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

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

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

28 Sec. 7. Section 42-12006, Arizona Revised Statutes, is amended to
29 read:

30 42-12006. Class six property

31 For purposes of taxation, class six is established consisting of:

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

34 2. Real and personal property that is located within the area of a
35 foreign trade zone or subzone established under 19 United States Code section
36 81 and title 44, chapter 18, that is activated for foreign trade zone use by
37 the district director of the United States customs service pursuant to
38 19 Code of Federal Regulations section 146.6 and that is valued at full cash
39 value. Property that is classified under this paragraph shall not thereafter
40 be classified under paragraph 6 of this section.

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

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

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

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

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

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

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

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

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

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

25 5. That portion of real and personal property that is used on or after
26 January 1, 1999 specifically and solely for remediation of the environment by
27 an action that has been determined to be reasonable and necessary to respond
28 to the release or threatened release of a hazardous substance by the
29 department of environmental quality pursuant to section 49-282.06 or pursuant
30 to its corrective action authority under rules adopted pursuant to section
31 49-922, subsection B, paragraph 4 or by the United States environmental
32 protection agency pursuant to the national contingency plan (40 Code of
33 Federal Regulations part 300) and that is valued at full cash value.
34 Property that is not being used specifically and solely for the remediation
35 objectives described in this paragraph shall not be classified under this
36 paragraph. For the purposes of this paragraph, "remediation of the
37 environment" means one or more of the following actions:

38 (a) Monitoring, assessing or evaluating the release or threatened
39 release.

40 (b) Excavating, removing, transporting, treating and disposing of
41 contaminated soil.

42 (c) Pumping and treating contaminated water.

43 (d) Treatment, containment or removal of contaminants in groundwater
44 or soil.

1 6. Real and personal property and improvements constructed or
2 installed from and after December 31, 2004 through December 31, ~~2010~~ 2024 and
3 owned by a qualified business under section 41-1516 and used solely for the
4 purpose of harvesting, transporting or ~~the initial~~ processing of qualifying
5 forest products removed from qualifying projects as defined in section
6 41-1516. The classification under this paragraph is subject to the following
7 terms and conditions:

8 (a) Property may be initially classified under this paragraph only in
9 valuation years 2005 through ~~2010~~ 2024.

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

12 (c) Any new addition or improvement, constructed or installed from and
13 after December 31, 2004 through December 31, ~~2010~~ 2024, to property already
14 classified under this paragraph qualifies separately for classification and
15 assessment under this paragraph for not more than five years.

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

18 7. Real and personal property and improvements to the property that
19 are used specifically and solely to manufacture from and after December 31,
20 2006 through December 31, 2016 biodiesel fuel that is one hundred per cent
21 biodiesel and its by-products and that are valued at full cash value. This
22 paragraph applies only to the portion of property that is used specifically
23 for manufacturing and processing one hundred per cent biodiesel fuel, or its
24 related by-products, from raw feedstock obtained from off-site sources,
25 including necessary on-site storage facilities that are intrinsically
26 associated with the manufacturing process. Any other commercial or
27 industrial use disqualifies the entire property from classification under
28 this paragraph.

29 8. Real and personal property and improvements that are certified
30 pursuant to section 41-1511, subsection C, paragraph 2 and that are used for
31 renewable energy manufacturing or headquarters operations as provided by
32 section 42-12057. This paragraph applies only to property that is used in
33 manufacturing and headquarters operations of renewable energy companies,
34 including necessary on-site research and development, testing and storage
35 facilities that are associated with the manufacturing process. Up to ten per
36 cent of the aggregate full cash value of the property may be derived from
37 uses that are ancillary to and intrinsically associated with the
38 manufacturing process or headquarters operation. Any additional ancillary
39 property is not qualified for classification under this paragraph. No new
40 properties may be classified pursuant to this paragraph from and after
41 December 31, 2014. Classification under this paragraph is limited to the
42 time periods determined by the Arizona commerce authority pursuant to section
43 41-1511, subsection C, paragraph 2, subdivision (a) or (b). Property that is
44 classified under this paragraph shall not thereafter be classified under any
45 other paragraph of this section.

1 Sec. 8. Section 43-222, Arizona Revised Statutes, is amended to read:
2 43-222. Income tax credit review schedule

3 The joint legislative income tax credit review committee shall review
4 the following income tax credits:

5 1. For years ending in 0 and 5, sections 43-1075, 43-1075.01,
6 43-1079.01, 43-1087, 43-1088, 43-1090.01, 43-1163, 43-1163.01, 43-1167.01,
7 43-1175 and 43-1182.

8 2. For years ending in 1 and 6, sections 43-1074.02, 43-1083,
9 43-1083.02, 43-1085.01, 43-1164.02, 43-1164.03 and 43-1183.

10 3. For years ending in 2 and 7, sections 43-1073, 43-1079, 43-1080,
11 43-1085, 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1090, 43-1164, 43-1167,
12 43-1169, 43-1176 and 43-1181.

13 4. For years ending in 3 and 8, sections 43-1074.01, 43-1081, 43-1168,
14 43-1170 and 43-1178.

15 5. For years ending in 4 and 9, sections 43-1076, 43-1076.01,
16 43-1081.01, 43-1083.01, 43-1084, 43-1162, 43-1162.01, 43-1164.01, 43-1170.01
17 and 43-1184.

18 Sec. 9. Section 43-1076, Arizona Revised Statutes, is amended to read:
19 43-1076. Credit for employment by a healthy forest enterprise

20 A. IN ADDITION TO THE CREDIT ALLOWED BY SECTION 43-1076.01, for
21 taxable years beginning from and after December 31, 2004 through December 31,
22 ~~2014~~ 2024, a credit is allowed against the taxes imposed by this title for
23 net increases in qualified employment positions by a qualified business that
24 is certified by the Arizona commerce authority as a healthy forest enterprise
25 pursuant to section 41-1516.

26 B. Subject to subsection E of this section, the amount of the credit
27 is equal to:

28 1. One-fourth of the taxable wages paid to an employee in a qualified
29 employment position, not to exceed five hundred dollars per qualified
30 employment position, in the first year or partial year of employment.

31 2. One-third of the taxable wages paid to an employee in a qualified
32 employment position, not to exceed one thousand dollars per qualified
33 employment position, in the second year of continuous employment.

34 3. One-half of the taxable wages paid to an employee in a qualified
35 employment position, not to exceed one thousand five hundred dollars per
36 qualified employment position, in the third year of continuous employment.

37 C. To qualify for a credit under this section:

38 1. The business must employ at least ~~three~~ ONE new full-time employees
39 EMPLOYEE in A qualified employment positions POSITION in the first taxable
40 year in which the credit is claimed.

41 2. ~~All of the employees~~ EACH EMPLOYEE with respect to whom a credit is
42 claimed must reside in this state on the date of hire.

43 3. A qualified employment position must meet all of the following
44 requirements:

1 (a) The position must be full-time employment for a minimum of one
2 thousand five hundred fifty hours per year, unless a shorter period of
3 employment is due to forest closures or weather conditions beyond the
4 taxpayer's control.

5 (b) The job duties must primarily involve or directly support the
6 harvesting, transporting or ~~the initial~~ processing of qualifying forest
7 products removed from qualifying projects as defined in section 41-1516 into
8 a product having commercial value.

9 (c) The employer must pay compensation at least equal to the wage
10 offer by county as computed annually by the department of economic security
11 research administration division.

12 (d) The employee must have been employed for at least ninety days
13 during the first taxable year. An employee who is hired during the last
14 ninety days of the taxable year shall be considered a new employee during the
15 next taxable year. A qualified employment position that is filled during the
16 last ninety days of the taxable year is considered to be a new qualified
17 employment position for the next taxable year.

18 (e) The employee has not been previously employed by the taxpayer
19 within twelve months before the current date of hire.

20 4. The employer shall provide health insurance coverage for employees
21 as follows:

22 (a) The employer shall pay:

23 (i) At least twenty-five per cent of the premium or membership cost of
24 the insurance program in the third year the taxpayer claims a credit under
25 this section. If the taxpayer is self-insured, the taxpayer must pay at
26 least twenty-five per cent of a predetermined fixed cost per employee for an
27 insurance program that is payable whether or not the employee has filed
28 claims.

29 (ii) At least forty per cent of the premium or membership cost in the
30 fourth year the taxpayer claims a credit under this section. If the taxpayer
31 is self-insured, the taxpayer must pay at least forty per cent of a
32 predetermined fixed cost per employee for an insurance program that is
33 payable whether or not the employee has filed claims.

34 (iii) At least fifty per cent of the premium or membership cost of the
35 insurance program in the fifth and each subsequent year the taxpayer claims a
36 credit under this section. If the taxpayer is self-insured, the taxpayer
37 must pay at least fifty per cent of a predetermined fixed cost per employee
38 for an insurance program that is payable whether or not the employee has
39 filed claims.

40 (b) An employer shall not reduce the amount of health insurance
41 coverage provided to employees before certification by the Arizona commerce
42 authority.

43 D. A credit is allowed for employment in the second and third year
44 only for qualified employment positions for which a credit was allowed and
45 claimed by the taxpayer on the original first and second year tax returns.

1 E. The net increase in the number of qualified employment positions is
2 the lesser of the total number of filled qualified employment positions
3 created during the taxable year or the difference between the average number
4 of full-time employees in the current taxable year and the average number of
5 full-time employees during the immediately preceding taxable year. The net
6 increase in the number of qualified employment positions computed under this
7 subsection may not exceed two hundred qualified employment positions per
8 taxpayer each year.

9 F. A taxpayer who claims a credit under section 43-1074, 43-1077 or
10 43-1079 may not claim a credit under this section with respect to the same
11 employees.

12 G. If the allowable tax credit exceeds the income taxes otherwise due
13 on the claimant's income, or if there are no state income taxes due on the
14 claimant's income, the amount of the claim not used as an offset against
15 income taxes may be carried forward as a tax credit against subsequent years'
16 income tax liability for the period not to exceed five taxable years,
17 provided the business maintains its certification under section 41-1516.

18 H. Co-owners of a business, including partners in a partnership and
19 shareholders of an S corporation as defined in section 1361 of the internal
20 revenue code, may each claim only the pro rata share of the credit allowed
21 under this section based on the ownership interest. The total of the credits
22 allowed all such owners of the business may not exceed the amount that would
23 have been allowed for a sole owner of the business.

24 I. If a qualified business changes ownership through reorganization,
25 stock purchase or merger, the new taxpayer may claim first year credits only
26 for one or more qualified employment positions that it created and filled
27 with an eligible employee after the purchase or reorganization was complete.
28 If a person purchases a business that had qualified for first or second year
29 credits or changes ownership through reorganization, stock purchase or
30 merger, the new taxpayer may claim the second or third year credits if it
31 meets the other eligibility requirements of this section. Credits for which
32 a taxpayer qualified before the changes described in this subsection are
33 terminated and lost at the time the changes are implemented.

34 J. If, within five taxable years after first receiving a credit
35 pursuant to this section, the certification of qualification of a business is
36 terminated or revoked under section 41-1516 other than for reasons beyond the
37 control of the business as determined by the Arizona commerce authority, the
38 credits allowed the business pursuant to this section are subject to
39 recapture pursuant to this subsection. This subsection applies only in the
40 case of the termination or revocation of a certification of qualification.
41 This subsection does not apply if, in any taxable year, a taxpayer otherwise
42 does not qualify for or fails to claim the credit under this section. The
43 recapture of credits under this subsection is computed by increasing the
44 amount of taxes imposed in the year following the year in which the
45 qualification of the business was terminated or revoked by an amount

1 determined by multiplying the full amount of all credits previously allowed
2 under this section by a percentage determined as follows:

3 1. If the initial credit under this section was allowed for the
4 taxable year immediately preceding the taxable year in which the
5 certification of qualification of a business is terminated or revoked, one
6 hundred per cent.

7 2. If the initial credit under this section was allowed two taxable
8 years before the taxable year in which the certification of qualification of
9 a business is terminated or revoked, eighty per cent.

10 3. If the initial credit under this section was allowed three taxable
11 years before the taxable year in which the certification of qualification of
12 a business is terminated or revoked, sixty per cent.

13 4. If the initial credit under this section was allowed four taxable
14 years before the taxable year in which the certification of qualification of
15 a business is terminated or revoked, forty per cent.

16 5. If the initial credit under this section was allowed five taxable
17 years before the taxable year in which the certification of qualification of
18 a business is terminated or revoked, twenty per cent.

19 Sec. 10. Title 43, chapter 10, article 5, Arizona Revised Statutes, is
20 amended by adding section 43-1076.01, to read:

21 43-1076.01. Credit for ecological restoration workforce
22 training

23 A. IN ADDITION TO THE CREDIT ALLOWED BY SECTION 43-1076, FOR TAXABLE
24 YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2011 THROUGH DECEMBER 31, 2024 A
25 CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR EXPENSES
26 INCURRED IN TRAINING NEW EMPLOYEES IN QUALIFIED EMPLOYMENT POSITIONS BY A
27 QUALIFIED BUSINESS THAT IS CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY AS A
28 HEALTHY FOREST ENTERPRISE PURSUANT TO SECTION 41-1516.

29 B. THE AMOUNT OF THE CREDIT IS THE NET COST TO THE TAXPAYER OF
30 TRAINING AND CERTIFYING A NEW EMPLOYEE IN A QUALIFIED EMPLOYMENT POSITION BUT
31 NOT MORE THAN THREE THOUSAND DOLLARS FOR EACH FULL-TIME EMPLOYEE HIRED IN A
32 QUALIFIED EMPLOYMENT POSITION IN EACH OF THE FIRST THREE YEARS OF EMPLOYMENT,
33 BUT NOT MORE THAN A TOTAL OF TWO HUNDRED EMPLOYEES EMPLOYED BY THE TAXPAYER
34 IN ANY TAXABLE YEAR.

35 C. THE TERMS AND CONDITIONS PRESCRIBED BY SECTION 43-1076, SUBSECTIONS
36 C THROUGH J APPLY WITH RESPECT TO THE CREDIT UNDER THIS SECTION.

37 Sec. 11. Section 43-1162, Arizona Revised Statutes, is amended to
38 read:

39 43-1162. Credit for employment by a healthy forest enterprise

40 A. For taxable years beginning from and after December 31, 2004
41 through December 31, ~~2014~~ 2024, a credit is allowed against the taxes imposed
42 by this title for net increases in qualified employment positions by a
43 qualified business that is certified by the Arizona commerce authority as a
44 healthy forest enterprise pursuant to section 41-1516.

1 B. Subject to subsection E of this section, the amount of the credit
2 is equal to:

3 1. One-fourth of the taxable wages paid to an employee in a qualified
4 employment position, not to exceed five hundred dollars per qualified
5 employment position, in the first year or partial year of employment.

6 2. One-third of the taxable wages paid to an employee in a qualified
7 employment position, not to exceed one thousand dollars per qualified
8 employment position, in the second year of continuous employment.

9 3. One-half of the taxable wages paid to an employee in a qualified
10 employment position, not to exceed one thousand five hundred dollars per
11 qualified employment position, in the third year of continuous employment.

12 C. To qualify for a credit under this section:

13 1. The business must employ at least ~~three~~ ONE new full-time employees
14 EMPLOYEE in A qualified employment positions POSITION in the first taxable
15 year in which the credit is claimed.

16 2. ~~All of the employees~~ EACH EMPLOYEE with respect to whom a credit is
17 claimed must reside in this state on the date of hire.

18 3. A qualified employment position must meet all of the following
19 requirements:

20 (a) The position must be full-time employment for a minimum of one
21 thousand five hundred fifty hours per year, unless a shorter period of
22 employment is due to forest closures or weather conditions beyond the
23 taxpayer's control.

24 (b) The job duties must primarily involve or directly support ~~the~~
25 harvesting, transporting or ~~the initial~~ processing of qualifying forest
26 products removed from qualifying projects as defined in section 41-1516 into
27 a product having commercial value.

28 (c) The employer must pay compensation at least equal to the wage
29 offer by county as computed annually by the department of economic security
30 research administration division.

31 (d) The employee must have been employed for at least ninety days
32 during the first taxable year. An employee who is hired during the last
33 ninety days of the taxable year shall be considered a new employee during the
34 next taxable year. A qualified employment position that is filled during the
35 last ninety days of the taxable year is considered to be a new qualified
36 employment position for the next taxable year.

37 (e) The employee has not been previously employed by the taxpayer
38 within twelve months before the current date of hire.

39 4. The employer shall provide health insurance coverage for employees
40 as follows:

41 (a) The employer shall pay:

42 (i) At least twenty-five per cent of the premium or membership cost of
43 the insurance program in the third year the taxpayer claims a credit under
44 this section. If the taxpayer is self-insured, the taxpayer must pay at
45 least twenty-five per cent of a predetermined fixed cost per employee for an

1 insurance program that is payable whether or not the employee has filed
2 claims.

3 (ii) At least forty per cent of the premium or membership cost in the
4 fourth year the taxpayer claims a credit under this section. If the taxpayer
5 is self-insured, the taxpayer must pay at least forty per cent of a
6 predetermined fixed cost per employee for an insurance program that is
7 payable whether or not the employee has filed claims.

8 (iii) At least fifty per cent of the premium or membership cost of the
9 insurance program in the fifth and each subsequent year the taxpayer claims a
10 credit under this section. If the taxpayer is self-insured, the taxpayer
11 must pay at least fifty per cent of a predetermined fixed cost per employee
12 for an insurance program that is payable whether or not the employee has
13 filed claims.

14 (b) An employer shall not reduce the amount of health insurance
15 coverage provided to employees before certification by the Arizona commerce
16 authority.

17 D. A credit is allowed for employment in the second and third year
18 only for qualified employment positions for which a credit was allowed and
19 claimed by the taxpayer on the original first and second year tax returns.

20 E. The net increase in the number of qualified employment positions is
21 the lesser of the total number of filled qualified employment positions
22 created during the taxable year or the difference between the average number
23 of full-time employees in the current taxable year and the average number of
24 full-time employees during the immediately preceding taxable year. The net
25 increase in the number of qualified employment positions computed under this
26 subsection may not exceed two hundred qualified employment positions per
27 taxpayer each year.

28 F. A taxpayer who claims a credit under section 43-1161, 43-1165 or
29 43-1167 may not claim a credit under this section with respect to the same
30 employees.

31 G. If the allowable tax credit exceeds the income taxes otherwise due
32 on the claimant's income, or if there are no state income taxes due on the
33 claimant's income, the amount of the claim not used as an offset against
34 income taxes may be carried forward as a tax credit against subsequent years'
35 income tax liability for the period not to exceed five taxable years,
36 provided the business maintains its certification under section 41-1516.

37 H. Co-owners of a business, including partners in a partnership, may
38 each claim only the pro rata share of the credit allowed under this section
39 based on the ownership interest. The total of the credits allowed all such
40 owners of the business may not exceed the amount that would have been allowed
41 for a sole owner of the business.

42 I. If a qualified business changes ownership through reorganization,
43 stock purchase or merger, the new taxpayer may claim first year credits only
44 for one or more qualified employment positions that it created and filled
45 with an eligible employee after the purchase or reorganization was complete.

1 If a person purchases a business that had qualified for first or second year
2 credits or changes ownership through reorganization, stock purchase or
3 merger, the new taxpayer may claim the second or third year credits if it
4 meets the other eligibility requirements of this section. Credits for which
5 a taxpayer qualified before the changes described in this subsection are
6 terminated and lost at the time the changes are implemented.

7 J. If, within five taxable years after first receiving a credit
8 pursuant to this section, the certification of qualification of a business is
9 terminated or revoked under section 41-1516 other than for reasons beyond the
10 control of the business as determined by the Arizona commerce authority, the
11 credits allowed the business pursuant to this section are subject to
12 recapture pursuant to this subsection. This subsection applies only in the
13 case of the termination or revocation of a certification of qualification.
14 This subsection does not apply if, in any taxable year, a taxpayer otherwise
15 does not qualify for or fails to claim the credit under this section. The
16 recapture of credits under this subsection is computed by increasing the
17 amount of taxes imposed in the year following the year in which the
18 qualification of the business was terminated or revoked by an amount
19 determined by multiplying the full amount of all credits previously allowed
20 under this section by a percentage determined as follows:

21 1. If the initial credit under this section was allowed for the
22 taxable year immediately preceding the taxable year in which the
23 certification of qualification of a business is terminated or revoked, one
24 hundred per cent.

25 2. If the initial credit under this section was allowed two taxable
26 years before the taxable year in which the certification of qualification of
27 a business is terminated or revoked, eighty per cent.

28 3. If the initial credit under this section was allowed three taxable
29 years before the taxable year in which the certification of qualification of
30 a business is terminated or revoked, sixty per cent.

31 4. If the initial credit under this section was allowed four taxable
32 years before the taxable year in which the certification of qualification of
33 a business is terminated or revoked, forty per cent.

34 5. If the initial credit under this section was allowed five taxable
35 years before the taxable year in which the certification of qualification of
36 a business is terminated or revoked, twenty per cent.

37 Sec. 12. Title 43, chapter 11, article 6, Arizona Revised Statutes, is
38 amended by adding section 43-1162.01, to read:

39 43-1162.01. Credit for ecological restoration workforce
40 training

41 A. IN ADDITION TO THE CREDIT ALLOWED BY SECTION 43-1162, FOR TAXABLE
42 YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2011 THROUGH DECEMBER 31, 2024 A
43 CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR EXPENSES
44 INCURRED IN TRAINING NEW EMPLOYEES IN QUALIFIED EMPLOYMENT POSITIONS BY A

1 QUALIFIED BUSINESS THAT IS CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY AS A
2 HEALTHY FOREST ENTERPRISE PURSUANT TO SECTION 41-1516.

3 B. THE AMOUNT OF THE CREDIT IS THE NET COST TO THE TAXPAYER OF
4 TRAINING AND CERTIFYING A NEW EMPLOYEE IN A QUALIFIED EMPLOYMENT POSITION BUT
5 NOT MORE THAN THREE THOUSAND DOLLARS FOR EACH FULL-TIME EMPLOYEE HIRED IN A
6 QUALIFIED EMPLOYMENT POSITION IN EACH OF THE FIRST THREE YEARS OF EMPLOYMENT,
7 BUT NOT MORE THAN A TOTAL OF TWO HUNDRED EMPLOYEES EMPLOYED BY THE TAXPAYER
8 IN ANY TAXABLE YEAR.

9 C. THE TERMS AND CONDITIONS PRESCRIBED BY SECTION 43-1162, SUBSECTIONS
10 C THROUGH J APPLY WITH RESPECT TO THE CREDIT UNDER THIS SECTION.

11 Sec. 13. Existing healthy forest enterprise certifications:
12 application of income tax credits

13 A. Notwithstanding section 41-1516, subsection E, Arizona Revised
14 Statutes, as amended by this act, the certification of healthy forest
15 enterprises by the Arizona commerce authority before the effective date of
16 this act remain valid for twelve calendar months from the date of issuance as
17 provided by prior law. Recertification of the enterprise after the effective
18 date of this act is valid for sixty calendar months from the date of issuance
19 as provided by this act.

20 B. Sections 43-1076 and 43-1162, Arizona Revised Statutes, as amended
21 by this act, apply to each taxpayer beginning with the first taxable year in
22 which the taxpayer is issued a healthy forest enterprise certificate that is
23 valid for sixty calendar months pursuant to section 41-1516, subsection E,
24 Arizona Revised Statutes, as amended by this act.

25 Sec. 14. Purpose: income tax credits

26 Pursuant to section 43-223, Arizona Revised Statutes, the purpose of
27 sections 43-1076.01 and 43-1162.01, Arizona Revised Statutes, as added by
28 this act, is to encourage the employment and training of entry level workers
29 for ecological restoration efforts in this state.

30 Sec. 15. Effective date: new use fuel tax rates

31 The new use fuel tax rate prescribed by section 28-5606, subsection B,
32 paragraph 3, Arizona Revised Statutes, as amended by this act, applies
33 beginning from and after the last day of the calendar month in which the
34 effective date of this act occurs.

35 Sec. 16. Retroactivity

36 Sections 43-1076.01 and 43-1162.01, Arizona Revised Statutes, apply
37 retroactively to taxable years beginning from and after December 31, 2011.

APPROVED BY THE GOVERNOR MAY 11, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 14, 2012.

Passed the House March 5, 2012

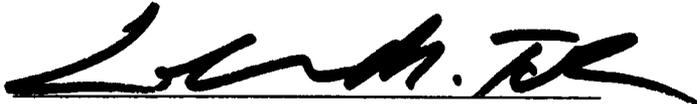
Passed the Senate April 18, 2012

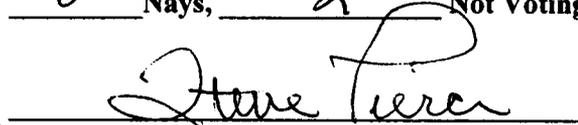
by the following vote: 59 Ayes,

by the following vote: 28 Ayes,

1 Nays, 0 Not Voting

0 Nays, 2 Not Voting


Speaker of the House


President of the Senate


Chief Clerk of the House


Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill received by the Governor this

 day of , 20

at o'clock M.

Secretary to the Governor

Approved this day of

at o'clock M.

Governor of Arizona

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

This Bill received by the Secretary of State

this day of , 20

at o'clock M.

Secretary of State

H.B. 2332

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 30, 2012,

by the following vote: 55 Ayes,

4 Nays, 1 Not Voting



Speaker of the House

Cheryl Laube

Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

30th day of April, 2012,

at 4:30 o'clock P M.

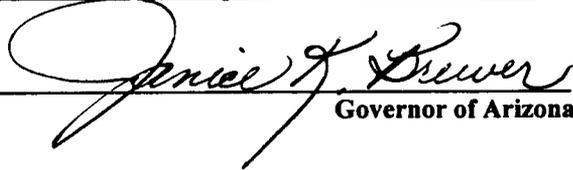


Secretary to the Governor

Approved this 11th day of

May, 2012,

at 4:10 o'clock P M.



Governor of Arizona

H.B. 2332

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 14th day of May, 2012,

at 8:30 o'clock a M.



Secretary of State