

REFERENCE TITLE: healthy forest enterprise credits; repeal

State of Arizona  
Senate  
Fifty-second Legislature  
First Regular Session  
2015

## **SB 1123**

Introduced by  
Senator Lesko

AN ACT

AMENDING SECTIONS 41-1516 AND 43-222, ARIZONA REVISED STATUTES; REPEALING SECTIONS 43-1076, 43-1076.01, 43-1162 AND 43-1162.01, ARIZONA REVISED STATUTES; RELATING TO INCOME TAX CREDITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 41-1516. Healthy forest enterprise incentives; definitions

5 A. The Arizona commerce authority shall:

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

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

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

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

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

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

25 (i) At least seventy ~~per-cent~~ PERCENT of the harvested or processed  
26 products, measured by weight, must be qualifying forest products.

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

29 (c) If the qualifying forest product is not on federal land, the  
30 business shall submit a letter from the state forester stating that the  
31 business is primarily engaged in the business of harvesting or processing  
32 qualifying forest products for commercial use as follows:

33 (i) At least seventy ~~per-cent~~ PERCENT of the harvested or processed  
34 products must be qualifying forest products.

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

37 (d) If the business is engaged in transporting qualifying forest  
38 products, it must submit a letter from the state forester or United States  
39 forest service, or official records or documents produced in connection with  
40 the project, stating that all of the qualifying forest products it transports  
41 are harvested from areas in this state. In addition, the business must  
42 submit evidence to the authority that at least seventy-five ~~per-cent~~ PERCENT  
43 of the mileage traveled by its units each year are for transporting  
44 qualifying forest products from or to qualifying projects described in  
45 subdivision (b) or (c) of this paragraph, unless a lower mileage is due to

1 forest closures or weather conditions that are beyond the control of the  
2 business.

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

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

6 4. Must enter into a memorandum of understanding with the authority  
7 containing:

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

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

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

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

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

44 C. For the purposes of section 42-5075, subsection B, paragraph 18,  
45 the authority shall certify prime contractors that contract for the

1 construction of any building, or other structure, project, development or  
2 improvement owned by a qualified business for purposes of a qualifying  
3 project described in subsection B, paragraph 1 of this section.

4 D. To obtain and maintain certification under this section, a business  
5 must:

6 1. Apply to the authority.

7 2. Submit and retain copies of all required information, including  
8 information relating to the actual or projected number of employees in this  
9 state.

10 3. Allow inspections and audits to verify the qualification and  
11 accuracy of information submitted to the authority.

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

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

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

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

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

38 ~~2. Employment information necessary to confirm eligibility for income~~  
39 ~~tax credits as prescribed by sections 43-1076 and 43-1162.~~

40 ~~3.~~ 2. The quantity, measured by weight, of qualifying forest products  
41 harvested, transported or processed.

42 I. On or before May 1 of each year, the authority shall report to the  
43 joint legislative budget committee:

1           1. The quantity, measured by weight, of qualifying forest products  
2 reported by harvesters, by transporters and by processors in the preceding  
3 calendar year.

4           2. The number of new full-time employees hired in qualified employment  
5 positions in this state in the preceding calendar year and reported for tax  
6 credit purposes.

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

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

14           1. Inspect the facilities at the site.

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

17           3. Otherwise ascertain compliance with law and the terms of the  
18 memorandum of understanding.

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

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

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

26          L. For the purposes of this section:

27           1. "Forest health" means the degree to which the integrity of the  
28 forest is sustained, including reducing the risk of catastrophic wildfire and  
29 destructive insect infestation, benefiting wildland habitats, watersheds and  
30 communities.

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

34           3. "Processing" means:

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

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

43           4. "Qualifying equipment" means equipment used directly in harvesting  
44 or processing qualifying forest products removed from a qualifying project.  
45 Qualifying equipment does not include self-propelled vehicles required to be

1 licensed by this state, but may include other licensed vehicles as provided  
2 by this paragraph. Qualifying equipment includes:

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

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

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

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

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

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

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

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

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

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

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

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

37 Sec. 2. Section 43-222, Arizona Revised Statutes, is amended to read:  
38 43-222. Income tax credit review schedule

39 The joint legislative income tax credit review committee shall review  
40 the following income tax credits:

41 1. For years ending in 0 and 5, sections 43-1079.01, 43-1087, 43-1088,  
42 43-1167.01 and 43-1175.

43 2. For years ending in 1 and 6, sections 43-1074.02, 43-1083,  
44 43-1083.02, 43-1085.01, 43-1164.02, 43-1164.03 and 43-1183.

1           3. For years ending in 2 and 7, sections 43-1073, 43-1079, 43-1080,  
2 43-1085, 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1089.03, 43-1090,  
3 43-1164, 43-1167, 43-1169, 43-1176 and 43-1181.

4           4. For years ending in 3 and 8, sections 43-1074.01, 43-1081, 43-1168,  
5 43-1170 and 43-1178.

6           5. For years ending in 4 and 9, sections ~~43-1076, 43-1076.01,~~  
7 43-1081.01, 43-1083.01, 43-1083.04, 43-1084, ~~43-1162, 43-1162.01,~~ 43-1164.01,  
8 43-1164.05, 43-1170.01 and 43-1184 and, beginning in 2019, sections  
9 43-1083.03 and 43-1164.04.

10          Sec. 3. Repeal

11          Sections 43-1076, 43-1076.01, 43-1162 and 43-1162.01, Arizona Revised  
12 Statutes, are repealed.

13          Sec. 4. Requirements for enactment; two-thirds vote

14          Pursuant to article IX, section 22, Constitution of Arizona, this act  
15 is effective only on the affirmative vote of at least two-thirds of the  
16 members of each house of the legislature and is effective immediately on the  
17 signature of the governor or, if the governor vetoes this act, on the  
18 subsequent affirmative vote of at least three-fourths of the members of each  
19 house of the legislature.