

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1433

(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 5, Arizona Revised Statutes, is amended by adding
3 chapter 9, to read:

4 CHAPTER 9

5 SPORTS AUTHORITY DISTRICT

6 ARTICLE 1. ORGANIZATION

7 5-1101. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "ADVISORY BOARD" MEANS THE ADVISORY BOARD OF THE SPORTS AUTHORITY.

10 2. "AUTHORITY" MEANS A SPORTS AUTHORITY ESTABLISHED PURSUANT TO THIS
11 CHAPTER.

12 3. "AUTHORITY BOARD" MEANS THE GOVERNING BOARD OF THE SPORTS
13 AUTHORITY.

14 4. "BOARD OF DIRECTORS" MEANS THE COUNTY BOARD OF SUPERVISORS SERVING
15 AS THE BOARD OF DIRECTORS OF THE DISTRICT.

16 5. "DISTRICT" MEANS A SPORTS AUTHORITY DISTRICT ESTABLISHED PURSUANT
17 TO THIS CHAPTER.

18 6. "MULTIPURPOSE FACILITY" MEANS A STADIUM OR A FACILITY FOR YOUTH
19 SPORTS THAT IS ADAPTED FOR ADDITIONAL ENTERTAINMENT, CULTURAL, CIVIC,
20 MEETING, TRADESHOW OR CONVENTION EVENTS, ON-SITE INFRASTRUCTURE AND RELATED
21 PARKING FACILITIES AND COMMERCIAL ACTIVITY WITHIN THE FACILITY.

22 7. "STADIUM" MEANS A FACILITY INTENDED PRIMARILY FOR USE BY ONE OR
23 MORE MAJOR LEAGUE BASEBALL SPRING TRAINING OPERATIONS, INCLUDING BASEBALL
24 STADIUMS, CLUBHOUSES, PRACTICE FACILITIES, OTHER RELATED FACILITIES, ON-SITE
25 INFRASTRUCTURE AND RELATED PARKING FACILITIES AND COMMERCIAL ACTIVITY WITHIN
26 THE FACILITY.

27 8. "YOUTH SPORTS" MEANS RECREATIONAL AND AMATEUR SPORTING RELATED
28 ACTIVITIES AND COMPETITIONS ORGANIZED IN THE DISTRICT, EXCLUDING ANY
29 ACTIVITIES ORGANIZED BY OR UNDER THE AUSPICES OF A UNIVERSITY OR COMMUNITY
30 COLLEGE OR ANY NATIONAL COLLEGIATE ATHLETIC ASSOCIATION OR NATIONAL JUNIOR
31 COLLEGE ATHLETIC ASSOCIATION SANCTIONED EVENT.

32 5-1102. Formation of district; board of directors; duties

33 A. A SPORTS AUTHORITY DISTRICT IS ESTABLISHED IN EACH COUNTY HAVING A
34 POPULATION OF MORE THAN THREE HUNDRED THOUSAND BUT LESS THAN TWO MILLION
35 PERSONS. THE BOUNDARIES OF THE AUTHORITY ARE THE BOUNDARIES OF THE COUNTY.

1 B. THE COUNTY BOARD OF SUPERVISORS SHALL SERVE AS THE BOARD OF
2 DIRECTORS OF THE DISTRICT. THE DIRECTORS SHALL NOT RECEIVE COMPENSATION OR
3 REIMBURSEMENT OF EXPENSES FOR THEIR SERVICES AS THE BOARD OF DIRECTORS.

4 C. THE BOARD OF DIRECTORS SHALL:

5 1. CALL AN ELECTION FOR THE ESTABLISHMENT OF A SPORTS AUTHORITY IN THE
6 COUNTY AS PROVIDED BY SECTION 5-1103.

7 2. APPOINT MEMBERS OF THE GOVERNING BOARD OF THE SPORTS AUTHORITY AS
8 PROVIDED BY SECTION 5-1103.

9 3. APPROVE A BUDGET OF THE AUTHORITY PURSUANT TO SECTION 5-1131.

10 4. APPROVE THE ISSUANCE OF REVENUE BONDS OF THE AUTHORITY PURSUANT TO
11 ARTICLE 3 OF THIS CHAPTER.

12 D. THE DISTRICT IS A CORPORATE AND POLITICAL BODY, SEPARATE AND
13 INDEPENDENT OF THIS STATE OR THE COUNTY, AND EXCEPT AS OTHERWISE LIMITED,
14 MODIFIED OR PROVIDED BY THIS CHAPTER, HAS ALL OF THE RIGHTS, POWERS AND
15 IMMUNITIES OF MUNICIPAL CORPORATIONS EXCEPT TO ACQUIRE REAL PROPERTY BY
16 EMINENT DOMAIN. THE BOARD OF DIRECTORS AND THE DISTRICT DO NOT HAVE THE
17 POWER TO LEVY OR OTHERWISE IMPOSE ANY TAX OR ASSESSMENT, OTHER THAN CHARGES
18 FOR THE USE OF FACILITIES OWNED OR MANAGED BY THE DISTRICT. THE QUALIFIED
19 ELECTORS RESIDING IN THE DISTRICT MAY LEVY A TAX FOR THE FISCAL NEEDS OF THE
20 DISTRICT AS PROVIDED BY THIS CHAPTER, BUT THE BOARD OF DIRECTORS HAS NO
21 INDEPENDENT AUTHORITY TO IMPOSE A TAX. SUBJECT TO THAT LIMITATION, THE
22 DISTRICT IS CONSIDERED TO BE A TAX LEVYING PUBLIC IMPROVEMENT DISTRICT FOR
23 THE PURPOSES OF ARTICLE XIII, SECTION 7, CONSTITUTION OF ARIZONA.

24 5-1103. Sports authority; establishment; authority board

25 A. THE BOARD OF DIRECTORS SHALL CALL AN ELECTION OF THE QUALIFIED
26 ELECTORS OF THE DISTRICT TO AUTHORIZE THE ESTABLISHMENT OF A SPORTS AUTHORITY
27 WITHIN THE BOUNDARIES OF THE DISTRICT. THE ELECTION SHALL BE HELD ON THE
28 EARLIEST OR SECOND EARLIEST CONSOLIDATED ELECTION DATE PRESCRIBED BY SECTION
29 16-204, EXCEPT FOR THE FIRST TUESDAY AFTER THE FIRST MONDAY IN NOVEMBER,
30 OCCURRING AT LEAST NINETY DAYS AFTER THE DISTRICT IS ESTABLISHED.

31 B. THE ELECTION BALLOT SHALL INCLUDE THE FOLLOWING TWO QUESTIONS:

32 1. "SHALL THE SPORTS AUTHORITY DISTRICT LEVY AND COLLECT TAXES AS
33 PROVIDED BY SECTIONS 5-1133, 5-1134 AND 5-1135, ARIZONA REVISED STATUTES?".

34 2. "SHALL THE SPORTS AUTHORITY DISTRICT ISSUE REVENUE BONDS TO FINANCE
35 THE CONSTRUCTION, RENOVATION, EXPANSION OR REPAIR OF CACTUS LEAGUE BASEBALL
36 STADIUMS, YOUTH SPORTS FACILITIES AND MULTIPURPOSE FACILITIES, TO BE PAID
37 EXCLUSIVELY FROM AUTHORIZED TAX REVENUES?".

38 C. THE BOARD OF DIRECTORS SHALL ORDER THE ESTABLISHMENT OF THE
39 AUTHORITY ON THE APPROVAL OF BOTH QUESTIONS BY A MAJORITY OF THE QUALIFIED
40 ELECTORS VOTING ON EACH ISSUE IN THE ELECTION. IF EITHER QUESTION IS
41 DISAPPROVED, THE AUTHORITY SHALL NOT BE ESTABLISHED AND FURTHER PROCEEDINGS
42 UNDER THIS CHAPTER SHALL BE TERMINATED.

43 D. ON ESTABLISHMENT OF THE AUTHORITY, THE BOARD OF DIRECTORS SHALL
44 APPOINT AN AUTHORITY BOARD TO GOVERN THE AUTHORITY CONSISTING OF MEMBERS, WHO
45 RESIDE IN THE DISTRICT, AS FOLLOWS:

46 1. ONE MEMBER TO BE SELECTED FROM A LIST OF NOMINEES SUBMITTED BY THE
47 LARGEST INDUSTRY ORGANIZATION OR TRADE ASSOCIATION REPRESENTING HOTEL, MOTEL
48 AND LODGING BUSINESSES IN THE DISTRICT.

1 2. ONE MEMBER TO BE SELECTED FROM A LIST OF NOMINEES SUBMITTED BY THE
2 LARGEST INDUSTRY ORGANIZATION OR TRADE ASSOCIATION REPRESENTING RESTAURANT
3 BUSINESSES IN THE DISTRICT.

4 3. ONE MEMBER TO BE SELECTED FROM A LIST OF NOMINEES SUBMITTED BY THE
5 LARGEST INDUSTRY ORGANIZATION OR TRADE ASSOCIATION REPRESENTING AUTOMOBILE
6 RENTAL BUSINESSES IN THE DISTRICT.

7 4. ONE MEMBER TO BE SELECTED FROM A LIST OF NOMINEES SUBMITTED BY THE
8 LARGEST INDUSTRY ORGANIZATION OR TRADE ASSOCIATION REPRESENTING TOURISM
9 BUSINESSES GENERALLY IN THE DISTRICT.

10 5. ONE MEMBER WITH SUBSTANTIAL KNOWLEDGE AND EXPERIENCE REGARDING
11 MAJOR LEAGUE BASEBALL.

12 6. ONE NONVOTING MEMBER REPRESENTING EACH INCORPORATED CITY AND TOWN
13 AND THE COUNTY IN THE DISTRICT TO BE SELECTED FROM A LIST SUBMITTED BY THE
14 GOVERNING BODIES OF THE CITIES, TOWNS AND COUNTY.

15 7. TWO ADDITIONAL MEMBERS NOMINATED BY THE COUNTY, OR BY ANY CITY OR
16 TOWN, THAT CONTRIBUTES AT LEAST TWENTY PER CENT OF THE COST OF A PROJECT
17 PURSUANT TO SECTION 5-1106, SUBSECTION C IF THE CONTRIBUTION HAS A VALUE OF
18 AT LEAST FIFTEEN MILLION DOLLARS.

19 E. THE BOARD OF DIRECTORS SHALL RECEIVE NOMINATIONS FOR APPOINTMENT TO
20 THE AUTHORITY BOARD FROM AFFECTED COMMERCIAL INTERESTS, CITIES, TOWNS AND THE
21 COUNTY, AND SHALL APPOINT THE MEMBERS FROM THE NOMINEES. THE BOARD OF
22 DIRECTORS SHALL MAKE APPOINTMENTS TO THE AUTHORITY BOARD TO PROVIDE BROAD
23 GEOGRAPHIC REPRESENTATION AMONG THE MEMBERS. NO MORE THAN THREE VOTING
24 MEMBERS MAY RESIDE IN THE SAME CITY OR TOWN OR IN THE UNINCORPORATED AREAS OF
25 THE COUNTY. THE INITIAL MEMBERS SHALL BE APPOINTED TO TERMS OF TWO, THREE
26 AND FOUR YEARS, CHOSEN BY LOT. THEREAFTER, ALL SUBSEQUENT MEMBERS SHALL BE
27 APPOINTED TO TERMS OF FOUR YEARS, EXCEPT FOR INTERIM APPOINTMENTS TO FILL
28 UNEXPIRED TERMS. A MEMBER OF THE BOARD MAY BE REMOVED ON A TWO-THIRDS VOTE
29 OF ALL MEMBERS. THE REMOVAL IS EFFECTIVE IMMEDIATELY.

30 F. A MEMBER OF THE AUTHORITY BOARD SHALL NOT HOLD ANY ELECTED OFFICE
31 WHILE SERVING ON THE BOARD. AN AUTHORITY BOARD MEMBER WHO TAKES ELECTIVE
32 OFFICE OR FILES NOMINATING PETITIONS FOR ELECTIVE OFFICE IS CONSIDERED TO
33 HAVE RESIGNED FROM THE AUTHORITY BOARD EFFECTIVE IMMEDIATELY.

34 5-1104. Sports authority board powers and duties; advisory board

35 A. THE AUTHORITY BOARD, ON BEHALF OF THE SPORTS AUTHORITY, SHALL:

36 1. PROMOTE MAJOR LEAGUE BASEBALL SPRING TRAINING WITHIN THE DISTRICT.
37 2. ACQUIRE, CONSTRUCT, LEASE, FINANCE, LEASE-PURCHASE OR OTHERWISE
38 OBTAIN USE OF FACILITIES FOR MAJOR LEAGUE BASEBALL SPRING TRAINING AND
39 RELATED ACTIVITIES.

40 3. PROVIDE GRANTS AND ASSISTANCE TO POLITICAL SUBDIVISIONS OF THIS
41 STATE AND TO NONPROFIT CORPORATIONS FOR THE DEVELOPMENT AND OPERATIONS OF
42 SPORTING ACTIVITIES. SPORTING ACTIVITIES SHALL NOT INCLUDE ACTIVITIES
43 ORGANIZED BY A PUBLIC UNIVERSITY OR COMMUNITY COLLEGE.

44 4. ADOPT AN ANNUAL BUDGET AS PROVIDED BY SECTION 5-1131 AND SUBMIT THE
45 BUDGET TO THE BOARD OF DIRECTORS FOR APPROVAL.

46 5. APPROVE CAPITAL PROJECTS THAT ARE PROVIDED BY THE BUDGET.

47 6. APPROVE THE ISSUANCE OF REVENUE BONDS PURSUANT TO ARTICLE 3 OF THIS
48 CHAPTER AND SUBMIT THE BOND ISSUE TO THE BOARD OF DIRECTORS FOR APPROVAL.

1 7. APPOINT FROM AMONG ITS MEMBERS A CHAIRPERSON, A SECRETARY AND SUCH
2 OTHER OFFICERS AS MAY BE NECESSARY TO CONDUCT ITS BUSINESS.

3 8. EMPLOY AN EXECUTIVE DIRECTOR AND PRESCRIBE THE TERMS AND CONDITIONS
4 OF EMPLOYMENT.

5 9. KEEP AND MAINTAIN A COMPLETE AND ACCURATE RECORD OF ALL OF ITS
6 PROCEEDINGS. THE BOARD IS A PUBLIC BODY FOR PURPOSES OF TITLE 38, CHAPTER 3,
7 ARTICLE 3.1 AND TITLE 39, CHAPTER 1.

8 10. PROVIDE FOR THE USE, MAINTENANCE AND OPERATION OF THE PROPERTIES
9 AND INTERESTS OWNED OR MANAGED BY THE AUTHORITY.

10 B. THE AUTHORITY BOARD MAY:

11 1. ENTER INTO CONTRACTS, INCLUDING INTERGOVERNMENTAL AGREEMENTS UNDER
12 TITLE 11, CHAPTER 7, ARTICLE 3, AS NECESSARY TO CARRY OUT THE PURPOSES AND
13 REQUIREMENTS OF THIS CHAPTER.

14 2. ADOPT ADMINISTRATIVE RULES AS NECESSARY TO ADMINISTER AND OPERATE
15 THE AUTHORITY AND ANY PROPERTY UNDER ITS JURISDICTION.

16 3. ACQUIRE BY ANY LAWFUL MEANS, OTHER THAN EMINENT DOMAIN, AND
17 OPERATE, MAINTAIN, ENCUMBER AND DISPOSE OF REAL AND PERSONAL PROPERTY AND
18 INTERESTS IN PROPERTY.

19 4. RETAIN LEGAL COUNSEL AND OTHER CONSULTANTS AS NECESSARY TO CARRY
20 OUT THE PURPOSES OF THE AUTHORITY.

21 5. ENTER INTO CONTRACTS FOR THE LEASE OR RENTAL OF ANY DISTRICT
22 FACILITY OR FACILITIES WITH A NONPROFIT COMMUNITY BASED ORGANIZATION THAT
23 SPONSORS A PROFESSIONAL OR YOUTH SPORTING EVENT THAT PROVIDE FOR THE PAYMENT
24 TO THE ORGANIZATION OF A TICKET SURCHARGE OR FACILITY USER FEE ASSOCIATED
25 WITH PARKING IF THE AUTHORITY HAS FULLY PAID THE CURRENT YEAR'S REQUIRED
26 PRINCIPAL AND INTEREST PAYMENTS ON ANY OUTSTANDING AUTHORITY BONDS FOR WHICH
27 THESE REVENUES WERE PLEDGED PURSUANT TO ARTICLE 3 OF THIS CHAPTER.

28 C. THE AUTHORITY BOARD SHALL APPOINT AN ADVISORY BOARD CONSISTING OF
29 MEMBERS REPRESENTING A BROAD SPECTRUM OF INTERESTED PARTIES FOR THE PURPOSE
30 OF ADVISING THE AUTHORITY IN ITS ACTIVITIES TO FULLY PERFORM AND ACCOMPLISH
31 ITS PURPOSES.

32 5-1105. Executive director; duties

33 A. THE EXECUTIVE DIRECTOR OF THE AUTHORITY IS RESPONSIBLE TO THE
34 AUTHORITY BOARD FOR MANAGING, ADMINISTERING AND SUPERVISING THE ACTIVITIES OF
35 THE AUTHORITY.

36 B. THE EXECUTIVE DIRECTOR SHALL NEGOTIATE, MAKE, EXECUTE, ACKNOWLEDGE
37 AND PERFORM CONTRACTS AND OTHER AGREEMENTS IN THE INTEREST OF THE AUTHORITY
38 OR TO CARRY OUT OR ACCOMPLISH THE PURPOSES OF THIS CHAPTER, INCLUDING
39 CONSTRUCTION CONTRACTS AND AGREEMENTS WITH USERS OF A MULTIPURPOSE FACILITY,
40 ALL OF WHICH ARE SUBJECT TO APPROVAL BY THE BOARD.

41 C. THE EXECUTIVE DIRECTOR SHALL:

42 1. EMPLOY A FISCAL AGENT TO DEPOSIT, HOLD, INVEST AND DISBURSE THE
43 AUTHORITY'S MONIES.

44 2. EMPLOY ADMINISTRATIVE AND CLERICAL EMPLOYEES AND PRESCRIBE THE
45 TERMS AND CONDITIONS OF THEIR EMPLOYMENT AS NECESSARY TO CARRY OUT THE
46 PURPOSES OF THE AUTHORITY. EMPLOYEES OF THE AUTHORITY ARE CONSIDERED TO BE
47 PUBLIC EMPLOYEES FOR PURPOSES OF TITLE 38.

1 3. RECOMMEND THE EMPLOYMENT OF CONSULTANTS BY THE BOARD, INCLUDING
2 OUTSIDE COUNSEL AND A PROFESSIONAL FACILITY MANAGEMENT COMPANY.

3 4. DIRECT THE ACTIVITIES OF OUTSIDE CONSULTANTS.

4 5-1106. Major league baseball spring training facilities; local
5 financial participation

6 A. THE AUTHORITY MAY:

7 1. ACQUIRE LAND OR CONSTRUCT, FINANCE, FURNISH, IMPROVE, MARKET OR
8 PROMOTE THE USE OF EXISTING OR PROPOSED MAJOR LEAGUE BASEBALL SPRING TRAINING
9 FACILITIES THAT ARE LOCATED IN THE AUTHORITY AND OTHER STRUCTURES, UTILITIES,
10 ROADS, PARKING AREAS OR BUILDINGS NECESSARY FOR FULL USE OF THE TRAINING
11 FACILITIES FOR SPORTS AND OTHER PURPOSES.

12 2. DO ALL THINGS NECESSARY OR CONVENIENT TO ACCOMPLISH THE PURPOSES
13 PRESCRIBED IN THIS SUBSECTION.

14 B. MONIES OF THE AUTHORITY:

15 1. MAY BE USED FOR THE PURPOSES OF:

16 (a) ATTRACTING MAJOR LEAGUE BASEBALL SPRING TRAINING OPERATIONS TO
17 LOCATIONS IN THE AUTHORITY.

18 (b) RETAINING MAJOR LEAGUE BASEBALL SPRING TRAINING OPERATIONS IN
19 THEIR CURRENT LOCATIONS IN THE AUTHORITY.

20 2. SHALL NOT BE USED TO FACILITATE THE RELOCATION OF A MAJOR LEAGUE
21 BASEBALL SPRING TRAINING OPERATION FROM ONE LOCATION IN THIS STATE TO ANOTHER
22 LOCATION IN THIS STATE UNLESS ANOTHER MAJOR LEAGUE BASEBALL TEAM HAS MADE
23 CONTRACTUAL COMMITMENTS TO ENSURE THE RELOCATION OF ITS SPRING TRAINING
24 OPERATIONS FROM A LOCATION OUTSIDE THIS STATE TO OCCUPY ALL OR PART OF THE
25 VACATED FACILITY.

26 C. THE AUTHORITY BOARD MAY REQUIRE THAT ANY PROJECT UNDERTAKEN
27 PURSUANT TO THIS SECTION INCLUDE FINANCIAL PARTICIPATION FROM THE COUNTY OR
28 MUNICIPALITY IN WHICH THE PROJECT IS LOCATED, FROM A PRIVATE PARTY OR FROM
29 ANY COMBINATION OF THESE ENTITIES. CAPITAL IMPROVEMENT MONIES SPENT BY A
30 COUNTY, MUNICIPALITY OR PRIVATE PARTY FOR A PURPOSE AUTHORIZED BY THIS
31 SECTION MAY BE CONSIDERED TO BE FINANCIAL PARTICIPATION WITH RESPECT TO ANY
32 PROJECT THE AUTHORITY MAY UNDERTAKE IF THE EXPENDITURES OCCUR AFTER THE
33 DISTRICT IS ESTABLISHED.

34 D. FOR PURPOSES OF FINANCING, DESIGNING OR CONSTRUCTING FACILITIES OR
35 STRUCTURES, THE AUTHORITY IS NOT THE AGENT OF ANY OTHER PARTY PARTICIPATING
36 IN THE FUNDING OF THE FACILITY OR STRUCTURE.

37 E. BEFORE UNDERTAKING THE PLANNING OR CONSTRUCTION OF THE FIRST NEW
38 FACILITY UNDER THIS SECTION, THE AUTHORITY BOARD MAY CONSIDER THE COSTS OF
39 ANTICIPATED REQUIRED RENOVATIONS OF EXISTING FACILITIES AND SHALL CONSIDER
40 SUCH COSTS FOR SUBSEQUENT NEW FACILITIES.

41 5-1107. Youth sports and recreation; local financial
42 participation

43 A. THE AUTHORITY SHALL SPEND AT LEAST TEN PER CENT OF ITS GENERAL
44 REVENUES FOR THE PURPOSE OF PROMOTING YOUTH SPORTS AND RECREATION AND MAY:

45 1. ACQUIRE LAND OR CONSTRUCT, FINANCE, FURNISH, MAINTAIN, IMPROVE,
46 OPERATE, MARKET OR PROMOTE THE USE OF YOUTH SPORTS FACILITIES, RECREATIONAL
47 FACILITIES AND OTHER COMMUNITY FACILITIES OR PROGRAMS THAT ARE LOCATED IN THE
48 AUTHORITY.

1 2. DO ALL THINGS NECESSARY OR CONVENIENT TO ACCOMPLISH THE PURPOSES
2 PRESCRIBED IN THIS SUBSECTION.

3 B. THE AUTHORITY BOARD MAY REQUIRE THAT ANY PROJECT UNDERTAKEN
4 PURSUANT TO THIS SECTION INCLUDE FINANCIAL PARTICIPATION FROM THE COUNTY,
5 MUNICIPALITY OR SCHOOL DISTRICT IN WHICH THE PROJECT IS LOCATED, FROM ANY
6 OTHER PARTY OR FROM ANY COMBINATION OF THESE ENTITIES. CAPITAL IMPROVEMENT
7 MONIES SPENT BY A COUNTY, MUNICIPALITY, SCHOOL DISTRICT OR OTHER PARTY FOR A
8 PURPOSE AUTHORIZED BY THIS SECTION MAY BE CONSIDERED TO BE FINANCIAL
9 PARTICIPATION WITH RESPECT TO ANY PROJECT THE AUTHORITY MAY UNDERTAKE.

10 C. FOR THE PURPOSES OF FINANCING, DESIGNING, CONSTRUCTING OR OPERATING
11 FACILITIES OR STRUCTURES, THE AUTHORITY IS NOT THE AGENT OF ANY OTHER PARTY
12 PARTICIPATING IN THE FUNDING OF THE FACILITY OR STRUCTURE.

13 D. IN EVALUATING PROJECTS UNDER THIS SECTION, THE AUTHORITY BOARD
14 SHALL GIVE PRIORITY TO YOUTH SPORTS FACILITIES THAT ARE ADJACENT, IN
15 PROXIMITY OR OF BENEFIT TO PUBLIC SCHOOLS.

16 E. FOR THE PURPOSES OF SUBSECTION A, THE AMOUNT SPENT SHALL BE
17 MEASURED AT THE END OF EVERY TENTH FISCAL YEAR FOLLOWING THE ESTABLISHMENT OF
18 THE DISTRICT FOR THE ENTIRE PERIOD SINCE THE FORMATION OF THE DISTRICT,
19 EXCEPT THAT THE REQUIREMENT SHALL NOT INTERFERE WITH, DELAY OR IMPEDE THE
20 PAYMENT OF ANY AMOUNTS DUE AND PAYABLE ON ANY OUTSTANDING OBLIGATION OF THE
21 DISTRICT.

22 5-1108. Gift ban; exemptions

23 A. A PRINCIPAL OR LOBBYIST OR ANY OTHER PERSON ACTING ON BEHALF OF A
24 PRINCIPAL OR LOBBYIST SHALL NOT GIVE A GIFT TO ANY MEMBER OR EMPLOYEE OF THE
25 AUTHORITY BOARD, AND AN AUTHORITY BOARD MEMBER OR EMPLOYEE SHALL NOT ACCEPT A
26 GIFT FROM A PRINCIPAL OR LOBBYIST. THIS SECTION DOES NOT APPLY TO MEMBERS OF
27 THE DISTRICT BOARD OF DIRECTORS.

28 B. FOR THE PURPOSE OF THIS SECTION, A GIFT DOES NOT INCLUDE ANY OF THE
29 FOLLOWING:

30 1. SALARY, COMPENSATION OR EMPLOYER REIMBURSED EXPENSES LAWFULLY PAID
31 TO A BOARD MEMBER OR EMPLOYEE.

32 2. A FAMILY GIFT.

33 3. AN AWARD OR PRIZE THAT IS GIVEN TO COMPETITORS IN A CONTEST OR
34 EVENT THAT IS OPEN TO THE PUBLIC, INCLUDING A RANDOM DRAWING.

35 4. ANY DISCOUNT OR OTHER BENEFIT THAT IS OFFERED TO A BOARD MEMBER OR
36 EMPLOYEE ON THE SAME CONDITIONS AS TO THE PUBLIC, TO A CLASS CONSISTING OF
37 ALL BOARD MEMBERS AND EMPLOYEES OR TO A GROUP OR CLASS IN WHICH MEMBERSHIP IS
38 UNRELATED TO BEING A BOARD MEMBER OR EMPLOYEE.

39 5. AN EDUCATIONAL EVENT OR SPEAKING ENGAGEMENT.

40 6. EXPENSES RELATING TO A SPECIAL EVENT OR FUNCTION TO WHICH ALL
41 MEMBERS OF THE BOARD ARE INVITED AND THAT ARE PROPERLY REPORTED.

42 7. FLOWERS.

43 8. FOOD AND BEVERAGE.

44 9. INFORMATIONAL MATERIAL, INCLUDING A BOOK, CALENDAR, PAMPHLET,
45 PERIODICAL, REPORT OR VIDEO.

46 10. AN ITEM THAT IS NOT USED AND THAT IS RETURNED TO THE DONOR WITHIN
47 FIFTEEN DAYS AFTER RECEIPT OR THAT IS DELIVERED TO A CHARITABLE ORGANIZATION

1 LIQUIDATE SUFFICIENT SECURITIES TO MEET ALL OF THE CURRENT OBLIGATIONS AND
2 IMMEDIATELY NOTIFY THE DISTRICT BOARD OF DIRECTORS AND THE AUDITOR GENERAL OF
3 THE INSUFFICIENCY. THE AUDITOR GENERAL SHALL INVESTIGATE AND AUDIT THE
4 CIRCUMSTANCES SURROUNDING THE DEPLETION OF THE FUND, ACCOUNT OR SUBACCOUNT
5 AND REPORT THE FINDINGS TO THE AUTHORITY BOARD AND THE BOARD OF DIRECTORS.

6 5-1133. Excise tax on car rentals

7 A. THE QUALIFIED ELECTORS, BY MAJORITY VOTE AT AN ELECTION HELD
8 PURSUANT TO SECTION 5-1103, MAY LEVY AND, IF LEVIED, THE DEPARTMENT OF
9 REVENUE SHALL COLLECT AN EXCISE TAX ON THE GROSS PROCEEDS OF SALES OR GROSS
10 INCOME FROM THE BUSINESS OF CAR RENTAL, BEGINNING ON THE FIRST DAY OF THE
11 FIRST MONTH BEGINNING NINETY DAYS AFTER THE ELECTION. THE TAX SHALL BE IN
12 EFFECT FOR THREE HUNDRED SIXTY MONTHS EXCEPT AS PROVIDED BY SECTION 5-1136.
13 THE TAX IMPOSED PURSUANT TO THIS SECTION IS IN ADDITION TO ANY OTHER TAXES
14 LEVIED BY THIS STATE OR ANY OTHER POLITICAL SUBDIVISION OF THIS STATE.

15 B. THE RATE OF THE TAX IS .75 PER CENT OF THE GROSS PROCEEDS OR GROSS
16 INCOME FROM THE BUSINESS.

17 C. THE TAX APPLIES TO THE BUSINESS OF LEASING OR RENTING, FOR LESS
18 THAN ONE YEAR, MOTOR VEHICLES FOR HIRE WITHOUT A DRIVER THAT ARE DESIGNED TO
19 OPERATE ON THE STREETS AND HIGHWAYS OF THIS STATE AND THAT ARE PRIMARILY
20 INTENDED TO CARRY NOT MORE THAN FOURTEEN PASSENGERS, REGARDLESS OF WHETHER
21 THE VEHICLE IS REGISTERED OR LICENSED IN THIS STATE.

22 D. THE TAX DOES NOT APPLY TO THE LEASE OR RENTAL OF:

23 1. A MOTOR VEHICLE AS A TEMPORARY REPLACEMENT VEHICLE THAT IS LOANED
24 BY A REPAIR FACILITY OR DEALER FOR USE WHILE THE VEHICLE THAT IT IS REPLACING
25 IS NOT IN SERVICE BECAUSE OF BREAKDOWN, REPAIR, SERVICE, DAMAGE OR LOSS.

26 2. A MOTOR VEHICLE TO AN AUTOMOBILE DEALERSHIP, A REPAIR FACILITY, AN
27 INSURANCE COMPANY OR ANY OTHER PERSON THAT PROVIDES THAT VEHICLE AT NO CHARGE
28 TO A PERSON WHOSE OWN MOTOR VEHICLE IS BEING REPAIRED, ADJUSTED OR SERVICED.

29 E. THE TAX IS NOT TAXABLE UNDER SECTION 42-5071.

30 F. UNLESS THE CONTEXT OTHERWISE REQUIRES, SECTION 42-6102 GOVERNS THE
31 ADMINISTRATION OF A TAX IMPOSED UNDER THIS SECTION, WHICH SHALL BE REPORTED
32 ON A FORM PRESCRIBED BY THE DEPARTMENT OF REVENUE. THE DEPARTMENT OF REVENUE
33 SHALL REQUIRE A REPORT OF THE NUMBER OF LEASE OR RENTAL TRANSACTIONS AND
34 SHALL TRANSMIT THAT NUMBER TO THE STATE TREASURER.

35 G. EACH MONTH THE STATE TREASURER SHALL TRANSMIT THE NET REVENUES
36 COLLECTED PURSUANT TO THIS SECTION TO THE AUTHORITY FOR DEPOSIT IN THE
37 GENERAL FUND.

38 5-1134. Excise tax on hotels and motels

39 A. THE QUALIFIED ELECTORS, BY MAJORITY VOTE AT AN ELECTION HELD
40 PURSUANT TO SECTION 5-1103, MAY LEVY AND, IF LEVIED, THE DEPARTMENT OF
41 REVENUE SHALL COLLECT A TAX ON THE GROSS PROCEEDS OF SALES OR GROSS INCOME
42 FROM THE BUSINESS OF EVERY PERSON ENGAGING OR CONTINUING IN A BUSINESS TAXED
43 UNDER TITLE 42, CHAPTER 5 AND CLASSIFIED UNDER SECTION 42-5070 WITHIN THE
44 AUTHORITY. A TAX UNDER THIS SECTION IS IN ADDITION TO THE TAX IMPOSED BY
45 TITLE 42, CHAPTER 5 AND ANY TAX IMPOSED BY ANY OTHER POLITICAL SUBDIVISION IN
46 THE AUTHORITY.

47 B. IF LEVIED, THE TAX SHALL BE LEVIED UNDER THIS SECTION BEGINNING ON
48 THE FIRST DAY OF THE FIRST MONTH BEGINNING NINETY DAYS AFTER THE ELECTION,

1 AND SHALL CONTINUE IN THIS MANNER FOR THREE HUNDRED SIXTY MONTHS EXCEPT AS
2 PROVIDED BY SECTION 5-1136.

3 C. THE RATE OF THE TAX IS .75 PER CENT OF THE GROSS PROCEEDS OR GROSS
4 INCOME FROM THE BUSINESS.

5 D. UNLESS THE CONTEXT OTHERWISE REQUIRES, SECTION 42-6102 GOVERNS THE
6 ADMINISTRATION OF THE TAX IMPOSED UNDER THIS SECTION.

7 E. EACH MONTH THE STATE TREASURER SHALL TRANSMIT THE NET REVENUES
8 COLLECTED PURSUANT TO THIS SECTION TO THE AUTHORITY FOR DEPOSIT IN THE
9 GENERAL FUND.

10 5-1135. Tax on restaurants and bars

11 A. THE QUALIFIED ELECTORS, BY MAJORITY VOTE AT AN ELECTION HELD
12 PURSUANT TO SECTION 5-1103, MAY LEVY AND, IF LEVIED, THE DEPARTMENT OF
13 REVENUE SHALL COLLECT A TAX ON THE GROSS PROCEEDS OF SALES OR GROSS INCOME
14 FROM THE BUSINESS OF EVERY PERSON ENGAGING OR CONTINUING IN A BUSINESS TAXED
15 UNDER TITLE 42, CHAPTER 5 AND CLASSIFIED UNDER SECTION 42-5074 IN THE
16 AUTHORITY. A TAX UNDER THIS SECTION IS IN ADDITION TO THE TAX IMPOSED BY
17 TITLE 42, CHAPTER 5 AND ANY TAX IMPOSED BY ANY OTHER POLITICAL SUBDIVISION IN
18 THE AUTHORITY.

19 B. IF LEVIED, THE TAX SHALL BE LEVIED UNDER THIS SECTION BEGINNING ON
20 THE FIRST DAY OF THE FIRST MONTH BEGINNING NINETY DAYS AFTER THE ELECTION,
21 AND SHALL CONTINUE IN THIS MANNER FOR THREE HUNDRED SIXTY MONTHS EXCEPT AS
22 PROVIDED BY SECTION 5-1136.

23 C. THE RATE OF THE TAX IS .75 PER CENT OF THE TAX BASE PRESCRIBED BY
24 SECTION 42-5074.

25 D. UNLESS THE CONTEXT OTHERWISE REQUIRES, SECTION 42-6102 GOVERNS THE
26 ADMINISTRATION OF THE TAX IMPOSED UNDER THIS SECTION.

27 E. EACH MONTH THE STATE TREASURER SHALL TRANSMIT THE NET REVENUES
28 COLLECTED PURSUANT TO THIS SECTION TO THE AUTHORITY FOR DEPOSIT IN THE
29 GENERAL FUND.

30 5-1136. Conditional termination of district taxes

31 THE TAXES IMPOSED PURSUANT TO SECTIONS 5-1133, 5-1134 AND 5-1135 ARE
32 SUSPENDED AND PERMANENTLY TERMINATED IF, AS OF THE END OF THE SIXTIETH MONTH
33 AFTER THE DISTRICT IS ESTABLISHED, AT LEAST THREE MAJOR LEAGUE BASEBALL
34 FRANCHISES HAVE NOT EXECUTED BINDING CONTRACTUAL AGREEMENTS FOR USE OF
35 STADIUMS AND OTHER FACILITIES IN THE DISTRICT AS THEIR EXCLUSIVE SITES FOR
36 SPRING TRAINING OPERATIONS THROUGH A DATE AT LEAST THREE HUNDRED MONTHS AFTER
37 THE DISTRICT IS ESTABLISHED.

38 5-1137. Annual audit

39 A. THE BOARD OF DIRECTORS OF THE DISTRICT SHALL CAUSE AN ANNUAL AUDIT
40 TO BE CONDUCTED OF EACH OF THE AUTHORITY'S FUNDS, ACCOUNTS AND SUBACCOUNTS BY
41 AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT WITHIN ONE HUNDRED TWENTY DAYS
42 AFTER THE END OF THE FISCAL YEAR.

43 B. THE BOARD SHALL IMMEDIATELY FILE A CERTIFIED COPY OF THE AUDIT WITH
44 THE AUDITOR GENERAL. THE AUDITOR GENERAL MAY MAKE SUCH FURTHER AUDITS AND
45 EXAMINATIONS AS NECESSARY AND MAY TAKE APPROPRIATE ACTION RELATING TO THE
46 AUDIT OR EXAMINATION PURSUANT TO TITLE 41, CHAPTER 7, ARTICLE 10.1. IF THE
47 AUDITOR GENERAL TAKES NO FURTHER ACTION WITHIN THIRTY DAYS AFTER THE AUDIT IS
48 FILED, THE AUDIT IS CONSIDERED TO BE SUFFICIENT.

1 C. THE AUTHORITY BOARD SHALL PAY NEGOTIATED AND APPROVED FEES AND
2 COSTS OF THE CERTIFIED PUBLIC ACCOUNTANT AND AUDITOR GENERAL UNDER THIS
3 SECTION FROM THE AUTHORITY'S GENERAL FUND.

4 ARTICLE 3. REVENUE BONDS

5 5-1161. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "BOND" MEANS ANY OBLIGATION AUTHORIZED AND ISSUED PURSUANT TO THIS
8 ARTICLE, INCLUDING:

9 (a) BONDS.

10 (b) CERTIFICATES OF PARTICIPATION IN A LEASE-PURCHASE OR INSTALLMENT
11 PURCHASE AGREEMENT.

12 (c) OBLIGATIONS THAT ARE AUTHORIZED AND ISSUED TO REFUND OR REFINANCE
13 OBLIGATIONS THAT ARE AUTHORIZED AND ISSUED PURSUANT TO THIS ARTICLE.

14 2. "BOND RELATED EXPENSES" MEANS ANY EXPENSES INCURRED BY THE
15 AUTHORITY FOR ISSUING AND ADMINISTERING ITS BONDS, INCLUDING UNDERWRITING
16 FEES AND COSTS, TRUSTEE FEES, FINANCIAL CONSULTANT FEES, PRINTING AND
17 ADVERTISING COSTS, PAYING AGENT FEES, TRANSFER AGENT FEES, LEGAL, ACCOUNTING,
18 FEASIBILITY CONSULTANT AND OTHER PROFESSIONAL FEES AND EXPENSES, CREDIT
19 ENHANCEMENT FEES, ATTORNEY AND ACCOUNTING FEES AND EXPENSES RELATED TO CREDIT
20 ENHANCEMENT, BOND INSURANCE OR LIQUIDITY ENHANCEMENT, REMARKETING FEES,
21 RATING AGENCY FEES AND COSTS, TRAVEL AND TELEPHONE EXPENSES AND ALL OTHER
22 FEES CONSIDERED NECESSARY BY THE AUTHORITY BOARD IN ORDER TO MARKET AND
23 ADMINISTER THE BONDS.

24 3. "SPORTS AUTHORITY PURPOSE" INCLUDES:

25 (a) THE CAPITAL COSTS OF ACQUIRING, DESIGNING, DEVELOPING,
26 CONSTRUCTING, RECONSTRUCTING, EQUIPPING, FURNISHING, REPAIRING, MAINTAINING
27 AND IMPROVING STADIUMS AND MULTIPURPOSE FACILITIES, DIRECTLY RELATED
28 IMPROVEMENTS AND INFRASTRUCTURE, EXCEPT AS OTHERWISE LIMITED BY THIS
29 ARTICLE. FOR THE PURPOSES OF THIS SUBDIVISION, "INFRASTRUCTURE" MEANS
30 CAPITAL IMPROVEMENTS THAT WILL DIRECTLY AND PRINCIPALLY BENEFIT THE STADIUM
31 OR MULTIPURPOSE FACILITY AND INCLUDES:

32 (i) SANITARY SEWAGE SYSTEMS.

33 (ii) DRAINAGE AND FLOOD CONTROL SYSTEMS.

34 (iii) WATER SYSTEMS.

35 (iv) ROADWAYS FOR ACCESS, ENTRY AND EXIT AND PARKING FACILITIES.

36 (v) PEDESTRIAN AND OTHER NONMOTORIZED FACILITIES FOR ACCESS, ENTRY AND
37 EXIT AND PARKING.

38 (vi) LANDSCAPING.

39 (vii) LIGHTING SYSTEMS.

40 (viii) TRAFFIC CONTROL SYSTEMS, SIGNALS, CONTROLS, MARKINGS AND
41 SIGNAGE.

42 (b) THE PAYMENT OF BONDS.

43 (c) BOND RELATED EXPENSES.

44 5-1162. Obligation for the bonds

45 BONDS ISSUED UNDER THIS ARTICLE:

46 1. ARE PAYABLE ONLY ACCORDING TO THEIR TERMS.

47 2. ARE OBLIGATIONS OF THE AUTHORITY.

1 3. ARE NOT GENERAL, SPECIAL OR OTHER OBLIGATIONS OF THIS STATE, OR OF
2 THE COUNTY OR ANY CITY OR TOWN LOCATED IN THE AUTHORITY. THE MEMBERS OF THE
3 BOARD OF DIRECTORS, THE AUTHORITY BOARD AND PERSONS WHO EXECUTE THE BONDS ARE
4 NOT PERSONALLY LIABLE FOR PAYMENT OF THE BONDS.

5 4. DO NOT CONSTITUTE A DEBT OF THIS STATE OR OF THE COUNTY OR ANY CITY
6 OR TOWN LOCATED IN THE AUTHORITY.

7 5. ARE NOT ENFORCEABLE AGAINST THIS STATE. PAYMENT OF THE BONDS IS
8 ENFORCEABLE ONLY OUT OF ANY MONIES OR ASSETS OF THE AUTHORITY SPECIFICALLY
9 PLEDGED AND ASSIGNED TO OR IN TRUST FOR THE BENEFIT OF THE HOLDER OR HOLDERS
10 OF THE BONDS.

11 5-1163. Authorization of bonds

12 A. THE AUTHORITY MAY ISSUE BONDS PURSUANT TO THIS ARTICLE IN A
13 PRINCIPAL AMOUNT THAT IS NECESSARY TO:

14 1. PROVIDE SUFFICIENT MONIES FOR ANY SPORTS AUTHORITY PURPOSES.

15 2. ESTABLISH AND FULLY OR PARTIALLY FUND ANY REQUIRED RESERVES OR
16 SINKING ACCOUNTS.

17 3. ISSUE REFUNDING BONDS TO REFUND BONDS ISSUED BY THE AUTHORITY IF
18 THE AUTHORITY BOARD CONSIDERS REFUNDING TO BE EXPEDIENT. THE BOARD MAY
19 PROVIDE FOR INVESTING AND HOLDING THE PROCEEDS OF THE REFUNDING BONDS IN
20 TRUST FOR THE BENEFIT OF THE HOLDERS OF THE BONDS BEING REFUNDED.

21 B. THE AUTHORITY BOARD SHALL AUTHORIZE THE BONDS BY RESOLUTION. THE
22 RESOLUTION SHALL PRESCRIBE:

23 1. THE REVENUE SOURCES THAT ARE PLEDGED AND DEDICATED TO SECURE THE
24 BONDS.

25 2. THE RATE OR RATES OF INTEREST, WHICH MAY BE FIXED OR VARIABLE, THE
26 DATE OR DATES ON WHICH INTEREST IS PAYABLE AND THE DENOMINATIONS OF THE
27 BONDS.

28 3. THE DATE OR DATES OF THE BONDS AND MATURITY, WHICH SHALL BE WITHIN
29 THIRTY YEARS AFTER THE DATE OF ISSUANCE.

30 4. THE MANNER OF EXECUTING THE BONDS.

31 5. THE MEDIUM AND PLACE OF PAYMENT.

32 6. THE TERMS OF REDEMPTION, WHICH MAY PROVIDE FOR A PREMIUM FOR EARLY
33 REDEMPTION.

34 5-1164. Issuance and sale of bonds

35 A. THE AUTHORITY BOARD SHALL ISSUE THE BONDS IN THE NUMBER AND AMOUNT
36 PROVIDED IN THE RESOLUTION. THE AUTHORITY BOARD SHALL PROVIDE NOTICE OF ITS
37 INTENTION TO ISSUE BONDS TO THE DISTRICT BOARD OF DIRECTORS, AND TO THE
38 PUBLIC IN A MANNER CONSISTENT WITH MARKET PRACTICE.

39 B. THE BONDS MAY BE SOLD BY COMPETITIVE PUBLIC SALE, THROUGH AN ONLINE
40 BIDDING PROCESS OR AT NEGOTIATED SALE FOR PUBLIC OR PRIVATE OFFERING AT THE
41 PRICE AND ON THE TERMS PRESCRIBED IN THE RESOLUTION. FOR THE PURPOSES OF
42 THIS SUBSECTION, "ONLINE BIDDING PROCESS" MEANS A PROCUREMENT PROCESS IN
43 WHICH THE BOARD RECEIVES BIDS ELECTRONICALLY OVER THE INTERNET IN A
44 REAL-TIME, COMPETITIVE BIDDING EVENT.

45 C. THE PROCEEDS FROM THE SALE OF THE BONDS SHALL BE DEPOSITED IN THE
46 BOND PROCEEDS ACCOUNT ESTABLISHED PURSUANT TO SECTION 5-1165.

47 D. TITLE 35, CHAPTER 3, ARTICLE 7 APPLIES TO THE AUTHORITY BOARD AND
48 TO BONDS ISSUED UNDER THIS ARTICLE.

1 5-1165. Bond proceeds account

2 A. IF THE AUTHORITY ISSUES BONDS UNDER THIS ARTICLE, THE AUTHORITY
3 BOARD SHALL ESTABLISH A BOND PROCEEDS ACCOUNT WITHIN THE GENERAL FUND
4 CONSISTING OF MONIES RECEIVED FROM THE SALE OF THE BONDS.

5 B. THE AUTHORITY BOARD MAY USE MONIES IN THE BOND PROCEEDS ACCOUNT
6 ONLY FOR SPORTS AUTHORITY PURPOSES IN THE MANNER PRESCRIBED BY THIS CHAPTER.

7 C. THE AUTHORITY'S FISCAL AGENT SHALL ADMINISTER AND ACCOUNT FOR THE
8 BOND PROCEEDS ACCOUNT.

9 5-1166. Debt service account

10 A. IF THE AUTHORITY ISSUES BONDS UNDER THIS ARTICLE, THE AUTHORITY
11 BOARD SHALL ESTABLISH A DEBT SERVICE ACCOUNT WITHIN THE GENERAL FUND
12 CONSISTING OF MONIES DESIGNATED AND DEDICATED BY THE BOARD FOR REPAYMENT OF
13 THE BONDS AND PAYMENT OF COSTS AND RELATED EXPENSES ASSOCIATED WITH REDEEMING
14 THE BONDS.

15 B. MONIES IN THE DEBT SERVICE ACCOUNT MAY BE USED ONLY FOR THE
16 PURPOSES AUTHORIZED BY THIS ARTICLE.

17 C. THE AUTHORITY'S FISCAL AGENT SHALL ADMINISTER AND ACCOUNT FOR THE
18 DEBT SERVICE ACCOUNT.

19 5-1167. Securing principal and interest

20 IN CONNECTION WITH ISSUING BONDS AUTHORIZED BY THIS ARTICLE AND TO
21 SECURE THE PRINCIPAL AND INTEREST ON THE BONDS, THE AUTHORITY BOARD BY
22 RESOLUTION MAY:

23 1. PLEDGE FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON THE BONDS ALL
24 OR PART OF THE REVENUES AND OTHER MONIES RECEIVED BY THE AUTHORITY AND
25 DEPOSITED IN THE GENERAL FUND OR ANY ACCOUNT OR SUBACCOUNT OF THE GENERAL
26 FUND.

27 2. PLEDGE AND ASSIGN TO OR IN TRUST FOR THE BENEFIT OF THE HOLDER OR
28 HOLDERS OF THE BONDS ALL OR PART OF THE MONIES IN THE DEBT SERVICE ACCOUNT OR
29 ANY OTHER ACCOUNT OR SUBACCOUNT AS NECESSARY TO SECURE AND PAY THE PRINCIPAL,
30 THE INTEREST AND ANY PREMIUM ON THE BONDS AS THEY COME DUE.

31 3. SEGREGATE THE DEBT SERVICE ACCOUNT INTO ONE OR MORE SUBACCOUNTS AND
32 PROVIDE THAT BONDS ISSUED UNDER THIS ARTICLE MAY BE SECURED BY A LIEN ON ALL
33 OR PART OF THE MONIES PAID INTO THE DEBT SERVICE ACCOUNT OR INTO ANY
34 SUBACCOUNT IN THE DEBT SERVICE ACCOUNT.

35 4. ESTABLISH PRIORITIES AMONG BONDHOLDERS BASED ON CRITERIA ADOPTED BY
36 THE BOARD.

37 5. SET ASIDE, REGULATE AND DISPOSE OF RESERVES AND SINKING ACCOUNTS.

38 6. PRESCRIBE THE PROCEDURE, IF ANY, BY WHICH THE TERMS OF ANY CONTRACT
39 WITH BONDHOLDERS MAY BE AMENDED OR ABROGATED, THE AMOUNT OF BONDS THE HOLDERS
40 OF WHICH MUST CONSENT TO AND THE MANNER IN WHICH THE CONSENT MAY BE GIVEN.

41 7. PROVIDE FOR PAYMENT OF BOND RELATED EXPENSES FROM THE PROCEEDS OF
42 THE SALE OF THE BONDS OR OTHER REVENUES AVAILABLE TO THE BOARD.

43 8. PROVIDE FOR THE SERVICES OF TRUSTEES, COTRUSTEES, AGENTS AND
44 CONSULTANTS AND OTHER SPECIALIZED SERVICES WITH RESPECT TO THE BONDS.

45 9. TAKE ANY OTHER ACTION THAT IN ANY WAY MAY ENHANCE THE SECURITY AND
46 PROTECTION OF THE BONDS OR INTEREST ON THE BONDS.

1 5-1168. Lien of pledge

2 A. ANY PLEDGE MADE UNDER THIS ARTICLE IS VALID AND BINDING FROM THE
3 TIME WHEN THE PLEDGE IS MADE.

4 B. THE MONIES PLEDGED TO THE HOLDERS OF THE BONDS AND RECEIVED BY THE
5 AUTHORITY FOR PLACEMENT IN THE DEBT SERVICE ACCOUNT ARE IMMEDIATELY SUBJECT
6 TO THE LIEN OF THE PLEDGE WITHOUT ANY FURTHER ACT. ANY LIEN OF ANY PLEDGE IS
7 VALID AND BINDING AGAINST ALL PARTIES WHO HAVE CLAIMS OF ANY KIND AGAINST THE
8 AUTHORITY, REGARDLESS OF WHETHER THE PARTIES HAVE NOTICE OF THE LIEN. THE
9 OFFICIAL RESOLUTION OR ANY INSTRUMENT BY WHICH THIS PLEDGE IS CREATED, WHEN
10 ADOPTED BY THE AUTHORITY BOARD, IS NOTICE TO ALL CONCERNED OF THE CREATION OF
11 THE PLEDGE, AND THOSE INSTRUMENTS NEED NOT BE RECORDED IN ANY OTHER PLACE TO
12 PERFECT THE PLEDGE.

13 5-1169. Bond purchase for cancellation

14 THE AUTHORITY BOARD MAY PURCHASE BONDS FOR CANCELLATION, USING ANY
15 AVAILABLE MONIES, AT A PRICE NOT EXCEEDING THE FOLLOWING:

16 1. IF THE BONDS ARE REDEEMABLE AT THE TIME OF PURCHASE, THE APPLICABLE
17 REDEMPTION PRICE PLUS ACCRUED INTEREST TO THE NEXT INTEREST PAYMENT DATE.

18 2. IF THE BONDS ARE NOT REDEEMABLE AT THE TIME OF PURCHASE, THE
19 APPLICABLE REDEMPTION PRICE ON THE FIRST DATE AFTER PURCHASE ON WHICH THE
20 BONDS BECOME SUBJECT TO REDEMPTION PLUS ACCRUED INTEREST TO THAT DATE.

21 5-1170. Payment of bonds

22 A. THE BONDS SHALL BE PAID SOLELY FROM MONIES IN THE DEBT SERVICE
23 ACCOUNT.

24 B. THE MEMBERS OF THE AUTHORITY BOARD AND ANY PERSONS WHO EXECUTE THE
25 BONDS ARE NOT PERSONALLY LIABLE FOR THE PAYMENT OF THE BONDS.

26 C. THE AUTHORITY'S FISCAL AGENT SHALL CANCEL ALL BONDS WHEN PAID.

27 5-1171. Use of surplus monies

28 A. IF A BALANCE REMAINS IN THE BOND PROCEEDS ACCOUNT AFTER ALL
29 ACQUISITION, CONSTRUCTION AND RELATED COSTS HAVE BEEN PAID:

30 1. THE AUTHORITY BOARD SHALL CREDIT THE BALANCE TO REPAY ANY OTHER
31 OUTSTANDING INDEBTEDNESS OF THE AUTHORITY.

32 2. IF THE AUTHORITY HAS NO OUTSTANDING INDEBTEDNESS, THE BOARD SHALL
33 CREDIT THE REMAINING BALANCE TO THE AUTHORITY'S GENERAL FUND.

34 B. IF A BALANCE REMAINS IN THE DEBT SERVICE ACCOUNT AFTER PAYMENT OF
35 ALL BONDS, INTEREST AND OTHER CHARGES RELATED TO BONDS ISSUED UNDER THIS
36 ARTICLE, THE BOARD SHALL CREDIT THE BALANCE TO THE GENERAL FUND.

37 5-1172. Investment of monies in the bond proceeds account

38 A. THE AUTHORITY BOARD MAY AUTHORIZE THE AUTHORITY'S FISCAL AGENT TO
39 INVEST MONIES IN THE BOND PROCEEDS ACCOUNT IN THE MANNER PRESCRIBED BY
40 SECTION 5-1174.

41 B. THE ORDER DIRECTING AN INVESTMENT SHALL STATE A DATE ON WHICH THE
42 PROCEEDS FROM THE SALE OF THE BONDS WILL BE NEEDED FOR USE, AND THE FISCAL
43 AGENT SHALL MAKE THE INVESTMENT IN SUCH A WAY AS TO MATURE ON OR BEFORE THE
44 SPECIFIED DATE.

45 C. ALL MONIES EARNED AS INTEREST OR OTHERWISE DERIVED FROM THE
46 INVESTMENT OF THE MONIES IN THE BOND PROCEEDS ACCOUNT SHALL BE CREDITED TO
47 THE BOND PROCEEDS ACCOUNT.

1 5-1173. Investment of monies in the debt service account

2 A. THE AUTHORITY BOARD MAY AUTHORIZE THE AUTHORITY'S FISCAL AGENT TO
3 INVEST AND REINVEST ANY MONIES IN THE DEBT SERVICE ACCOUNT AS PROVIDED BY
4 SECTION 5-1174.

5 B. THE ORDER DIRECTING AN INVESTMENT SHALL STATE A DATE ON WHICH THE
6 MONIES AND OTHER RESOURCES IN THE DEBT SERVICE ACCOUNT WILL BE NEEDED FOR
7 USE, AND THE FISCAL AGENT SHALL MAKE THE INVESTMENT IN SUCH A WAY AS TO
8 MATURE ON OR BEFORE THE SPECIFIED DATE.

9 C. ALL MONIES EARNED AS INTEREST OR OTHERWISE DERIVED FROM THE
10 INVESTMENT OF THE MONIES IN THE DEBT SERVICE ACCOUNT SHALL BE CREDITED TO THE
11 DISTRICT'S GENERAL FUND.

12 5-1174. Authorized investment of monies

13 A. THE MONIES IN EITHER THE BOND PROCEEDS ACCOUNT OR THE DEBT SERVICE
14 ACCOUNT MAY BE INVESTED AND REINVESTED AT THE DIRECTION OF THE AUTHORITY
15 BOARD IN ANY OF THE FOLLOWING:

- 16 1. UNITED STATES TREASURY OBLIGATIONS.
- 17 2. CONSOLIDATED FARM LOAN BONDS.
- 18 3. OBLIGATIONS ISSUED BY THE FEDERAL INTERMEDIATE CREDIT BANKS OR
19 BONDS FOR COOPERATIVES ON AUTHORITY OF THE FARM CREDIT ACT OF 1933.
- 20 4. ANY OTHER OBLIGATIONS GUARANTEED BY THE UNITED STATES GOVERNMENT.
- 21 5. ANY INVESTMENTS THAT ARE AUTHORIZED BY ANY OTHER AGENCIES OF THE
22 UNITED STATES GOVERNMENT AND THAT ARE AUTHORIZED TO SECURE PUBLIC DEPOSITS.
- 23 6. STATE AND LOCAL GOVERNMENT SERIES UNITED STATES TREASURY
24 SECURITIES.
- 25 7. STATE, COUNTY OR MUNICIPAL BONDS ISSUED IN THIS STATE AND ON WHICH
26 THE PAYMENTS OF INTEREST HAVE NOT BEEN DEFERRED.
- 27 8. INVESTMENT AGREEMENTS AND REPURCHASE AGREEMENTS COLLATERALIZED BY
28 INVESTMENTS DESCRIBED IN PARAGRAPHS 1 THROUGH 5.

29 B. THE PURCHASE OF THE SECURITIES SHALL BE MADE BY THE AUTHORITY'S
30 FISCAL AGENT ON AUTHORITY OF A RESOLUTION OF THE AUTHORITY BOARD. THE FISCAL
31 AGENT SHALL ACT AS CUSTODIAN OF ALL SECURITIES PURCHASED.

32 C. THE AUTHORITY BOARD MAY PLACE ANY RESTRICTIONS ON REINVESTMENT
33 YIELD ON BOND PROCEEDS OR ON ANY MONIES PLEDGED TO PAY THE BONDS IF NECESSARY
34 TO COMPLY WITH FEDERAL INCOME TAX LAWS AND REGULATIONS TO GAIN ANY FEDERAL
35 TAX BENEFITS AVAILABLE WITH RESPECT TO THE BONDS.

36 5-1175. Deposit and disbursement of monies

37 A. MONIES DERIVED FROM SELLING BONDS UNDER THIS ARTICLE OR PLEDGED OR
38 ASSIGNED TO OR IN TRUST FOR THE BENEFIT OF THE HOLDER OR HOLDERS OF THE BONDS
39 SHALL BE DEPOSITED BY THE AUTHORITY'S FISCAL AGENT IN FINANCIAL INSTITUTIONS
40 THAT THE AUTHORITY BOARD DESIGNATES AND THAT ARE INSURED BY AN AGENCY OR
41 INSTRUMENTALITY OF THE UNITED STATES. THE MONIES SHALL BE DISBURSED AS THE
42 AUTHORITY BOARD DIRECTS AND ACCORDING TO THE TERMS OF ANY AGREEMENTS WITH THE
43 HOLDER OR HOLDERS OF THE BONDS.

44 B. THIS SECTION SHALL NOT BE CONSTRUED AS LIMITING THE POWER OF THE
45 AUTHORITY BOARD TO AGREE IN CONNECTION WITH THE ISSUANCE OF ANY OF ITS BONDS
46 AS TO THE CUSTODY AND DISPOSITION OF THE MONIES RECEIVED FROM SELLING BONDS
47 OR FROM THE INCOME AND REVENUES PLEDGED OR ASSIGNED TO OR IN TRUST FOR THE
48 BENEFIT OF THE HOLDER OR HOLDERS OF THE BONDS.

1 5-1176. Characteristics of bonds; negotiability; legal
2 investments; exemption from taxation

3 A. BONDS ISSUED UNDER THIS ARTICLE ARE FULLY NEGOTIABLE WITHIN THE
4 MEANING AND FOR ALL PURPOSES OF THE UNIFORM COMMERCIAL CODE, SUBJECT ONLY TO
5 ANY PROVISIONS FOR REGISTRATION, REGARDLESS OF WHETHER THE BONDS ACTUALLY
6 CONSTITUTE NEGOTIABLE INSTRUMENTS UNDER THE UNIFORM COMMERCIAL CODE.

7 B. THE BONDS, THEIR TRANSFER AND THE INCOME FROM THE BONDS ARE AT ALL
8 TIMES FREE FROM TAXATION IN THIS STATE.

9 C. BONDS ISSUED UNDER THIS ARTICLE:

10 1. ARE SECURITIES IN WHICH PUBLIC OFFICERS AND BODIES OF THIS STATE
11 AND OF MUNICIPALITIES AND POLITICAL SUBDIVISIONS OF THIS STATE, ALL
12 COMPANIES, ASSOCIATIONS AND OTHER PERSONS CARRYING ON AN INSURANCE BUSINESS,
13 ALL FINANCIAL INSTITUTIONS, INVESTMENT COMPANIES AND OTHER PERSONS CARRYING
14 ON A BANKING BUSINESS, ALL FIDUCIARIES AND ALL OTHER PERSONS WHO ARE
15 AUTHORIZED TO INVEST IN GOVERNMENT OBLIGATIONS MAY PROPERLY AND LEGALLY
16 INVEST.

17 2. ARE SECURITIES THAT MAY BE DEPOSITED WITH PUBLIC OFFICERS OR BODIES
18 OF THIS STATE AND MUNICIPALITIES AND POLITICAL SUBDIVISIONS OF THIS STATE FOR
19 PURPOSES THAT REQUIRE THE DEPOSIT OF GOVERNMENT BONDS OR OBLIGATIONS.

20 5-1177. Effect of changing circumstances on bonds; agreement of
21 state

22 A. BONDS ISSUED UNDER THIS ARTICLE REMAIN VALID AND BINDING
23 OBLIGATIONS OF THE AUTHORITY NOTWITHSTANDING THAT BEFORE THE DELIVERY OF THE
24 BONDS ANY PERSON WHOSE SIGNATURE APPEARS ON THE BONDS CEASES TO BE AN OFFICER
25 OF THE AUTHORITY.

26 B. AN AMENDMENT OF ANY PROVISION IN THIS CHAPTER DOES NOT DIMINISH OR
27 IMPAIR THE VALIDITY OF BONDS ISSUED UNDER THIS ARTICLE OR THE REMEDIES AND
28 RIGHTS OF BONDHOLDERS.

29 C. THIS STATE PLEDGES TO AND AGREES WITH THE HOLDERS OF THE BONDS
30 AUTHORIZED BY THIS ARTICLE THAT THIS STATE WILL NOT LIMIT, ALTER OR IMPAIR
31 THE RIGHTS VESTED IN THE AUTHORITY TO RECEIVE THE MONIES NECESSARY TO FULFILL
32 THE TERMS OF ANY AGREEMENTS MADE WITH THE HOLDERS OF THE BONDS, OR IN ANY WAY
33 IMPAIR THE RIGHTS AND REMEDIES OF THE BONDHOLDERS, UNTIL ALL BONDS ISSUED
34 UNDER THIS ARTICLE, TOGETHER WITH INTEREST ON THE BONDS, INTEREST ON ANY
35 UNPAID INSTALLMENTS OF PRINCIPAL OR INTEREST AND ALL COSTS AND EXPENSES IN
36 CONNECTION WITH ANY ACTION OR PROCEEDINGS BY OR ON BEHALF OF THE BONDHOLDERS,
37 ARE FULLY MET AND DISCHARGED. THE AUTHORITY BOARD, AS AGENT FOR THIS STATE,
38 MAY INCLUDE THIS PLEDGE AND UNDERTAKING IN ITS RESOLUTIONS AND INDENTURES
39 AUTHORIZING AND SECURING ITS BONDS.

40 5-1178. Validity of bonds; legal opinion

41 A. THIS ARTICLE CONSTITUTES FULL AUTHORITY FOR AUTHORIZING AND ISSUING
42 BONDS WITHOUT REFERENCE TO ANY OTHER LAW OF THIS STATE. NO OTHER LAW WITH
43 REGARD TO AUTHORIZING OR ISSUING OBLIGATIONS OR THAT IN ANY WAY IMPEDES OR
44 RESTRICTS PERFORMING THE ACTS AUTHORIZED BY THIS ARTICLE MAY BE CONSTRUED TO
45 APPLY TO ANY PROCEEDINGS TAKEN OR ACTS DONE PURSUANT TO THIS ARTICLE.

46 B. THE VALIDITY OF BONDS ISSUED UNDER THIS ARTICLE DOES NOT DEPEND ON
47 AND IS NOT AFFECTED BY THE LEGALITY OF ANY PROCEEDING RELATING TO THE

1 ACQUISITION, CONSTRUCTION, IMPROVEMENT, OPERATION OR MAINTENANCE OF A STADIUM
2 OR MULTIPURPOSE FACILITY FOR WHICH THE BONDS ARE ISSUED.

3 C. THE AUTHORITY BOARD MAY SUBMIT ANY BONDS TO BE ISSUED UNDER THIS
4 ARTICLE TO LEGAL COUNSEL AFTER ALL PROCEEDINGS FOR AUTHORIZING THE BONDS HAVE
5 BEEN COMPLETED. ON SUBMISSION THE COUNSEL SHALL EXAMINE AND PASS ON THE
6 VALIDITY OF THE BONDS AND THE REGULARITY OF THE PROCEEDINGS. IF THE
7 PROCEEDINGS COMPLY WITH THIS ARTICLE, AND IF THE BONDS WHEN DELIVERED AND
8 PAID FOR WILL CONSTITUTE BINDING AND LEGAL OBLIGATIONS OF THE AUTHORITY, THE
9 COUNSEL SHALL CERTIFY ON THE BACK OF EACH BOND, IN SUBSTANCE, THAT IT IS
10 ISSUED ACCORDING TO THE CONSTITUTION AND LAWS OF THIS STATE AND THAT THE
11 INTEREST ON THE BONDS WILL BE EXEMPT FROM STATE TAXES AS PROVIDED BY LAW.

12 D. THE BONDS SHALL RECITE THAT THEY ARE REGULARLY ISSUED PURSUANT TO
13 THIS ARTICLE. THAT RECITAL, TOGETHER WITH THE LEGAL OPINION UNDER SUBSECTION
14 C, CONSTITUTES PRIMA FACIE EVIDENCE OF THE LEGALITY AND VALIDITY OF THE
15 BONDS. FROM AND AFTER THE SALE AND DELIVERY OF THE BONDS, THEY ARE
16 INCONTESTABLE BY THIS STATE OR THE AUTHORITY.

17 Sec. 2. Title 9, chapter 4, article 8, Arizona Revised Statutes, is
18 amended by adding section 9-499.14, to read:

19 9-499.14. Commercial enhancement zones; qualified builders;
20 definition

21 A. THE GOVERNING BODY OF A CITY OR TOWN, BY RESOLUTION AND ON A
22 FINDING THAT CONSTRUCTION ACTIVITIES ARE NECESSARY TO PROMOTE THE ECONOMIC
23 PROSPERITY OF THE COMMUNITY, MAY DESIGNATE ONE COMMERCIAL ENHANCEMENT ZONE IN
24 THE CITY OR TOWN, NOT EXCEEDING SIX HUNDRED FORTY ACRES, THAT MEETS ANY THREE
25 OF THE FOLLOWING QUALIFICATIONS:

26 1. THE ZONE CONTAINS OR IS LOCATED WITHIN THREE MILES FROM A PUBLICLY
27 OWNED OR SUPPORTED PROFESSIONAL SPORTS STADIUM THAT EXISTED BEFORE THE
28 ISSUANCE OF A CERTIFICATE OF QUALIFICATION UNDER SUBSECTION D OF THIS
29 SECTION. THE STADIUM MUST BE LOCATED WITHIN THE EXTERIOR BOUNDARIES OF THE
30 CITY OR TOWN AND IN A REDEVELOPMENT AREA ESTABLISHED PURSUANT TO TITLE 36,
31 CHAPTER 12, ARTICLE 3.

32 2. THE ZONE CONTAINS A SPORTS ENTERTAINMENT FACILITY DESCRIBED IN
33 SECTION 42-5032.

34 3. THE ZONE IS LOCATED IN A REDEVELOPMENT AREA THAT IS ESTABLISHED
35 PURSUANT TO TITLE 36, CHAPTER 12, ARTICLE 3.

36 4. THE EXTERIOR BOUNDARY OF THE ZONE IS WITHIN ONE THOUSAND THREE
37 HUNDRED TWENTY FEET OF A LIGHT RAIL PUBLIC TRANSIT SYSTEM RAIL LINE.

38 5. THE ZONE IS LOCATED IN A MILITARY REUSE ZONE ESTABLISHED PURSUANT
39 TO TITLE 41, CHAPTER 10, ARTICLE 3.

40 6. A BUILDER APPLYING FOR CERTIFICATION UNDER THIS SECTION SUBMITS A
41 MASTER PLAN FOR GREEN FACILITY DEVELOPMENT. FOR THE PURPOSES OF THIS
42 PARAGRAPH:

43 (a) "GREEN FACILITY DEVELOPMENT" MEANS CAPITAL CONSTRUCTION AND
44 ANCILLARY IMPROVEMENTS THAT ARE CERTIFIED PURSUANT TO THE UNITED STATES GREEN
45 BUILDING COUNCIL LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN (LEED) GREEN
46 BUILDING STANDARDS.

47 (b) "ANCILLARY IMPROVEMENTS" INCLUDES THE FOLLOWING, WHETHER NEWLY
48 CONSTRUCTED OR RENOVATED:

1 (i) NECESSARY OR INCIDENTAL WORKINGS.

2 (ii) NECESSARY OR DESIRABLE FURNISHINGS, EQUIPMENT AND APPURTENANCES
3 ASSOCIATED WITH THE FACILITY.

4 (iii) ROADWAYS AND PARKING FACILITIES, PUBLIC RECREATION AREAS, OPEN
5 SPACE AND HARDSCAPE AREAS.

6 (iv) PEDESTRIAN WALKWAYS, PARKS, RECREATIONAL FACILITIES AND OPEN
7 SPACE AREAS FOR USE BY THE PUBLIC FOR ENTERTAINMENT, ASSEMBLY AND RECREATION.

8 (v) RELOCATING POWER LINES, PIPELINES OR RAILROAD TRACKS OR PLACING
9 POWER LINES UNDERGROUND.

10 B. THE MUNICIPAL RESOLUTION UNDER SUBSECTION A OF THIS SECTION MUST
11 INCLUDE A DATE OF TERMINATION OF THE ZONE, CONSISTENT WITH THE REQUIREMENTS
12 OF THIS SECTION.

13 C. A BUILDER WHO WISHES TO QUALIFY A DEVELOPMENT IN A COMMERCIAL
14 ENHANCEMENT ZONE FOR PURPOSES OF A TRANSACTION PRIVILEGE TAX EXEMPTION UNDER
15 SECTION 42-5075, SUBSECTION B, PARAGRAPH 22 AND SECTION 42-6004, SUBSECTION
16 A, PARAGRAPH 12 MUST APPLY TO THE CITY OR TOWN FOR A CERTIFICATION OF THE
17 DEVELOPMENT. ON RECEIVING THE APPLICATION, THE CITY OR TOWN MAY CERTIFY THE
18 DEVELOPMENT IF IT FINDS THAT THE DEVELOPMENT MEETS THE FOLLOWING CRITERIA:

19 1. THE DEVELOPMENT WILL CONTRIBUTE TO THE LONG-TERM VITALITY OF THE
20 ZONE.

21 2. THE QUALITY OF THE PROPOSED DEVELOPMENT IS APPROPRIATE TO THE AREA.

22 3. THE PROPOSED DEVELOPMENT INCLUDES MASTER PLANNED MIXED-USE
23 ENTERTAINMENT, RECREATIONAL, SPORTS, RETAIL, RESTAURANT, HOSPITALITY AND
24 RESIDENTIAL USES THAT MAY BE PUBLICLY OR PRIVATELY OWNED OR OPERATED UNDER A
25 MASTER PLAN.

26 4. THE TOTAL INVESTMENT TO BE MADE IN THE MASTER PLANNED DEVELOPMENT
27 IS AT LEAST SEVENTY-FIVE MILLION DOLLARS. INDIVIDUAL PROJECTS WITHIN THE
28 MASTER PLAN QUALIFY FOR TRANSACTION PRIVILEGE TAX EXEMPTIONS ONLY IF THE
29 INVESTMENT IN THE PROJECT IS AT LEAST ONE MILLION DOLLARS.

30 D. THROUGH DECEMBER 31, 2013, IF THE DEVELOPMENT QUALIFIES UNDER
31 SUBSECTION C OF THIS SECTION, THE CITY OR TOWN SHALL ISSUE A CERTIFICATE OF
32 QUALIFICATION TO THE BUILDER OR BUILDERS DESCRIBING THE QUALIFYING
33 DEVELOPMENT AND THE INDIVIDUAL QUALIFYING PROJECTS WITHIN THE DEVELOPMENT. A
34 CITY OR TOWN SHALL NOT ISSUE A CERTIFICATE OF QUALIFICATION AFTER DECEMBER
35 31, 2013. A CERTIFICATE IS VALID WITH RESPECT TO ALL OR ANY PART OF THE
36 DEVELOPMENT THAT IS CONSTRUCTED AND COMPLETED FOR OCCUPANCY OR USE WITHIN
37 FIVE CALENDAR YEARS AFTER THE CERTIFICATE IS ISSUED. THE CITY OR TOWN SHALL
38 CONSULT WITH THE DEPARTMENT OF REVENUE IN DESIGNING THE FORM OF THE
39 CERTIFICATE.

40 E. A CITY OR TOWN THAT ESTABLISHES A COMMERCIAL ENHANCEMENT ZONE SHALL
41 PREPARE AN ANNUAL REPORT LISTING ALL NEW CONSTRUCTION ACTIVITY OF ANY TYPE,
42 AS SHOWN OR MEASURED BY THE ISSUANCE OF BUILDING PERMITS, IN THE ZONE AND
43 SHALL MAKE COPIES OF THE REPORT AVAILABLE TO THE PUBLIC.

44 F. FOR THE PURPOSES OF THIS SECTION, "BUILDER" MEANS A PERSON WHO ACTS
45 AS A PRIME CONTRACTOR FOR THE PURPOSES OF SECTION 42-5075 IN CONSTRUCTING ANY
46 DEVELOPMENT IN A DESIGNATED COMMERCIAL ENHANCEMENT ZONE.

1 SHALL REVIEW THE APPLICATION AND EITHER CERTIFY THE APPLICANT AS QUALIFYING
2 FOR THE PURPOSES OF THE TAX INCENTIVES OR PROVIDE REASONS FOR ITS DENIAL. A
3 FAILURE TO APPROVE OR DENY THE CERTIFICATION WITHIN SIXTY DAYS CONSTITUTES
4 APPROVAL OF THE CERTIFICATION. THE DEPARTMENT OF COMMERCE SHALL SEND COPIES
5 OF THE CERTIFICATION TO THE DEPARTMENT OF REVENUE. WITHIN THIRTY DAYS, THE
6 DEPARTMENT OF REVENUE SHALL REVIEW THE CERTIFICATION TO DETERMINE WHETHER THE
7 APPLICANT IS CURRENTLY IN GOOD STANDING AND IS NOT DELINQUENT IN THE PAYMENT
8 OF ANY TAX.

9 G. A QUALIFYING APPLICANT UNDER THIS SECTION MUST ENTER INTO A
10 MEMORANDUM OF UNDERSTANDING WITH THE DEPARTMENT OF COMMERCE IN WHICH THE
11 APPLICANT:

12 1. COMMITS TO CONTINUE IN BUSINESS AT THE QUALIFYING LOCATION FOR TEN
13 FULL CALENDAR YEARS AFTER FIRST QUALIFYING FOR A TAX INCENTIVE, OTHER THAN
14 FOR REASONS BEYOND THE CONTROL OF THE BUSINESS.

15 2. SETS OUT A SCHEDULE OF DISCRETE EXPANSION, INVESTMENT AND HIRING
16 PHASES OVER THE DURATION OF THE TAX INCENTIVES CERTIFIED PURSUANT TO THIS
17 SECTION.

18 3. AGREES TO FURNISH TO THE DEPARTMENT INFORMATION RELATING TO THE
19 AMOUNT OF TAX BENEFITS RECEIVED EACH YEAR.

20 4. AUTHORIZES THE DEPARTMENT OF COMMERCE AS BEING ELIGIBLE TO RECEIVE
21 TAX INFORMATION FROM THE DEPARTMENT OF REVENUE PURSUANT TO SECTION 42-2003
22 FOR THE PURPOSE OF DETERMINING ANY INCONSISTENCY IN INFORMATION FURNISHED TO
23 THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF REVENUE.

24 5. AGREES TO THE DISCLOSURE BY THE DEPARTMENT OF COMMERCE OF THE
25 AMOUNT OF TAX BENEFITS RECEIVED EACH YEAR IN COMPOSITE FORM, WITHOUT SPECIFIC
26 IDENTIFICATION OF ANY TAXPAYER.

27 6. AGREES TO SUBMIT ANNUAL REPORTS TO THE DEPARTMENT OF COMMERCE AS
28 REQUIRED BY SUBSECTION I OF THIS SECTION AND TO ALLOW INSPECTIONS AND AUDITS
29 TO VERIFY THE APPLICANT'S CONTINUING QUALIFICATION AND THE ACCURACY OF
30 INFORMATION SUBMITTED TO THE DEPARTMENT.

31 7. CONSENTS TO THE ADJUSTMENT OR RECAPTURE OF ALL OR PART OF ANY
32 INCOME TAX CREDIT OR REDUCTION PROVIDED TO THE BUSINESS ON NONCOMPLIANCE WITH
33 THE LAW OR NONCOMPLIANCE WITH THE TERMS OF THE MEMORANDUM.

34 H. QUALIFICATION AND CERTIFICATION OF A BUSINESS FOR THE PURPOSES OF
35 INCOME TAX CREDITS UNDER THIS SECTION DO NOT CONSTITUTE OR IMPLY COMPLIANCE
36 WITH ANY OTHER PROVISION OF LAW OR ANY REGULATORY RULE, ORDER, PROCEDURE,
37 PERMIT OR OTHER MEASURE REQUIRED BY LAW. TO MAINTAIN QUALIFICATION FOR
38 INCOME TAX CREDITS UNDER THIS SECTION, A BUSINESS MUST SEPARATELY COMPLY WITH
39 ALL ENVIRONMENTAL, EMPLOYMENT AND OTHER REGULATORY MEASURES.

40 I. ON OR BEFORE MARCH 1 OF EACH YEAR, THE QUALIFYING BUSINESS MUST
41 MAKE A REPORT TO THE DEPARTMENT OF COMMERCE ON BUSINESS ACTIVITY AT THE
42 QUALIFYING SITES, INCLUDING EMPLOYMENT INFORMATION NECESSARY TO CONFIRM
43 CONTINUING QUALIFICATION. BUSINESS INFORMATION CONTAINED IN THE REPORT IS
44 CONFIDENTIAL AND SHALL NOT BE DISCLOSED TO THE PUBLIC, EXCEPT AS REQUIRED BY
45 THIS SECTION AND EXCEPT THAT A COPY OF THE REPORT SHALL BE TRANSMITTED TO THE
46 DEPARTMENT OF REVENUE. THE REPORT SHALL BE IN A FORM PRESCRIBED BY THE
47 DEPARTMENT OF COMMERCE.

1 J. FOR THE PURPOSES OF ADMINISTERING AND ENSURING COMPLIANCE WITH THE
2 REQUIREMENTS OF THIS SECTION, AGENTS OF THE DEPARTMENT MAY ENTER, AND A
3 QUALIFIED BUSINESS SHALL ALLOW ACCESS TO, A QUALIFYING BUSINESS SITE AT
4 REASONABLE TIMES AND ON REASONABLE NOTICE TO:

- 5 1. INSPECT THE FACILITIES AT THE SITE.
6 2. OBTAIN FACTUAL DATA AND RECORDS PERTINENT TO AND REQUIRED BY LAW TO
7 BE KEPT FOR THE PURPOSES OF THE TAX INCENTIVES.
8 3. OTHERWISE ASCERTAIN COMPLIANCE WITH THE LAW AND THE TERMS OF THE
9 MEMORANDUM OF UNDERSTANDING.

10 K. THE DEPARTMENT OF COMMERCE MAY REVOKE THE BUSINESS' CERTIFICATION
11 IF:

12 1. THE BUSINESS NO LONGER MEETS THE TERMS AND CONDITIONS REQUIRED FOR
13 QUALIFYING FOR THE TAX INCENTIVES. THE DEPARTMENT MAY GIVE SPECIAL
14 CONSIDERATION, OR ALLOW TEMPORARY EXEMPTION FROM RECAPTURE OF TAX BENEFITS,
15 IN THE CASE OF EXTRAORDINARY HARDSHIP DUE TO FACTORS BEYOND THE CONTROL OF
16 THE QUALIFYING BUSINESS.

17 2. WITHIN THIRTY DAYS AFTER A FORMAL REQUEST FROM THE DEPARTMENT OF
18 COMMERCE OR THE DEPARTMENT OF REVENUE THE BUSINESS FAILS OR REFUSES TO
19 PROVIDE THE INFORMATION OR ACCESS FOR INSPECTIONS REQUIRED BY THIS SECTION.

20 L. IF THE DEPARTMENT OF COMMERCE REVOKES THE BUSINESS' CERTIFICATION
21 UNDER SUBSECTION K OF THIS SECTION, IT SHALL NOTIFY THE DEPARTMENT OF REVENUE
22 OF THE ACTION AND THE CONDITIONS OF NONCOMPLIANCE. THE DEPARTMENT OF REVENUE
23 MAY ALSO TERMINATE THE CERTIFICATION IF IT OBTAINS INFORMATION INDICATING A
24 FAILURE TO QUALIFY AND COMPLY. THE DEPARTMENT OF REVENUE MAY REQUIRE THE
25 BUSINESS TO FILE APPROPRIATE AMENDED TAX RETURNS REFLECTING ANY RECAPTURE OF
26 INCOME TAX CREDITS UNDER SECTION 43-1083.01 OR 43-1164.01.

27 M. FOR TEN YEARS AFTER A BUSINESS FIRST QUALIFIES FOR TAX INCENTIVES
28 UNDER THIS SECTION, IN ANY ACTION INVOLVING THE LIQUIDATION OF THE BUSINESS
29 ASSETS DUE TO FRAUD OR RELOCATION OUT OF STATE THIS STATE CLAIMS THE POSITION
30 OF A SECURED CREDITOR OF THE BUSINESS IN THE AMOUNT OF INCOME TAX CREDITS THE
31 BUSINESS RECEIVED PURSUANT TO SECTION 43-1083.01 OR 43-1164.01.

32 N. THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF REVENUE SHALL
33 COLLABORATE IN ADOPTING RULES THAT ARE NECESSARY TO ACCOMPLISH THE INTENT AND
34 PURPOSES OF THIS SECTION.

35 O. FOR THE PURPOSES OF THIS SECTION:

36 1. QUALIFYING EMPLOYMENT POSITIONS MUST:

37 (a) BE AT LEAST ONE THOUSAND SEVEN HUNDRED FIFTY HOURS PER YEAR OF
38 FULL-TIME AND PERMANENT EMPLOYMENT.

39 (b) EXIST FOR AT LEAST NINETY DAYS IN THE FIRST TAXABLE YEAR IN WHICH
40 THE BUSINESS QUALIFIES FOR THE INCOME TAX CREDITS. A NEW EMPLOYMENT POSITION
41 CREATED AND FILLED DURING THE LAST NINETY DAYS OF THE YEAR IS CONSIDERED TO
42 BE A NEW EMPLOYMENT POSITION IN THE NEXT YEAR.

43 2. SOLAR ENERGY TECHNOLOGIES ARE LIMITED TO SYSTEMS AND COMPONENTS
44 THAT ARE USED OR USEFUL FOR THE MANUFACTURING OF SOLAR ENERGY DEVICES, AS
45 DEFINED IN SECTION 44-1761, OR FOR THE GENERATION, STORAGE, TESTING AND
46 RESEARCH AND DEVELOPMENT, TRANSMISSION OR DISTRIBUTION OF ELECTRICITY FROM
47 SOLAR RENEWABLE RESOURCES, INCLUDING ANY PHOTOVOLTAIC AND CONCENTRATED SOLAR
48 POWER AND SOLAR THERMAL PROCESS USED IN GENERATING ELECTRICITY.

1 Sec. 4. Section 42-5061, Arizona Revised Statutes, is amended to read:
2 42-5061. Retail classification; definitions

3 A. The retail classification is comprised of the business of selling
4 tangible personal property at retail. The tax base for the retail
5 classification is the gross proceeds of sales or gross income derived from
6 the business. The tax imposed on the retail classification does not apply to
7 the gross proceeds of sales or gross income from:

8 1. Professional or personal service occupations or businesses which
9 involve sales or transfers of tangible personal property only as
10 inconsequential elements.

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

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

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

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

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

25 7. The sale of stocks and bonds.

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

29 9. Prosthetic appliances as defined in section 23-501 prescribed or
30 recommended by a health professional licensed pursuant to title 32, chapter
31 7, 8, 11, 13, 14, 15, 16, 17 or 29.

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

33 11. Prescription eyeglasses or contact lenses.

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

35 13. Durable medical equipment which has a centers for medicare and
36 medicaid services common procedure code, is designated reimbursable by
37 medicare, is prescribed by a person who is licensed under title 32, chapter
38 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
39 customarily used to serve a medical purpose, is generally not useful to a
40 person in the absence of illness or injury and is appropriate for use in the
41 home.

42 14. Sales to nonresidents of this state for use outside this state if
43 the vendor ships or delivers the tangible personal property out of this
44 state.

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

47 16. Items purchased with United States department of agriculture food
48 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.

1 958) or food instruments issued under section 17 of the child nutrition act
2 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
3 section 1786).

4 17. Textbooks by any bookstore that are required by any state
5 university or community college.

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

10 19. Articles of food, drink or condiment and accessory tangible
11 personal property to a school district if such articles and accessory
12 tangible personal property are to be prepared and served to persons for
13 consumption on the premises of a public school within the district during
14 school hours.

15 20. Lottery tickets or shares pursuant to title 5, chapter 5,
16 article 1.

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

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

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

28 22. Motor vehicle fuel and use fuel which are subject to a tax imposed
29 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
30 valid single trip use fuel tax permit issued under section 28-5739, sales of
31 aviation fuel which are subject to the tax imposed under section 28-8344 and
32 sales of jet fuel which are subject to the tax imposed under article 8 of
33 this chapter.

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

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

40 25. Tangible personal property sold to:

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

42 (b) A qualifying health care organization as defined in section
43 42-5001 if the tangible personal property is used by the organization solely
44 to provide health and medical related educational and charitable services.

45 (c) A qualifying health care organization as defined in section
46 42-5001 if the organization is dedicated to providing educational,
47 therapeutic, rehabilitative and family medical education training for blind,

1 visually impaired and multihandicapped children from the time of birth to age
2 twenty-one.

3 (d) A qualifying community health center as defined in section
4 42-5001.

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

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

16 26. Magazines or other periodicals or other publications by this state
17 to encourage tourist travel.

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

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

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

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

32 (d) INCORPORATED OR FABRICATED BY THE PERSON INTO ANY DEVELOPMENT IN A
33 COMMERCIAL ENHANCEMENT ZONE UNDER CONDITIONS PRESCRIBED FOR THE DEDUCTION
34 ALLOWED BY SECTION 42-5075, SUBSECTION B, PARAGRAPH 22.

35 28. The sale of a motor vehicle to:

36 (a) A nonresident of this state if the purchaser's state of residence
37 does not allow a corresponding use tax exemption to the tax imposed by
38 article 1 of this chapter and if the nonresident has secured a special ninety
39 day nonresident registration permit for the vehicle as prescribed by sections
40 28-2154 and 28-2154.01.

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

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

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

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

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

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

22 34. Machinery, equipment, technology or related supplies that are only
23 useful to assist a person who is physically disabled as defined in section
24 46-191, has a developmental disability as defined in section 36-551 or has a
25 head injury as defined in section 41-3201 to be more independent and
26 functional.

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

30 36. Sales of natural gas or liquefied petroleum gas used to propel a
31 motor vehicle.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 50. Sales of alternative fuel vehicles if the vehicle was manufactured
25 as a diesel fuel vehicle and converted to operate on alternative fuel and
26 equipment that is installed in a conventional diesel fuel motor vehicle to
27 convert the vehicle to operate on an alternative fuel, as defined in section
28 1-215.

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

32 52. Sales of tangible personal property to be incorporated or installed
33 as part of environmental response or remediation activities under section
34 42-5075, subsection B, paragraph 6.

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

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

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

46 1. Machinery, or equipment, used directly in manufacturing,
47 processing, fabricating, job printing, refining or metallurgical operations.
48 The terms "manufacturing", "processing", "fabricating", "job printing",

1 "refining" and "metallurgical" as used in this paragraph refer to and include
2 those operations commonly understood within their ordinary meaning.
3 "Metallurgical operations" includes leaching, milling, precipitating,
4 smelting and refining.

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

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

17 4. Machinery, equipment or transmission lines used directly in
18 producing or transmitting electrical power, but not including distribution.
19 Transformers and control equipment used at transmission substation sites
20 constitute equipment used in producing or transmitting electrical power.

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

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

28 7. Aircraft, navigational and communication instruments and other
29 accessories and related equipment sold to:

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

36 (b) Any foreign government for use by such government outside of this
37 state.

38 (c) Persons who are not residents of this state and who will not use
39 such property in this state other than in removing such property from this
40 state. This subdivision also applies to corporations that are not
41 incorporated in this state, regardless of maintaining a place of business in
42 this state, if the principal corporate office is located outside this state
43 and the property will not be used in this state other than in removing the
44 property from this state.

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

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

3 10. Machinery or equipment used directly to drill for oil or gas or
4 used directly in the process of extracting oil or gas from the earth for
5 commercial purposes.

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

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

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

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

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

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

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

45 (a) "Motion picture, multimedia or interactive video production"
46 includes products for theatrical and television release, educational
47 presentations, electronic retailing, documentaries, music videos, industrial
48 films, CD-ROM, video game production, commercial advertising and television

1 episode production and other genres that are introduced through developing
2 technology.

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

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

11 (a) Any direct broadcast satellite television or data transmission
12 service that operates pursuant to 47 Code of Federal Regulations parts 25 and
13 100.

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

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

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

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

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

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

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

46 18. Machinery and equipment used directly in the feeding of poultry,
47 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 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:

46 1. Expendable materials. For the purposes of this paragraph,
47 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. In addition to the deductions from the tax base prescribed by
16 subsection A of this section, there shall be deducted from the tax base the
17 gross proceeds of sales or gross income derived from sales of machinery,
18 equipment, materials and other tangible personal property used directly and
19 predominantly to construct a qualified environmental technology
20 manufacturing, producing or processing facility as described in section
21 41-1514.02. This subsection applies for ten full consecutive calendar or
22 fiscal years after the start of initial construction.

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

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

31 G. If a person is engaged in an occupation or business to which
32 subsection A of this section applies, the person's books shall be kept so as
33 to show separately the gross proceeds of sales of tangible personal property
34 and the gross income from sales of services, and if not so kept the tax shall
35 be imposed on the total of the person's gross proceeds of sales of tangible
36 personal property and gross income from services.

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

43 I. A person who engages in manufacturing, baling, crating, boxing,
44 barreling, canning, bottling, sacking, preserving, processing or otherwise
45 preparing for sale or commercial use any livestock, agricultural or
46 horticultural product or any other product, article, substance or commodity
47 and who sells the product of such business at retail in this state is deemed,
48 as to such sales, to be engaged in business classified under the retail

1 classification. This subsection does not apply to businesses classified
2 under the:

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

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

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

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

21 3. Overhead materials or other tangible personal property that is used
22 in performing a contract between the United States government and a
23 manufacturer, modifier, assembler or repairer, including property used in
24 performing a subcontract with a government contractor who is a manufacturer,
25 modifier, assembler or repairer, to which title passes to the government
26 under the terms of the contract or subcontract.

27 4. Sales of overhead materials or other tangible personal property to
28 a manufacturer, modifier, assembler or repairer if the gross proceeds of
29 sales or gross income derived from the property by the manufacturer,
30 modifier, assembler or repairer will be exempt under paragraph 3 of this
31 subsection.

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

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

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

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

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

46 N. There shall be deducted from the tax base the amount received from
47 sales of solar energy devices. The retailer shall register with the
48 department as a solar energy retailer. By registering, the retailer

1 acknowledges that it will make its books and records relating to sales of
2 solar energy devices available to the department for examination.

3 O. In computing the tax base in the case of the sale or transfer of
4 wireless telecommunications equipment as an inducement to a customer to enter
5 into or continue a contract for telecommunications services that are taxable
6 under section 42-5064, gross proceeds of sales or gross income does not
7 include any sales commissions or other compensation received by the retailer
8 as a result of the customer entering into or continuing a contract for the
9 telecommunications services.

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

15 Q. Retail sales of prepaid calling cards or prepaid authorization
16 numbers for telecommunications services, including sales of reauthorization
17 of a prepaid card or authorization number, are subject to tax under this
18 section.

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

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

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

27 S. If a seller is entitled to a deduction pursuant to subsection B,
28 paragraph 16, subdivision (b) of this section, the department may require the
29 purchaser to establish that the requirements of subsection B, paragraph 16,
30 subdivision (b) of this section have been satisfied. If the purchaser cannot
31 establish that the requirements of subsection B, paragraph 16, subdivision
32 (b) of this section have been satisfied, the purchaser is liable in an amount
33 equal to any tax, penalty and interest which the seller would have been
34 required to pay under article 1 of this chapter if the seller had not made a
35 deduction pursuant to subsection B, paragraph 16, subdivision (b) of this
36 section. Payment of the amount under this subsection exempts the purchaser
37 from liability for any tax imposed under article 4 of this chapter and
38 related to the tangible personal property purchased. The amount shall be
39 treated as transaction privilege tax to the purchaser and as tax revenues
40 collected from the seller to designate the distribution base pursuant to
41 section 42-5029.

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

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

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

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

16 V. For the purposes of this section:

17 1. "Aircraft" includes:

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

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

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

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

32 W. For the purposes of subsection J of this section:

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

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

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

42 4. "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
46 expense account and allocated to various contracts based upon generally
47 accepted accounting principles and consistent with government contract
48 accounting standards.

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

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

12 Sec. 5. Section 42-5075, Arizona Revised Statutes, is amended to read:
13 42-5075. Prime contracting classification; exemptions;
14 definitions

15 A. The prime contracting classification is comprised of the business
16 of prime contracting and dealership of manufactured buildings. Sales for
17 resale to another dealership of manufactured buildings are not subject to
18 tax. Sales for resale do not include sales to a lessor of manufactured
19 buildings. The sale of a used manufactured building is not taxable under
20 this chapter. The proceeds from alteration and repairs to a used
21 manufactured building are taxable under this section.

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

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

28 2. Sales and installation of groundwater measuring devices required
29 under section 45-604 and groundwater monitoring wells required by law,
30 including monitoring wells installed for acquiring information for a permit
31 required by law.

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

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

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

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

20 (a) Actions to monitor, assess and evaluate such a release or a
21 suspected release.

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

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

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

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

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

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

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

10 (a) To be incorporated into real property.

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

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

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

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

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

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

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

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

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

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

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

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

42 11. The gross proceeds of sales or gross income that is derived from a
43 contract entered into with a person who is engaged in the commercial
44 production of livestock, livestock products or agricultural, horticultural,
45 viticultural or floricultural crops or products in this state for the
46 construction, alteration, repair, improvement, movement, wrecking or
47 demolition or addition to or subtraction from any building, highway, road,
48 excavation, manufactured building or other structure, project, development or

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

3 12. The gross proceeds of sales or gross income that is derived from
4 the installation, assembly, repair or maintenance of clean rooms that are
5 deducted from the tax base of the retail classification pursuant to section
6 42-5061, subsection B, paragraph 17.

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

13 14. For taxable periods beginning from and after December 31, 1996 and
14 ending before January 1, 2011, the gross proceeds of sales or gross income
15 derived from a contract to provide and install a solar energy device. The
16 contractor shall register with the department as a solar energy
17 contractor. By registering, the contractor acknowledges that it will make
18 its books and records relating to sales of solar energy devices available to
19 the department for examination.

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

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

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

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

36 19. The gross proceeds of sales or gross income received from a
37 contract for the construction of any building, or other structure, project,
38 development or improvement owned by a qualified business under section
39 41-1516 for harvesting or the initial processing of qualifying forest
40 products removed from qualifying projects as defined in section 41-1516 if
41 actual construction begins before January 1, 2010. To qualify for this
42 deduction, the prime contractor must obtain a letter of qualification from
43 the department of commerce before beginning work under the contract.

44 20. The gross proceeds of sales or gross income received from a
45 contract for the construction of any building or other structure associated
46 with motion picture production in this state. To qualify for the deduction,
47 at the time the contract is entered into the motion picture production
48 company must present to the prime contractor its certificate that is issued

1 pursuant to section 42-5009, subsection H and that establishes its
2 qualification for the deduction.

3 21. Any amount of the gross proceeds of sales or gross income from a
4 contract that constitutes development or impact fees paid to the state or a
5 local government to offset governmental costs of providing public
6 infrastructure, public safety and other public services to a development.

7 22. THROUGH DECEMBER 31, 2018, THE GROSS PROCEEDS OF SALES OR GROSS
8 INCOME RECEIVED FROM A CONTRACT FOR CONSTRUCTING ANY DEVELOPMENT IN A
9 COMMERCIAL ENHANCEMENT ZONE THAT IS DESIGNATED PURSUANT TO SECTION 9-499.14
10 IF THE PRIME CONTRACTOR MAINTAINS THE FOLLOWING RECORDS IN A FORM
11 SATISFACTORY TO THE DEPARTMENT AND TO THE CITY OR TOWN IN WHICH THE PROPERTY
12 IS LOCATED:

13 (a) THE CERTIFICATE OF QUALIFICATION OF THE DEVELOPMENT ISSUED BY THE
14 CITY OR TOWN PURSUANT TO SECTION 9-499.14, SUBSECTION D.

15 (b) ALL STATE AND LOCAL TRANSACTION PRIVILEGE TAX RETURNS FOR THE
16 PERIOD OF TIME DURING WHICH THE PRIME CONTRACTOR RECEIVED GROSS PROCEEDS OF
17 SALES OR GROSS INCOME FROM THE CONTRACT TO CONSTRUCT THE DEVELOPMENT, SHOWING
18 THE AMOUNT EXEMPTED FROM STATE AND LOCAL TAXATION.

19 (c) ANY OTHER INFORMATION THAT THE DEPARTMENT CONSIDERS TO BE
20 NECESSARY.

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

23 1. A prime contractor may establish entitlement to the deduction by
24 both:

25 (a) Marking the invoice for the transaction to indicate that the gross
26 proceeds of sales or gross income derived from the transaction was deducted
27 from the base.

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

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

39 3. The department may prescribe a form for the certificate described
40 in paragraph 1, subdivision (b) of this subsection. The department may also
41 adopt rules that describe the transactions with respect to which a person is
42 not entitled to rely solely on the information contained in the certificate
43 provided in paragraph 1, subdivision (b) of this subsection but must instead
44 obtain such additional information as required in order to be entitled to the
45 deduction.

46 4. If a prime contractor is entitled to a deduction by complying with
47 paragraph 1 of this subsection, the department may require the purchaser who
48 caused the execution of the certificate to establish the accuracy and

1 completeness of the information required to be contained in the certificate
2 which would entitle the prime contractor to the deduction. If the purchaser
3 cannot establish the accuracy and completeness of the information, the
4 purchaser is liable in an amount equal to any tax, penalty and interest which
5 the prime contractor would have been required to pay under article 1 of this
6 chapter if the prime contractor had not complied with paragraph 1 of this
7 subsection. Payment of the amount under this paragraph exempts the purchaser
8 from liability for any tax imposed under article 4 of this chapter. The
9 amount shall be treated as a transaction privilege tax to the purchaser and
10 as tax revenues collected from the prime contractor in order to designate the
11 distribution base for purposes of section 42-5029.

12 D. Subcontractors or others who perform services in respect to any
13 improvement, building, highway, road, railroad, excavation, manufactured
14 building or other structure, project, development or improvement are not
15 subject to tax if they can demonstrate that the job was within the control of
16 a prime contractor or contractors or a dealership of manufactured buildings
17 and that the prime contractor or dealership is liable for the tax on the
18 gross income, gross proceeds of sales or gross receipts attributable to the
19 job and from which the subcontractors or others were paid.

20 E. Amounts received by a contractor for a project are excluded from
21 the contractor's gross proceeds of sales or gross income derived from the
22 business if the person who hired the contractor executes and provides a
23 certificate to the contractor stating that the person providing the
24 certificate is a prime contractor and is liable for the tax under article 1
25 of this chapter. The department shall prescribe the form of the
26 certificate. If the contractor has reason to believe that the information
27 contained on the certificate is erroneous or incomplete, the department may
28 disregard the certificate. If the person who provides the certificate is not
29 liable for the tax as a prime contractor, that person is nevertheless deemed
30 to be the prime contractor in lieu of the contractor and is subject to the
31 tax under this section on the gross receipts or gross proceeds received by
32 the contractor.

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

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

44 H. The gross proceeds of sales or gross income derived from a contract
45 for lawn maintenance services are not subject to tax under this section if
46 the contract does not include landscaping activities. Lawn maintenance
47 service is a service pursuant to section 42-5061, subsection A, paragraph 1,
48 and includes lawn mowing and edging, weeding, repairing sprinkler heads or

1 drip irrigation heads, seasonal replacement of flowers, refreshing gravel,
2 lawn de-thatching, seeding winter lawns, leaf and debris collection and
3 removal, tree or shrub pruning or clipping, garden and gravel raking and
4 applying pesticides, as defined in section 3-361, and fertilizer materials,
5 as defined in section 3-262.

6 I. The gross proceeds of sales or gross income derived from
7 landscaping activities are subject to tax under this section. Landscaping
8 includes installing lawns, grading or leveling ground, installing gravel or
9 boulders, planting trees and other plants, felling trees, removing or
10 mulching tree stumps, removing other imbedded plants, building or modifying
11 irrigation berms, repairing sprinkler or watering systems, installing
12 railroad ties and installing underground sprinkler or watering systems.

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

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

25 L. The following apply to manufactured buildings:

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

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

33 3. For sales in this state where the dealership of manufactured
34 buildings contracts to deliver the building to a setup site that is outside
35 this state, the situs is outside this state and the transaction is excluded
36 from tax.

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

47 1. If any part of the contract for sale of the property specifies
48 amounts to be paid to the original owner for the modifications to be made in

1 the period subsequent to the transfer of title, the amounts are included in
2 the original owner's gross proceeds of sale or gross income under this
3 section. Proceeds from the sale of the property THAT ARE received after
4 transfer of title AND that are unrelated to the modifications made subsequent
5 to the transfer of title ~~will~~ ARE not be considered gross proceeds of sale or
6 gross income from the modifications.

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

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

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

23 N. For the purposes of this section:

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

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

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

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

39 (b) Supervises, performs or coordinates the excavation and completion
40 of site improvements, setup or moving of a manufactured building including
41 the contracting, if any, with any subcontractor or specialty contractor for
42 the completion of the contract.

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

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

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

1 7. "Prime contracting" means engaging in business as a prime
2 contractor.

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

14 9. "Sale of a used manufactured building" does not include a lease of
15 a used manufactured building.

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

17 42-5159. Exemptions

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

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

24 2. Tangible personal property the sale or use of which has already
25 been subjected to an excise tax at a rate equal to or exceeding the tax
26 imposed by this article under the laws of another state of the United States.
27 If the excise tax imposed by the other state is at a rate less than the tax
28 imposed by this article, the tax imposed by this article is reduced by the
29 amount of the tax already imposed by the other state.

30 3. Tangible personal property, the storage, use or consumption of
31 which the constitution or laws of the United States prohibit this state from
32 taxing or to the extent that the rate or imposition of tax is
33 unconstitutional under the laws of the United States.

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

37 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
38 which in this state is subject to the tax imposed under title 28, chapter 16,
39 article 1, use fuel which is sold to or used by a person holding a valid
40 single trip use fuel tax permit issued under section 28-5739, aviation fuel,
41 the sales, distribution or use of which in this state is subject to the tax
42 imposed under section 28-8344, and jet fuel, the sales, distribution or use
43 of which in this state is subject to the tax imposed under article 8 of this
44 chapter.

45 6. Tangible personal property brought into this state by an individual
46 who was a nonresident at the time the property was purchased for storage, use
47 or consumption by the individual if the first actual use or consumption of

1 the property was outside this state, unless the property is used in
2 conducting a business in this state.

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

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

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

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

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

24 12. Materials that are purchased by or for publicly funded libraries
25 including school district libraries, charter school libraries, community
26 college libraries, state university libraries or federal, state, county or
27 municipal libraries for use by the public as follows:

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

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

30 13. Tangible personal property purchased by:

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

34 (b) A hospital operated by this state or a political subdivision of
35 this state.

36 (c) A licensed nursing care institution or a licensed residential care
37 institution or a residential care facility operated in conjunction with a
38 licensed nursing care institution or a licensed kidney dialysis center, which
39 provides medical services, nursing services or health related services and is
40 not used or held for profit.

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

44 (e) A qualifying health care organization as defined in section
45 42-5001 if the organization is dedicated to providing educational,
46 therapeutic, rehabilitative and family medical education training for blind,
47 visually impaired and multihandicapped children from the time of birth to age
48 twenty-one.

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

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

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

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

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

19 (iv) INCORPORATED OR FABRICATED BY THE PERSON INTO ANY DEVELOPMENT IN
20 A COMMERCIAL ENHANCEMENT ZONE UNDER CONDITIONS PRESCRIBED FOR THE DEDUCTION
21 ALLOWED BY SECTION 42-5075, SUBSECTION B, PARAGRAPH 22.

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

26 (i) A qualifying community health center as defined in section
27 42-5001.

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

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

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

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

1 15. Tangible personal property sold by:

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

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

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

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

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

22 18. Prescription eyeglasses and contact lenses.

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

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

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

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

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

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

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

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

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

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

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

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

10 31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
11 purchased by a qualified environmental technology manufacturer, producer or
12 processor as defined in section 41-1514.02 and directly used or consumed in
13 the generation or provision of on-site power or energy solely for
14 environmental technology manufacturing, producing or processing or
15 environmental protection. This paragraph shall apply for fifteen full
16 consecutive calendar or fiscal years from the date the first paper
17 manufacturing machine is placed in service. In the case of an environmental
18 technology manufacturer, producer or processor who does not manufacture
19 paper, the time period shall begin with the date the first manufacturing,
20 processing or production equipment is placed in service.

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

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

25 (b) Public educational institutions.

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

29 33. Natural gas or liquefied petroleum gas used to propel a motor
30 vehicle.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

47 2. Machinery, or equipment, used directly in the process of extracting
48 ores or minerals from the earth for commercial purposes, including equipment

1 required to prepare the materials for extraction and handling, loading or
2 transporting such extracted material to the surface. "Mining" includes
3 underground, surface and open pit operations for extracting ores and
4 minerals.

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

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

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

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

22 7. Aircraft, navigational and communication instruments and other
23 accessories and related equipment sold to:

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

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

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

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

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

43 11. Buses or other urban mass transit vehicles which are used directly
44 to transport persons or property for hire or pursuant to a governmentally
45 adopted and controlled urban mass transportation program and which are sold
46 to bus companies holding a federal certificate of convenience and necessity
47 or operated by any city, town or other governmental entity or by any person

1 contracting with such governmental entity as part of a governmentally adopted
2 and controlled program to provide urban mass transportation.

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

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

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

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

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

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

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

41 (b) "Soundstage complex" means a facility of multiple stages including
42 production offices, construction shops and related areas, prop and costume
43 shops, storage areas, parking for production vehicles and areas that are
44 leased to businesses that complement the production needs and orientation of
45 the overall facility.

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

1 (a) Any direct broadcast satellite television or data transmission
2 service that operates pursuant to 47 Code of Federal Regulations parts 25 and
3 100.

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

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

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

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

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

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

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

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

40 19. Machinery or equipment, including related structural components,
41 that is employed in connection with manufacturing, processing, fabricating,
42 job printing, refining, mining, natural gas pipelines, metallurgical
43 operations, telecommunications, producing or transmitting electricity or
44 research and development and that is used directly to meet or exceed rules or
45 regulations adopted by the federal energy regulatory commission, the United
46 States environmental protection agency, the United States nuclear regulatory
47 commission, the Arizona department of environmental quality or a political

1 subdivision of this state to prevent, monitor, control or reduce land, water
2 or air pollution.

3 20. Machinery and equipment that are used in the commercial production
4 of livestock, livestock products or agricultural, horticultural, viticultural
5 or floricultural crops or products in this state and that are used directly
6 and primarily to prevent, monitor, control or reduce air, water or land
7 pollution.

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

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

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

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

22 22. Qualifying equipment that is purchased from and after June 30, 2004
23 through June 30, 2014 by a qualified business under section 41-1516 for
24 harvesting or the initial processing of qualifying forest products removed
25 from qualifying projects as defined in section 41-1516. To qualify for this
26 exemption, the qualified business must obtain and present its certification
27 from the department of commerce at the time of purchase.

28 23. Machinery, equipment and other tangible personal property used
29 directly in motion picture production by a motion picture production company.
30 To qualify for this exemption, at the time of purchase, the motion picture
31 production company must present to the retailer its certificate that is
32 issued pursuant to section 42-5009, subsection H and that establishes its
33 qualification for the exemption.

34 C. The exemptions provided by subsection B of this section do not
35 include:

36 1. Expendable materials. For the purposes of this paragraph,
37 expendable materials do not include any of the categories of tangible
38 personal property specified in subsection B of this section regardless of the
39 cost or useful life of that property.

40 2. Janitorial equipment and hand tools.

41 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

17 1. The storage, use or consumption in Arizona of machinery, equipment,
18 materials or other tangible personal property if used directly and
19 predominantly to construct a qualified environmental technology
20 manufacturing, producing or processing facility, as described in section
21 41-1514.02. This paragraph applies for ten full consecutive calendar or
22 fiscal years after the start of initial construction.

23 2. The purchase of electricity by a qualified environmental technology
24 manufacturer, producer or processor as defined in section 41-1514.02 that is
25 used directly in environmental technology manufacturing, producing or
26 processing. This paragraph shall apply for fifteen full consecutive calendar
27 or fiscal years from the date the first paper manufacturing machine is placed
28 in service. In the case of an environmental technology manufacturer,
29 producer or processor who does not manufacture paper, the time period shall
30 begin with the date the first manufacturing, processing or production
31 equipment is placed in service.

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

34 1. Fees charged by a municipally owned utility to persons constructing
35 residential, commercial or industrial developments or connecting residential,
36 commercial or industrial developments to a municipal utility system or
37 systems if the fees are segregated and used only for capital expansion,
38 system enlargement or debt service of the utility system or systems.

39 2. Reimbursement or contribution compensation to any person or persons
40 owning a utility system for property and equipment installed to provide
41 utility access to, on or across the land of an actual utility consumer if the
42 property and equipment become the property of the utility. This deduction
43 shall not exceed the value of such property and equipment.

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

45 1. "Aircraft" includes:

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

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

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

7 H. For the purposes of subsection D of this section, "ancillary
8 services", "electric distribution service", "electric generation service",
9 "electric transmission service" and "other services" have the same meanings
10 prescribed in section 42-5063.

11 Sec. 7. Section 42-6004, Arizona Revised Statutes, is amended to read:
12 42-6004. Exemption from municipal tax

13 A. A city, town or special taxing district shall not levy a
14 transaction privilege, sales, use or other similar tax on:

15 1. Exhibition events in this state sponsored, conducted or operated by
16 a nonprofit organization that is exempt from taxation under section
17 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
18 organization is associated with a major league baseball team or a national
19 touring professional golfing association and no part of the organization's
20 net earnings inures to the benefit of any private shareholder or individual.

21 2. Interstate telecommunications services, which include that portion
22 of telecommunications services, such as subscriber line service, allocable by
23 federal law to interstate telecommunications service.

24 3. Sales of warranty or service contracts.

25 4. Sales of motor vehicles to nonresidents of this state for use
26 outside this state if the vendor ships or delivers the motor vehicle to a
27 destination outside this state.

28 5. Interest on finance contracts.

29 6. Dealer documentation fees on the sales of motor vehicles.

30 7. Through December 31, 2009, the gross proceeds of sales or gross
31 income received from a contract from constructing any lake facility
32 development in a commercial enhancement reuse district established pursuant
33 to section 9-499.08.

34 8. Sales of food or other items purchased with United States
35 department of agriculture food stamp coupons issued under the food stamp act
36 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section
37 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,
38 section 4302; 42 United States Code section 1786) but may impose such a tax
39 on other sales of food. If a city, town or special taxing district exempts
40 sales of food from its tax or imposes a different transaction privilege rate
41 on the gross proceeds of sales or gross income from sales of food and nonfood
42 items, it shall use the definition of food prescribed by rule adopted by the
43 department pursuant to section 42-5106.

44 9. Sales of internet access services to the person's subscribers and
45 customers. For the purposes of this paragraph:

46 (a) "Internet" means the computer and telecommunications facilities
47 that comprise the interconnected worldwide network of networks that employ

1 the transmission control protocol or internet protocol, or any predecessor or
2 successor protocol, to communicate information of all kinds by wire or radio.

3 (b) "Internet access" means a service that enables users to access
4 content, information, electronic mail or other services over the
5 internet. Internet access does not include telecommunication services
6 provided by a common carrier.

7 10. The gross proceeds of sales or gross income retained by the Arizona
8 exposition and state fair board from ride ticket sales at the annual Arizona
9 state fair.

10 11. Through August 31, 2014, sales of Arizona centennial medallions by
11 the historical advisory commission.

12 12. THROUGH DECEMBER 31, 2018, THE GROSS PROCEEDS OF SALES OR GROSS
13 INCOME RECEIVED FROM A CONTRACT FROM CONSTRUCTING ANY DEVELOPMENT IN A
14 COMMERCIAL ENHANCEMENT ZONE ESTABLISHED PURSUANT TO SECTION 9-499.14.

15 B. A city, town or other taxing jurisdiction shall not levy a
16 transaction privilege, sales, use, franchise or other similar tax or fee,
17 however denominated, on natural gas or liquefied petroleum gas used to propel
18 a motor vehicle.

19 C. A city, town or other taxing jurisdiction shall not levy a
20 transaction privilege, sales, gross receipts, use, franchise or other similar
21 tax or fee, however denominated, on gross proceeds of sales or gross income
22 derived from any of the following:

23 1. A motor carrier's use on the public highways in this state if the
24 motor carrier is subject to a fee prescribed in title 28, chapter 16,
25 article 4.

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

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

33 4. Incarcerating or detaining in a privately operated prison, jail or
34 detention facility prisoners who are under the jurisdiction of the United
35 States, this state or any other state or a political subdivision of this
36 state or of any other state.

37 5. Transporting for hire persons, freight or property by light motor
38 vehicles subject to a fee under title 28, chapter 15, article 4.

39 6. Through December 31, 2009, and except as provided in section
40 42-6104, a contract from constructing any lake facility development in a
41 commercial enhancement reuse district established pursuant to section
42 9-499.08.

43 7. Development or impact fees included in a construction or
44 development contract for payment to the state or a local government to offset
45 governmental costs of providing public infrastructure, public safety and
46 other public services to a development.

47 D. A city, town or other taxing jurisdiction shall not levy a
48 transaction privilege, sales, use, franchise or other similar tax or fee,

1 however denominated, in excess of one-tenth of one per cent of the value of
2 the entire product mined, smelted, extracted, refined, produced or prepared
3 for sale, profit or commercial use, on persons engaged in the business of
4 mineral processing, except to the extent that the tax is computed on the
5 gross proceeds or gross income from sales at retail.

6 E. In computing the tax base, any city, town or other taxing
7 jurisdiction shall not include in the gross proceeds of sales or gross
8 income:

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

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

12 Sec. 8. Repeal

13 Section 43-222, Arizona Revised Statutes, is repealed.

14 Sec. 9. Title 43, chapter 2, article 2, Arizona Revised Statutes, is
15 amended by adding a new section 43-222, to read:

16 43-222. Income tax credit review schedule

17 THE JOINT LEGISLATIVE INCOME TAX CREDIT REVIEW COMMITTEE SHALL REVIEW
18 THE FOLLOWING INCOME TAX CREDITS:

19 1. FOR YEARS ENDING IN 0 AND 5, SECTIONS 43-1075, 43-1075.01,
20 43-1079.01, 43-1087, 43-1088, 43-1090.01, 43-1163, 43-1163.01, 43-1167.01,
21 43-1175 AND 43-1182.

22 2. FOR YEARS ENDING IN 1 AND 6, SECTIONS 43-1074.02, 43-1083, 43-1085,
23 43-1164 AND 43-1183.

24 3. FOR YEARS ENDING IN 2 AND 7, SECTIONS 43-1073, 43-1079, 43-1080,
25 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1090, 43-1167, 43-1169, 43-1176
26 AND 43-1181.

27 4. FOR YEARS ENDING IN 3 AND 8, SECTIONS 43-1074.01, 43-1081, 43-1168,
28 43-1170 AND 43-1178.

29 5. FOR YEARS ENDING IN 4 AND 9, SECTIONS 43-1076, 43-1081.01,
30 43-1083.01, 43-1084, 43-1162, 43-1164.01 AND 43-1170.01.

31 Sec. 10. Section 43-1074, Arizona Revised Statutes, is amended to
32 read:

33 43-1074. Credit for increased employment in enterprise zones;
34 definitions

35 A. A credit is allowed against the taxes imposed by this title for net
36 increases in qualified employment positions of residents of this state by a
37 business located in an enterprise zone established under title 41, chapter
38 10, article 2, except employment positions at a zone location where more than
39 ten per cent of the business conducted at the location consists of retail
40 sales of tangible personal property, measured by either the number of
41 employees assigned to retail sales or the square footage of the facility used
42 for retail sales activities at the location in the zone. Retail sales and
43 retail sales activities do not include:

44 1. Food and beverage for consumption on the premises solely by
45 employees and occasional guests of employees at the location.

46 2. Promotional products not available for sale and displaying the
47 company logo or trademark.

48 3. Products sold to company employees.

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, in the first year or
5 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. All of the employees with respect to whom a credit is claimed must
14 reside in this state.

15 2. Thirty-five per cent of the employees with respect to whom a credit
16 is claimed for the first year of employment must reside on the date of
17 employment in an enterprise zone that is located in the same county in which
18 the business is located. If an employee for whom a credit was allowed in the
19 first year of employment leaves employment during the second or third year,
20 the taxpayer may substitute another employee who meets the requirements of
21 paragraph 3 of this subsection and who was hired during the same year as the
22 original employee. If the original employee was counted toward the residency
23 requirement under this paragraph, the substitute employee must also have
24 resided in a zone at the time the substitute was hired.

25 3. A qualified employment position must meet all of the following
26 requirements:

27 (a) The position must be a minimum of one thousand seven hundred fifty
28 hours per year of full-time and permanent employment.

29 (b) The job duties must be performed primarily at the zone locations
30 of the business. If an eligible employee in a qualified employment position
31 is transferred or assigned to work in the taxpayer's workplace at a different
32 location that is also located in an enterprise zone and qualifies as a zone
33 location, it may be considered to be continuous employment if it continues to
34 meet all qualified employment position requirements.

35 (c) The employment must include health insurance coverage for the
36 employee for which the employer pays at least fifty per cent of the premium
37 or membership cost. If the taxpayer is self-insured, the taxpayer must pay
38 at least fifty per cent of a predetermined fixed cost per employee for an
39 insurance program that is payable whether or not the employee has filed
40 claims.

41 (d) The employer must pay compensation at least equal to the wage
42 offer by county as computed annually by the department of economic security
43 research administration division.

44 (e) The employee must have been employed for at least ninety days
45 during the first taxable year. An employee who is hired during the last
46 ninety days of the taxable year shall be considered a new employee during the
47 next taxable year. A qualified employment position that is filled during the

1 last ninety days of the taxable year is considered to be a new qualified
2 employment position for the next taxable year.

3 (f) The employee must not have been previously employed by the
4 taxpayer within twelve months before the current date of hire.

5 D. A credit is allowed for employment in the second and third year
6 only for qualified employment positions for which a credit was allowed and
7 claimed by the taxpayer on the original first and second year tax
8 returns. For the purposes of this subsection, the requirement to claim the
9 credit on the original tax return does not apply to qualified employment
10 positions created before January 1, 2002 and ~~were~~ certified to the department
11 of commerce.

12 E. The net increase in the number of qualified employment positions is
13 the lesser of the total number of filled qualified employment positions
14 created in the zone during the tax year or the difference between the average
15 number of full-time employees in the zone in the current tax year and the
16 average number of full-time employees during the immediately preceding
17 taxable year. The net increase in the number of qualified employment
18 positions computed under this subsection shall not exceed two hundred
19 qualified employment positions per taxpayer each year.

20 F. A taxpayer who claims a credit under section 43-1077, ~~or~~ 43-1079 OR
21 43-1083.01 shall not claim a credit under this section with respect to the
22 same ~~employees~~ EMPLOYMENT POSITIONS.

23 G. If the allowable tax credit exceeds the income taxes otherwise due
24 on the claimant's income, or if there are no state income taxes due on the
25 claimant's income, the amount of the claim not used as an offset against
26 income taxes may be carried forward as a tax credit against subsequent
27 taxable years' income tax liability, not to exceed five taxable years,
28 provided the business remains in an enterprise zone.

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

35 I. If a person purchases a business in a zone or changes ownership
36 through reorganization, stock purchase or merger, the new taxpayer may claim
37 first year credits only for one or more qualified employment positions that
38 it created and filled with an eligible employee after the purchase or
39 reorganization was complete. If a person purchases a taxpayer that had
40 qualified for first or second year credits or changes ownership through
41 reorganization, stock purchase or merger, the new taxpayer may claim the
42 second or third year credits if it meets other eligibility requirements of
43 this section. Credits for which a taxpayer qualified before the changes
44 described in this subsection are terminated and lost at the time the changes
45 are implemented.

46 J. A failure to timely report and certify to the department of
47 commerce and the department of revenue the information prescribed by section
48 41-1525, subsection B, paragraphs 1, 2 and 3 and in the manner prescribed by

1 section 41-1525, subsection C, ~~disqualifies~~ the taxpayer from the credit
2 under this section. The department of revenue shall require written evidence
3 of the timely report to the department of commerce.

4 K. The termination of an enterprise zone does not affect the credit
5 under this section with respect to:

6 1. Taxpayers who have employees in the second and third years of
7 employment in qualified employment positions under subsections A, B and C of
8 this section if the business remains in the location that was in the
9 enterprise zone.

10 2. Amounts carried forward into subsequent taxable years under
11 subsection G of this section.

12 L. The department may adopt rules necessary for the administration of
13 this section.

14 M. For the purposes of this section:

15 1. "Assigned to retail" means working more than twenty-five per cent
16 of an employee's time in one or more retail sales activities.

17 2. "Retail sales" means the sale of tangible personal property to an
18 ultimate consumer.

19 3. "Retail sales activities" means all activities persons operating a
20 retail business normally engage in, including taking orders, filling orders,
21 billing orders, receiving and processing payment and shipping, stocking and
22 delivering tangible personal property to the ultimate consumer, except drop
23 shipments by a company acting on behalf of an unrelated company that has made
24 a sale to a final consumer.

25 4. "Zone location" means a single parcel or contiguous parcels of
26 owned or leased land, the structures and personal property contained on the
27 land or any part of the structures occupied by a taxpayer.

28 Sec. 11. Section 43-1074.01, Arizona Revised Statutes, is amended to
29 read:

30 43-1074.01. Credit for increased research activities

31 A. A credit is allowed against the taxes imposed by this title in an
32 amount determined pursuant to section 41 of the internal revenue code, except
33 that:

34 1. The amount of the credit is based on the excess, if any, of the
35 qualified research expenses for the taxable year over the base amount as
36 defined in section 41(c) of the internal revenue code and is computed as
37 follows:

38 (a) If the excess is two million five hundred thousand dollars or
39 less, the credit is equal to ~~twenty~~ TWENTY-FOUR per cent of that amount.

40 (b) If the excess is over two million five hundred thousand dollars,
41 the credit is equal to ~~five~~ SIX hundred thousand dollars plus ~~eleven~~ FIFTEEN
42 per cent of any amount exceeding two million five hundred thousand dollars,
43 except that:

44 (i) For taxable years beginning from and after December 31, 2000
45 through December 31, 2001, the credit shall not exceed one million five
46 hundred thousand dollars.

1 (ii) For taxable years beginning from and after December 31, 2001
2 through December 31, 2002, the credit shall not exceed two million five
3 hundred thousand dollars.

4 2. Qualified research includes only research conducted in this state
5 including research conducted at a university in this state and paid for by
6 the taxpayer.

7 3. If two or more taxpayers, including partners in a partnership and
8 shareholders of an S corporation, as defined in section 1361 of the internal
9 revenue code, share in the eligible expenses, each taxpayer is eligible to
10 receive a proportionate share of the credit.

11 4. The credit under this section applies only to expenses incurred
12 from and after December 31, 2000.

13 5. The termination provisions of section 41 of the internal revenue
14 code do not apply.

15 B. If the allowable credit under this section exceeds the taxes
16 otherwise due under this title on the claimant's income, or if there are no
17 taxes due under this title, the amount of the credit not used to offset taxes
18 may be carried forward to the next fifteen consecutive taxable years. The
19 amount of credit carryforward from taxable years beginning from and after
20 December 31, 2000 through December 31, 2002 that may be used in any taxable
21 year may not exceed the taxpayer's tax liability under this title or five
22 hundred thousand dollars, whichever is less, minus the credit under this
23 section for the current taxable year's qualified research expenses. The
24 amount of credit carryforward from taxable years beginning from and after
25 December 31, 2002 that may be used in any taxable year may not exceed the
26 taxpayer's tax liability under this title minus the credit under this section
27 for the current taxable year's qualified research expenses.

28 C. ALL OR PART OF ANY UNCLAIMED AMOUNT OF CREDIT UNDER THIS SECTION
29 MAY BE SOLD OR OTHERWISE TRANSFERRED, UNDER TERMS MUTUALLY AGREEABLE BETWEEN
30 THE TRANSFEROR AND TRANSFEREE, BUT SUBJECT TO THE FOLLOWING CONDITIONS:

31 1. A SINGLE SALE OR TRANSFER MAY INVOLVE ONE OR MORE TRANSFEREES, AND
32 ANY TRANSFEREE MAY IN TURN RESELL OR TRANSFER THE CREDIT SUBJECT TO THE SAME
33 CONDITIONS OF THIS SUBSECTION.

34 2. BOTH THE TRANSFEROR AND TRANSFEREE MUST SUBMIT A WRITTEN NOTICE OF
35 THE TRANSFER TO THE DEPARTMENT OF REVENUE WITHIN THIRTY DAYS AFTER THE SALE
36 OR TRANSFER. THE TRANSFEREE'S NOTICE SHALL INCLUDE A PROCESSING FEE EQUAL TO
37 ONE PER CENT OF THE TRANSFEREE'S TAX CREDIT BALANCE OR TWO HUNDRED DOLLARS,
38 WHICHEVER IS LESS. THE NOTICE SHALL INCLUDE:

39 (a) THE NAMES OF THE TRANSFEROR AND TRANSFEREE.

40 (b) THE DATE OF THE TRANSFER.

41 (c) THE AMOUNT OF THE TRANSFER.

42 (d) THE TRANSFEROR'S TAX CREDIT BALANCE BEFORE THE TRANSFER AND THE
43 REMAINING BALANCE AFTER THE TRANSFER.

44 (e) ALL TAX IDENTIFICATION NUMBERS FOR BOTH TRANSFEROR AND TRANSFEREE.

45 (f) ANY OTHER INFORMATION REQUIRED BY RULE.

46 3. A SALE OR TRANSFER OF THE CREDIT DOES NOT EXTEND THE TIME IN WHICH
47 THE CREDIT CAN BE USED.

1 4. THE TRANSFEROR, AT ITS EXPENSE, MUST ENTER INTO A LIMITED MANAGED
2 AUDIT AGREEMENT PURSUANT TO TITLE 42, CHAPTER 2, ARTICLE 7 THAT INCLUDES AN
3 AUDIT OF THE REQUIREMENTS PRESCRIBED BY THIS SECTION TO CONFIRM THE AMOUNT OF
4 ANY CREDIT UNDER THIS SECTION. THE AUDIT MUST BE CONDUCTED BY THE TAXPAYER'S
5 AUTHORIZED REPRESENTATIVE, AS DEFINED IN SECTION 42-2301, WHO IS AN
6 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT LICENSED IN THIS STATE. THE
7 CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT IS
8 AFFILIATED WITH SHALL NOT REGULARLY PERFORM SERVICES FOR THE TAXPAYER OR ANY
9 AFFILIATE OF THE TAXPAYER. IF THE DEPARTMENT OF REVENUE ACCEPTS THE FINDINGS
10 OF THE AUDIT AND ISSUES A NOTICE OF DETERMINATION PURSUANT TO SECTION 42-2303
11 AND THE TAXPAYER TIMELY FILES ITS INCOME TAX RETURNS WITH THE APPROPRIATE
12 CREDIT CLAIM FORMS, THE CREDIT AMOUNT MAY BE TRANSFERRED. THE DEPARTMENT
13 SHALL ISSUE A NOTICE OF DETERMINATION INCLUDING A WRITTEN CERTIFICATE TO THE
14 TAXPAYER STATING THE AMOUNT OF THE CREDIT AND THAT THE CREDIT MAY BE
15 TRANSFERRED. THIS PARAGRAPH DOES NOT PREVENT RECAPTURE OF A CREDIT AMOUNT IF
16 THE TAXPAYER FAILED TO DISCLOSE MATERIAL INFORMATION DURING THE AUDIT OR
17 FALSIFIED ITS BOOKS OR RECORDS OR OTHERWISE ENGAGED IN AN ACTION THAT
18 PREVENTED AN ACCURATE AUDIT.

19 D. THE CREDIT UNDER THIS SECTION IS SUBJECT TO REVIEW PURSUANT TO
20 SECTION 43-222, PARAGRAPH 4, BUT ANY ACTION TAKEN PURSUANT TO THAT REVIEW
21 DOES NOT AFFECT ANY CREDIT UNDER THIS SECTION THAT IS CURRENTLY SUBJECT TO
22 CARRY FORWARD OR THE TRANSFER OF ANY UNCLAIMED CREDIT AS PROVIDED BY THIS
23 SECTION.

24 Sec. 12. Section 43-1077, Arizona Revised Statutes, is amended to
25 read:

26 43-1077. Credit for employment by qualified defense contractor

27 A. A credit is allowed against the taxes imposed by this title for:

28 1. Net increases in employment under United States department of
29 defense contracts during the taxable year, as computed under subsection D of
30 this section, by a qualified defense contractor who is certified by the
31 department of commerce under section 41-1508.

32 2. Net increases in private commercial employment during the taxable
33 year, as computed under subsection E of this section, by a qualified defense
34 contractor who is certified by the department of commerce under section
35 41-1508 due to full-time equivalent employee positions transferred during the
36 taxable year by the taxpayer from exclusively defense related activities to
37 employment by the taxpayer in exclusively private commercial activities.

38 B. The amount of the credit is a dollar amount allowed for each
39 full-time equivalent employee position created, determined as follows:

40 1st year	\$2,500
41 2nd year	\$2,000
42 3rd year	\$1,500
43 4th year	\$1,000
44 5th year	\$ 500

45 C. If the allowable tax credit exceeds the taxes otherwise due under
46 this title on the claimant's income, or if there are no taxes due under this
47 title, the taxpayer may carry the amount of the claim not used to offset the
48 taxes under this title forward until taxable years beginning from and after

1 December 31, 2011 as a credit against subsequent years' income tax liability,
2 regardless of continuing certification as a qualified defense contractor.

3 D. The net increase in employment under defense related contracts
4 shall be determined as follows:

5 1. Establish an employment baseline for the taxpayer based on a
6 multiyear forecast of employment on United States department of defense
7 contracts that was submitted to the department of defense before June 1,
8 1992. The annual average employment forecast for the first year the taxpayer
9 qualified is the baseline. If the taxpayer did not make such a forecast
10 before June 1, 1992, the baseline is the average annual employment as
11 reported to the department of economic security during the preceding taxable
12 year. If a taxpayer qualifies in the same year it relocates into this state,
13 the taxpayer's baseline is zero.

14 2. For the first year of the credit, the taxpayer's net increase in
15 average employment is the increase in employment reported to the department
16 of economic security for the taxable year over the employment baseline.

17 3. For each succeeding year of the credit, the taxpayer's net increase
18 in average employment is the increase in employment reported to the
19 department of economic security for the taxable year over the preceding
20 taxable year's average employment.

21 E. In computing the amount of credit allowed under subsection A,
22 paragraph 2 of this section, the taxpayer shall:

23 1. Prorate employment during the taxable year according to the date of
24 transfer from defense to private commercial activities or the date of
25 transfer from private commercial activities to defense.

26 2. Compute and subtract an amount pursuant to subsection B of this
27 section for full-time equivalent employee positions that were transferred
28 during the taxable year by the taxpayer from exclusively private commercial
29 activities to exclusively defense related activities.

30 F. The taxpayer shall account for qualifying full-time equivalent
31 employee positions on a first-in first-out basis. If a decrease in
32 qualifying employment occurs, the taxpayer shall subtract the decrease from
33 the earliest qualifying positions.

34 G. A credit is not allowed under both subsection A, paragraphs 1 and 2
35 of this section with respect to the same employee position. A full-time
36 equivalent employee position may be considered for purposes of computing the
37 credit under either subsection A, paragraph 1 or 2 of this section, but not
38 both.

39 H. A credit is not allowed under this section with respect to
40 employment that was transferred from an outside contractor in this state to
41 in-house employment by the taxpayer solely for purposes of qualifying for the
42 credit.

43 I. A taxpayer who claims a credit under section 43-1074, ~~or~~ 43-1079 OR
44 43-1083.01 may not claim a credit under this section with respect to the same
45 ~~employees~~ EMPLOYEE POSITIONS.

46 J. Co-owners of a business, including partners in a partnership and
47 shareholders of an S corporation, as defined in section 1361 of the internal
48 revenue code, may each claim only the pro rata share of the credit allowed

1 under this section based on the ownership interest. The total of the credits
2 allowed all such owners may not exceed the amount that would have been
3 allowed for a sole owner of the business.

4 Sec. 13. Section 43-1079, Arizona Revised Statutes, is amended to
5 read:

6 43-1079. Credit for increased employment in military reuse
7 zones; definition

8 A. A credit is allowed against the taxes imposed by this title for net
9 increases in employment by the taxpayer of full-time employees working in a
10 military reuse zone, established under title 41, chapter 10, article 3, and
11 who are primarily engaged in providing aviation or aerospace services or in
12 manufacturing, assembling or fabricating aviation or aerospace products. The
13 amount of the credit is a dollar amount allowed for each new employee,
14 determined as follows:

15 1. With respect to each employee other than a dislocated military base
16 employee:

17	1st year of employment	\$ 500
18	2nd year of employment	\$1,000
19	3rd year of employment	\$1,500
20	4th year of employment	\$2,000
21	5th year of employment	\$2,500

22 2. With respect to each dislocated military base employee:

23	1st year of employment	\$1,000
24	2nd year of employment	\$1,500
25	3rd year of employment	\$2,000
26	4th year of employment	\$2,500
27	5th year of employment	\$3,000

28 B. If the allowable tax credit exceeds the taxes otherwise due under
29 this title on the claimant's income, or if there are no taxes due under this
30 title, the amount of the claim not used to offset the taxes under this title
31 may be carried forward as a credit against subsequent years' income tax
32 liability for the period, not to exceed five taxable years, if the business
33 remains in the military reuse zone.

34 C. The net increase in the number of employees for purposes of this
35 section shall be determined by comparing the taxpayer's average employment in
36 the military reuse zone during the taxable year with the taxpayer's previous
37 year's fourth quarter employment in the zone, based on the taxpayer's report
38 to the department of economic security for unemployment insurance purposes
39 but considering only employment in the zone.

40 D. Co-owners of a business, including partners in a partnership and
41 shareholders of an S corporation, as defined in section 1361 of the internal
42 revenue code, may each claim only the pro rata share of the credit allowed
43 under this section based on the ownership interest. The total of the credits
44 allowed all such owners may not exceed the amount that would have been
45 allowed for a sole owner of the business.

46 E. A credit is not allowed under this section with respect to an
47 employee whose place of employment is relocated by the taxpayer from a
48 location in this state to the military reuse zone, unless the employee is

1 engaged in aviation or aerospace services or in manufacturing, assembling or
2 fabricating aviation or aerospace products and the taxpayer maintains at
3 least the same number of employees in this state but outside the zone.

4 F. A taxpayer who claims a credit under section 43-1074, ~~or~~ 43-1077 OR
5 43-1083.01 may not claim a credit under this section with respect to the same
6 employees.

7 G. For the purposes of this section, "dislocated military base
8 employee" means a civilian who previously had permanent full-time civilian
9 employment on the military facility as of the date the closure of the
10 facility was finally determined under federal law, as certified by the
11 department of commerce.

12 Sec. 14. Title 43, chapter 10, article 5, Arizona Revised Statutes, is
13 amended by adding section 43-1083.01, to read:

14 43-1083.01. Credit for solar energy industry

15 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2008, A
16 CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR QUALIFIED
17 INVESTMENT AND EMPLOYMENT IN EXPANDING OR LOCATING QUALIFIED SOLAR ENERGY
18 TECHNOLOGIES OPERATIONS IN THIS STATE. TO QUALIFY FOR THE CREDIT, THE
19 TAXPAYER MUST INVEST IN SOLAR ENERGY TECHNOLOGIES MANUFACTURING, OR IN NEW
20 REGIONAL, NATIONAL OR GLOBAL SOLAR ENERGY TECHNOLOGIES BUSINESS HEADQUARTERS,
21 IN THIS STATE AND PRODUCE NEW FULL-TIME EMPLOYMENT POSITIONS WHERE THE JOB
22 DUTIES ARE PERFORMED AT THE LOCATION OF THE QUALIFYING INVESTMENT AS PROVIDED
23 BY SECTION 41-1510.02.

24 B. THE AMOUNT OF THE CREDIT IS COMPUTED AS FOLLOWS:

25 1. TEN PER CENT OF THE TAXPAYER'S TOTAL CAPITAL INVESTMENT IN PROJECTS
26 MEETING THE FOLLOWING MINIMUM EMPLOYMENT REQUIREMENTS:

27 (a) FOR QUALIFYING SOLAR ENERGY TECHNOLOGIES MANUFACTURING OPERATIONS,
28 AT LEAST ONE AND ONE-HALF NEW FULL-TIME EMPLOYMENT POSITIONS FOR EACH FIVE
29 HUNDRED THOUSAND DOLLAR INCREMENT OF CAPITAL INVESTMENT.

30 (b) FOR QUALIFYING SOLAR ENERGY TECHNOLOGIES BUSINESS HEADQUARTERS, AT
31 LEAST ONE NEW FULL-TIME EMPLOYMENT POSITION FOR EACH TWO HUNDRED THOUSAND
32 DOLLAR INCREMENT OF CAPITAL INVESTMENT.

33 2. FOR A QUALIFYING SOLAR ENERGY TECHNOLOGIES PROJECT THAT DOES NOT
34 MEET THE EMPLOYMENT REQUIREMENTS PRESCRIBED BY PARAGRAPH 1 OF THIS
35 SUBSECTION, TEN PER CENT OF THE AMOUNT COMPUTED AS FOLLOWS:

36 (a) FIVE HUNDRED THOUSAND DOLLARS PER ONE AND ONE-HALF NEW FULL-TIME
37 EMPLOYMENT POSITIONS IN NEW SOLAR ENERGY TECHNOLOGIES MANUFACTURING
38 OPERATIONS.

39 (b) TWO HUNDRED THOUSAND DOLLARS FOR EACH NEW FULL-TIME EMPLOYMENT
40 POSITION AT A NEW SOLAR ENERGY TECHNOLOGIES BUSINESS HEADQUARTERS.

41 (c) THE AMOUNT OF CREDIT UNDER THIS PARAGRAPH SHALL NOT EXCEED TEN PER
42 CENT OF THE AMOUNT OF THE TAXPAYER'S TOTAL CAPITAL INVESTMENT.

43 3. THE CREDIT AMOUNT COMPUTED UNDER PARAGRAPH 1 OR 2 OF THIS
44 SUBSECTION IS APPORTIONED, AND THE TAXPAYER SHALL CLAIM THE CREDIT IN FIVE
45 EQUAL ANNUAL INSTALLMENTS IN EACH OF FIVE CONSECUTIVE TAXABLE YEARS.

46 C. TO CLAIM THE CREDIT THE TAXPAYER MUST:

47 1. CONDUCT A BUSINESS THAT QUALIFIES UNDER SECTION 41-1510.02.

1 2. SUBMIT A COPY OF A CURRENT AND VALID CERTIFICATION OF QUALIFICATION
2 ISSUED TO THE TAXPAYER BY THE DEPARTMENT OF COMMERCE.

3 D. TO BE COUNTED FOR THE PURPOSES OF THE CREDIT, AN EMPLOYEE MUST HAVE
4 BEEN EMPLOYED AT THE QUALIFYING BUSINESS LOCATION FOR AT LEAST NINETY DAYS
5 DURING THE TAXABLE YEAR IN A PERMANENT FULL-TIME EMPLOYMENT POSITION OF AT
6 LEAST ONE THOUSAND SEVEN HUNDRED FIFTY HOURS PER YEAR. AN EMPLOYEE WHO IS
7 HIRED DURING THE LAST NINETY DAYS OF THE TAXABLE YEAR SHALL BE CONSIDERED A
8 NEW EMPLOYEE DURING THE NEXT TAXABLE YEAR. TO BE COUNTED FOR THE PURPOSES OF
9 THE CREDIT DURING THE FIRST TAXABLE YEAR OF EMPLOYMENT, THE EMPLOYEE MUST NOT
10 HAVE BEEN PREVIOUSLY EMPLOYED BY THE TAXPAYER WITHIN TWELVE MONTHS BEFORE THE
11 CURRENT DATE OF HIRE. THE TERMS OF EMPLOYMENT MUST COMPLY IN ALL CASES WITH
12 THE REQUIREMENTS OF SECTION 41-1510.02 AND CERTIFICATION BY THE DEPARTMENT OF
13 COMMERCE.

14 E. CO-OWNERS OF A BUSINESS, INCLUDING PARTNERS IN A PARTNERSHIP AND
15 SHAREHOLDERS OF AN S CORPORATION, AS DEFINED IN SECTION 1361 OF THE INTERNAL
16 REVENUE CODE, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED
17 UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS
18 ALLOWED ALL SUCH OWNERS OF THE BUSINESS MAY NOT EXCEED THE AMOUNT THAT WOULD
19 HAVE BEEN ALLOWED FOR A SOLE OWNER OF THE BUSINESS.

20 F. IF THE ALLOWABLE TAX CREDIT FOR A TAXABLE YEAR EXCEEDS THE INCOME
21 TAXES OTHERWISE DUE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO STATE INCOME
22 TAXES DUE ON THE CLAIMANT'S INCOME, THE AMOUNT OF THE CLAIM NOT USED AS AN
23 OFFSET AGAINST INCOME TAXES MAY BE CARRIED FORWARD AS A TAX CREDIT AGAINST
24 SUBSEQUENT YEARS' INCOME TAX LIABILITY FOR A PERIOD NOT TO EXCEED FIVE
25 TAXABLE YEARS, AND SUBJECT TO CONTINUING CERTIFICATION UNDER SECTION
26 41-1510.02.

27 G. ALL OR PART OF ANY UNCLAIMED AMOUNT OF CREDIT UNDER THIS SECTION
28 MAY BE SOLD OR OTHERWISE TRANSFERRED, UNDER TERMS MUTUALLY AGREEABLE BETWEEN
29 THE TRANSFEROR AND TRANSFEREE, BUT SUBJECT TO THE FOLLOWING CONDITIONS:

30 1. A SINGLE SALE OR TRANSFER MAY INVOLVE ONE OR MORE TRANSFEREES, AND
31 ANY TRANSFEREE MAY IN TURN RESELL OR TRANSFER THE CREDIT SUBJECT TO THE SAME
32 CONDITIONS OF THIS SUBSECTION.

33 2. BOTH THE TRANSFEROR AND TRANSFEREE MUST SUBMIT A WRITTEN NOTICE OF
34 THE TRANSFER TO THE DEPARTMENT OF REVENUE WITHIN THIRTY DAYS AFTER THE SALE
35 OR TRANSFER. THE TRANSFEREE'S NOTICE SHALL INCLUDE A PROCESSING FEE EQUAL TO
36 ONE PER CENT OF THE TRANSFEREE'S TAX CREDIT BALANCE OR TWO HUNDRED DOLLARS,
37 WHICHEVER IS LESS. THE NOTICE SHALL INCLUDE:

38 (a) THE NAMES OF THE TRANSFEROR AND TRANSFEREE.

39 (b) THE DATE OF THE TRANSFER.

40 (c) THE AMOUNT OF THE TRANSFER.

41 (d) THE TRANSFEROR'S TAX CREDIT BALANCE BEFORE THE TRANSFER AND THE
42 REMAINING BALANCE AFTER THE TRANSFER.

43 (e) ALL TAX IDENTIFICATION NUMBERS FOR BOTH TRANSFEROR AND TRANSFEREE.

44 (f) ANY OTHER INFORMATION REQUIRED BY RULE.

45 3. A SALE OR TRANSFER OF THE CREDIT DOES NOT EXTEND THE TIME IN WHICH
46 THE CREDIT CAN BE USED. THE TRANSFEREE MUST TAKE THE CREDIT IN FIVE EQUAL
47 ANNUAL INSTALLMENTS IN EACH OF FIVE CONSECUTIVE TAXABLE YEARS AS DESCRIBED IN
48 SUBSECTION B, PARAGRAPH 3 OF THIS SECTION.

1 4. THE TRANSFEROR, AT ITS EXPENSE, MUST ENTER INTO A LIMITED MANAGED
2 AUDIT AGREEMENT PURSUANT TO TITLE 42, CHAPTER 2, ARTICLE 7 THAT INCLUDES AN
3 AUDIT OF THE REQUIREMENTS PRESCRIBED BY SECTION 41-1510.02 AND BY THIS
4 SECTION TO CONFIRM THE AMOUNT OF ANY CREDIT UNDER THIS SECTION. THE REQUEST
5 TO ENTER INTO THE AUDIT MUST BE MADE AFTER THE TAXPAYER IS CERTIFIED PURSUANT
6 TO SECTION 41-1510.02, SUBSECTION F. THE AUDIT MUST BE CONDUCTED BY THE
7 TAXPAYER'S AUTHORIZED REPRESENTATIVE, AS DEFINED IN SECTION 42-2301, WHO IS
8 AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT LICENSED IN THIS STATE. THE
9 CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT IS
10 AFFILIATED WITH SHALL NOT REGULARLY PERFORM SERVICES FOR THE TAXPAYER OR ANY
11 AFFILIATE OF THE TAXPAYER. IF THE DEPARTMENT OF REVENUE ACCEPTS THE FINDINGS
12 OF THE AUDIT AND ISSUES A NOTICE OF DETERMINATION PURSUANT TO SECTION 42-2303
13 AND THE TAXPAYER TIMELY FILES ITS INCOME TAX RETURNS WITH THE APPROPRIATE
14 CREDIT CLAIM FORMS, THE CREDIT AMOUNT MAY BE TRANSFERRED. THE DEPARTMENT
15 SHALL ISSUE A NOTICE OF DETERMINATION INCLUDING A WRITTEN CERTIFICATE TO THE
16 TAXPAYER STATING THE AMOUNT OF THE CREDIT AND THAT THE CREDIT MAY BE
17 TRANSFERRED. THIS PARAGRAPH DOES NOT PREVENT RECAPTURE OF A CREDIT AMOUNT IF
18 THE TAXPAYER FAILED TO DISCLOSE MATERIAL INFORMATION DURING THE AUDIT OR
19 FALSIFIED ITS BOOKS OR RECORDS OR OTHERWISE ENGAGED IN AN ACTION THAT
20 PREVENTED AN ACCURATE AUDIT.

21 H. EXCEPT AS PROVIDED BY SUBSECTION I OF THIS SECTION, IF, WITHIN TEN
22 TAXABLE YEARS AFTER FIRST RECEIVING A CREDIT PURSUANT TO THIS SECTION, THE
23 CERTIFICATION OF QUALIFICATION OF A BUSINESS IS TERMINATED OR REVOKED UNDER
24 SECTION 41-1510.02, OTHER THAN FOR REASONS BEYOND THE CONTROL OF THE BUSINESS
25 AS DETERMINED BY THE DEPARTMENT OF COMMERCE, THE TAXPAYER IS PERMANENTLY
26 DISQUALIFIED FROM CREDITS UNDER THIS SECTION IN SUBSEQUENT TAXABLE YEARS AND
27 THE CREDITS ALLOWED THE TAXPAYER IN ALL TAXABLE YEARS PURSUANT TO THIS
28 SECTION ARE SUBJECT TO RECAPTURE PURSUANT TO THIS SUBSECTION. IF THE CREDIT
29 HAS BEEN TRANSFERRED PURSUANT TO SUBSECTION G OF THIS SECTION, ANY RECAPTURE
30 PURSUANT TO THIS SUBSECTION IS FROM THE ORIGINAL TAXPAYER. THIS SUBSECTION
31 APPLIES ONLY IN THE CASE OF THE TERMINATION OR REVOCATION OF A CERTIFICATION
32 OF QUALIFICATION UNDER SECTION 41-1510.02. THIS SUBSECTION DOES NOT APPLY
33 IF, IN ANY TAXABLE YEAR, A TAXPAYER OTHERWISE DOES NOT QUALIFY FOR OR FAILS
34 TO CLAIM THE CREDIT UNDER THIS SECTION. THE RECAPTURE OF CREDITS IS COMPUTED
35 BY INCREASING THE AMOUNT OF TAXES IMPOSED IN THE YEAR FOLLOWING THE YEAR OF
36 TERMINATION OR REVOCATION BY THE FULL AMOUNT OF ALL CREDITS PREVIOUSLY
37 ALLOWED UNDER THIS SECTION WITH ANNUAL SIMPLE INTEREST EQUAL TO THE PRIME
38 RATE CHARGED BY BANKS ON SHORT-TERM BUSINESS LOANS AS DETERMINED FOR
39 PUBLICATION IN THE BULLETIN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE
40 SYSTEM AS OF THE FIRST DAY OF EACH TAXABLE YEAR, PLUS TWO PER CENT.

41 I. A TAXPAYER WHO CLAIMS A CREDIT UNDER SECTION 43-1074, 43-1077 OR
42 43-1079 MAY NOT CLAIM A CREDIT UNDER THIS SECTION WITH RESPECT TO THE SAME
43 FULL-TIME EMPLOYMENT POSITIONS.

44 J. FOR THE PURPOSES OF THIS SECTION, SOLAR ENERGY TECHNOLOGIES ARE
45 LIMITED TO SYSTEMS AND COMPONENTS THAT ARE USED OR USEFUL FOR THE
46 MANUFACTURING OF SOLAR ENERGY DEVICES, AS DEFINED IN SECTION 44-1761, OR FOR
47 THE GENERATION, STORAGE, TESTING AND RESEARCH AND DEVELOPMENT, TRANSMISSION
48 OR DISTRIBUTION OF ELECTRICITY FROM SOLAR RENEWABLE RESOURCES, INCLUDING ANY

1 PHOTOVOLTAIC AND CONCENTRATED SOLAR POWER AND SOLAR THERMAL PROCESS USED OR
2 USEFUL IN GENERATING ELECTRICITY.

3 Sec. 15. Section 43-1161, Arizona Revised Statutes, is amended to
4 read:

5 43-1161. Credit for increased employment in enterprise zones;
6 definitions

7 A. A credit is allowed against the taxes imposed by this title for net
8 increases in qualified employment positions of residents of this state by a
9 business located in an enterprise zone established under title 41, chapter
10 10, article 2, except employment positions at a zone location where more than
11 ten per cent of the business conducted at the location consists of retail
12 sales of tangible personal property, measured by either the number of
13 employees assigned to retail sales or the square footage of the facility used
14 for retail sales activities at the location in the zone. Retail sales and
15 retail sales activities do not include:

16 1. Food and beverage for consumption on the premises solely by
17 employees and occasional guests of employees at the location.

18 2. Promotional products not available for sale and displaying the
19 company logo or trademark.

20 3. Products sold to company employees.

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

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

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

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

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

33 1. All of the employees with respect to whom a credit is claimed must
34 reside in this state.

35 2. Thirty-five per cent of the employees with respect to whom a credit
36 is claimed for the first year of employment must reside on the date of hire
37 in an enterprise zone that is located in the same county in which the
38 business is located. If an employee for whom a credit was allowed in the
39 first year of employment leaves employment during the second or third year,
40 the taxpayer may substitute another employee who meets the requirements of
41 paragraph 3 of this subsection and who was hired during the same year as the
42 original employee. If the original employee was counted toward the residency
43 requirement under this paragraph, the substitute employee must also have
44 resided in a zone at the time the substitute was hired.

45 3. A qualified employment position must meet all of the following
46 requirements:

47 (a) The position must be a minimum of one thousand seven hundred fifty
48 hours per year of full-time and permanent employment.

1 (b) The job duties must be performed primarily at the zone locations
2 of the business. If an eligible employee in a qualified employment position
3 is transferred or assigned to work in the taxpayer's workplace at a different
4 location that is also located in an enterprise zone and qualifies as a zone
5 location, it may be considered to be continuous employment if it continues to
6 meet all qualified employment position requirements.

7 (c) The employment must include health insurance coverage for the
8 employee for which the employer pays at least fifty per cent of the premium
9 or membership cost. If the taxpayer is self-insured, the taxpayer must pay
10 at least fifty per cent of a predetermined fixed cost per employee for an
11 insurance program that is payable whether or not the employee has filed
12 claims.

13 (d) The employer must pay compensation at least equal to the wage
14 offer by county as computed annually by the department of economic security
15 research administration division.

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

22 (f) The employee must not have been previously employed by the
23 taxpayer within twelve months before the current date of hire.

24 D. A credit is allowed for employment in the second and third year
25 only for qualified employment positions for which a credit was allowed and
26 claimed by the taxpayer on the original first and second year tax returns.
27 For the purposes of this subsection, the requirement to claim the credit on
28 the original tax return does not apply to qualified employment positions
29 created before January 1, 2002 and ~~were~~ certified to the department of
30 commerce.

31 E. The net increase in the number of qualified employment positions is
32 the lesser of the total number of filled qualified employment positions
33 created in the zone during the tax year or the difference between the average
34 number of full-time employees in the zone in the current tax year and the
35 average number of full-time employees during the immediately preceding
36 taxable year. The net increase in the number of qualified employment
37 positions computed under this subsection may not exceed two hundred qualified
38 employment positions per taxpayer each year.

39 F. A taxpayer who claims a credit under section [43-1164.01](#), 43-1165 or
40 43-1167 may not claim a credit under this section with respect to the same
41 ~~employees~~ EMPLOYMENT POSITIONS.

42 G. If the allowable tax credit exceeds the income taxes otherwise due
43 on the claimant's income, or if there are no state income taxes due on the
44 claimant's income, the amount of the claim not used as an offset against
45 income taxes may be carried forward as a tax credit against subsequent years'
46 income tax liability for the period, not to exceed five taxable years,
47 provided the business remains in an enterprise zone.

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

6 I. If a person purchases a business in a zone or changes ownership
7 through reorganization, stock purchase or merger, the new taxpayer may claim
8 first year credits only for one or more qualified employment positions that
9 it created and filled with an eligible employee after the purchase or
10 reorganization was complete. If a person purchases a taxpayer that had
11 qualified for first or second year credits or changes ownership through
12 reorganization, stock purchase or merger, the new taxpayer may claim the
13 second or third year credits if it meets other eligibility requirements of
14 this section. Credits for which a taxpayer qualified before the changes
15 described in this subsection are terminated and lost at the time the changes
16 are implemented.

17 J. A failure to timely report and certify to the department of
18 commerce and the department of revenue the information prescribed by section
19 41-1525, subsection B, paragraphs 1, 2 and 3 and in the manner prescribed by
20 section 41-1525, subsection C, ~~disqualifies~~ disqualifies the taxpayer from the credit
21 under this section. The department of revenue shall require written evidence
22 of the timely report to the department of commerce.

23 K. The termination of an enterprise zone does not affect the credit
24 under this section with respect to:

25 1. Taxpayers that have employees in the second and third years of
26 employment in qualified employment positions under subsections A, B and C of
27 this section if the business remains in the location that was in the
28 enterprise zone.

29 2. Amounts carried forward into subsequent taxable years under
30 subsection G of this section.

31 L. The department may adopt rules necessary for the administration of
32 this section.

33 M. For the purposes of this section:

34 1. "Assigned to retail" means working more than twenty-five per cent
35 of an employee's time in one or more retail sales activities.

36 2. "Retail sales" means the sale of tangible personal property to an
37 ultimate consumer.

38 3. "Retail sales activities" means all activities persons operating a
39 retail business normally engage in, including taking orders, filling orders,
40 billing orders, receiving and processing payment and shipping, stocking and
41 delivering tangible personal property to the ultimate consumer, except drop
42 shipments by a company acting on behalf of an unrelated company that has made
43 a sale to a final consumer.

44 4. "Zone location" means a single parcel or contiguous parcels of
45 owned or leased land, the structures and personal property contained on the
46 land or any part of the structures occupied by a taxpayer.

1 Sec. 16. Title 43, chapter 11, article 6, Arizona Revised Statutes, is
2 amended by adding section 43-1164.01, to read:

3 43-1164.01. Credit for solar energy industry

4 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2008, A
5 CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR QUALIFIED
6 INVESTMENT AND EMPLOYMENT IN EXPANDING OR LOCATING QUALIFIED SOLAR ENERGY
7 TECHNOLOGIES OPERATIONS IN THIS STATE. TO QUALIFY FOR THE CREDIT, THE
8 TAXPAYER MUST INVEST IN SOLAR ENERGY TECHNOLOGIES MANUFACTURING, OR IN NEW
9 REGIONAL, NATIONAL OR GLOBAL SOLAR ENERGY TECHNOLOGIES BUSINESS HEADQUARTERS,
10 IN THIS STATE AND PRODUCE NEW FULL-TIME EMPLOYMENT POSITIONS WHERE THE JOB
11 DUTIES ARE PERFORMED AT THE LOCATION OF THE QUALIFYING INVESTMENT AS PROVIDED
12 BY SECTION 41-1510.02.

13 B. THE AMOUNT OF THE CREDIT IS COMPUTED AS FOLLOWS:

14 1. TEN PER CENT OF THE TAXPAYER'S TOTAL CAPITAL INVESTMENT IN PROJECTS
15 MEETING THE FOLLOWING MINIMUM EMPLOYMENT REQUIREMENTS:

16 (a) FOR QUALIFYING SOLAR ENERGY TECHNOLOGIES MANUFACTURING OPERATIONS,
17 AT LEAST ONE AND ONE-HALF NEW FULL-TIME EMPLOYMENT POSITIONS FOR EACH FIVE
18 HUNDRED THOUSAND DOLLAR INCREMENT OF CAPITAL INVESTMENT.

19 (b) FOR QUALIFYING SOLAR ENERGY TECHNOLOGIES BUSINESS HEADQUARTERS, AT
20 LEAST ONE NEW FULL-TIME EMPLOYMENT POSITION FOR EACH TWO HUNDRED THOUSAND
21 DOLLAR INCREMENT OF CAPITAL INVESTMENT.

22 2. FOR A QUALIFYING SOLAR ENERGY TECHNOLOGIES PROJECT THAT DOES NOT
23 MEET THE EMPLOYMENT REQUIREMENTS PRESCRIBED BY PARAGRAPH 1 OF THIS
24 SUBSECTION, TEN PER CENT OF THE AMOUNT COMPUTED AS FOLLOWS:

25 (a) FIVE HUNDRED THOUSAND DOLLARS PER ONE AND ONE-HALF NEW FULL-TIME
26 EMPLOYMENT POSITIONS IN NEW SOLAR ENERGY TECHNOLOGIES MANUFACTURING
27 OPERATIONS.

28 (b) TWO HUNDRED THOUSAND DOLLARS FOR EACH NEW FULL-TIME EMPLOYMENT
29 POSITION AT A NEW SOLAR ENERGY TECHNOLOGIES BUSINESS HEADQUARTERS.

30 (c) THE AMOUNT OF CREDIT UNDER THIS PARAGRAPH SHALL NOT EXCEED TEN PER
31 CENT OF THE AMOUNT OF THE TAXPAYER'S TOTAL CAPITAL INVESTMENT.

32 3. THE CREDIT AMOUNT COMPUTED UNDER PARAGRAPH 1 OR 2 OF THIS
33 SUBSECTION IS APPORTIONED, AND THE TAXPAYER SHALL CLAIM THE CREDIT IN FIVE
34 EQUAL ANNUAL INSTALLMENTS IN EACH OF FIVE CONSECUTIVE TAXABLE YEARS.

35 C. TO CLAIM THE CREDIT THE TAXPAYER MUST:

36 1. CONDUCT A BUSINESS THAT QUALIFIES UNDER SECTION 41-1510.02.

37 2. SUBMIT A COPY OF A CURRENT AND VALID CERTIFICATION OF QUALIFICATION
38 ISSUED TO THE TAXPAYER BY THE DEPARTMENT OF COMMERCE.

39 D. TO BE COUNTED FOR THE PURPOSES OF THE CREDIT, AN EMPLOYEE MUST HAVE
40 BEEN EMPLOYED AT THE QUALIFYING BUSINESS LOCATION FOR AT LEAST NINETY DAYS
41 DURING THE TAXABLE YEAR IN A PERMANENT FULL-TIME EMPLOYMENT POSITION OF AT
42 LEAST ONE THOUSAND SEVEN HUNDRED FIFTY HOURS PER YEAR. AN EMPLOYEE WHO IS
43 HIRED DURING THE LAST NINETY DAYS OF THE TAXABLE YEAR SHALL BE CONSIDERED A
44 NEW EMPLOYEE DURING THE NEXT TAXABLE YEAR. TO BE COUNTED FOR THE PURPOSES OF
45 THE CREDIT DURING THE FIRST TAXABLE YEAR OF EMPLOYMENT, THE EMPLOYEE MUST NOT
46 HAVE BEEN PREVIOUSLY EMPLOYED BY THE TAXPAYER WITHIN TWELVE MONTHS BEFORE THE
47 CURRENT DATE OF HIRE. THE TERMS OF EMPLOYMENT MUST COMPLY IN ALL CASES WITH

1 THE REQUIREMENTS OF SECTION 41-1510.02 AND CERTIFICATION BY THE DEPARTMENT OF
2 COMMERCE.

3 E. CO-OWNERS OF A BUSINESS, INCLUDING PARTNERS IN A PARTNERSHIP, MAY
4 EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED UNDER THIS SECTION
5 BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH
6 OWNERS OF THE BUSINESS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN ALLOWED
7 FOR A SOLE OWNER OF THE BUSINESS.

8 F. IF THE ALLOWABLE TAX CREDIT FOR A TAXABLE YEAR EXCEEDS THE INCOME
9 TAXES OTHERWISE DUE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO STATE INCOME
10 TAXES DUE ON THE CLAIMANT'S INCOME, THE AMOUNT OF THE CLAIM NOT USED AS AN
11 OFFSET AGAINST INCOME TAXES MAY BE CARRIED FORWARD AS A TAX CREDIT AGAINST
12 SUBSEQUENT YEARS' INCOME TAX LIABILITY FOR A PERIOD NOT TO EXCEED FIVE
13 TAXABLE YEARS, AND SUBJECT TO CONTINUING CERTIFICATION UNDER SECTION
14 41-1510.02.

15 G. ALL OR PART OF ANY UNCLAIMED AMOUNT OF CREDIT UNDER THIS SECTION
16 MAY BE SOLD OR OTHERWISE TRANSFERRED, UNDER TERMS MUTUALLY AGREEABLE BETWEEN
17 THE TRANSFEROR AND TRANSFEREE, BUT SUBJECT TO THE FOLLOWING CONDITIONS:

18 1. A SINGLE SALE OR TRANSFER MAY INVOLVE ONE OR MORE TRANSFEREES, AND
19 ANY TRANSFEREE MAY IN TURN RESELL OR TRANSFER THE CREDIT SUBJECT TO THE SAME
20 CONDITIONS OF THIS SUBSECTION.

21 2. BOTH THE TRANSFEROR AND TRANSFEREE MUST SUBMIT A WRITTEN NOTICE OF
22 THE TRANSFER TO THE DEPARTMENT OF REVENUE WITHIN THIRTY DAYS AFTER THE SALE
23 OR TRANSFER. THE TRANSFEREE'S NOTICE SHALL INCLUDE A PROCESSING FEE EQUAL TO
24 ONE PER CENT OF THE TRANSFEREE'S TAX CREDIT BALANCE OR TWO HUNDRED DOLLARS,
25 WHICHEVER IS LESS. THE NOTICE SHALL INCLUDE:

26 (a) THE NAMES OF THE TRANSFEROR AND TRANSFEREE.

27 (b) THE DATE OF THE TRANSFER.

28 (c) THE AMOUNT OF THE TRANSFER.

29 (d) THE TRANSFEROR'S TAX CREDIT BALANCE BEFORE THE TRANSFER AND THE
30 REMAINING BALANCE AFTER THE TRANSFER.

31 (e) ALL TAX IDENTIFICATION NUMBERS FOR BOTH TRANSFEROR AND TRANSFEREE.

32 (f) ANY OTHER INFORMATION REQUIRED BY RULE.

33 3. A SALE OR TRANSFER OF THE CREDIT DOES NOT EXTEND THE TIME IN WHICH
34 THE CREDIT CAN BE USED. THE TRANSFEREE MUST TAKE THE CREDIT IN FIVE EQUAL
35 ANNUAL INSTALLMENTS IN EACH OF FIVE CONSECUTIVE TAXABLE YEARS AS DESCRIBED IN
36 SUBSECTION B, PARAGRAPH 3 OF THIS SECTION.

37 4. THE TRANSFEROR, AT ITS EXPENSE, MUST ENTER INTO A LIMITED MANAGED
38 AUDIT AGREEMENT PURSUANT TO TITLE 42, CHAPTER 2, ARTICLE 7 THAT INCLUDES AN
39 AUDIT OF THE REQUIREMENTS PRESCRIBED BY SECTION 41-1510.02 AND BY THIS
40 SECTION TO CONFIRM THE AMOUNT OF ANY CREDIT UNDER THIS SECTION. THE REQUEST
41 TO ENTER INTO THE AUDIT MUST BE MADE AFTER THE TAXPAYER IS CERTIFIED PURSUANT
42 TO SECTION 41-1510.02, SUBSECTION F. THE AUDIT MUST BE CONDUCTED BY THE
43 TAXPAYER'S AUTHORIZED REPRESENTATIVE, AS DEFINED IN SECTION 42-2301, WHO IS
44 AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT LICENSED IN THIS STATE. THE
45 CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT IS
46 AFFILIATED WITH SHALL NOT REGULARLY PERFORM SERVICES FOR THE TAXPAYER OR ANY
47 AFFILIATE OF THE TAXPAYER. IF THE DEPARTMENT OF REVENUE ACCEPTS THE FINDINGS
48 OF THE AUDIT AND ISSUES A NOTICE OF DETERMINATION PURSUANT TO SECTION 42-2303

1 AND THE TAXPAYER TIMELY FILES ITS INCOME TAX RETURNS WITH THE APPROPRIATE
2 CREDIT CLAIM FORMS, THE CREDIT AMOUNT MAY BE TRANSFERRED. THE DEPARTMENT
3 SHALL ISSUE A NOTICE OF DETERMINATION INCLUDING A WRITTEN CERTIFICATE TO THE
4 TAXPAYER STATING THE AMOUNT OF THE CREDIT AND THAT THE CREDIT MAY BE
5 TRANSFERRED. THIS PARAGRAPH DOES NOT PREVENT RECAPTURE OF A CREDIT AMOUNT IF
6 THE TAXPAYER FAILED TO DISCLOSE MATERIAL INFORMATION DURING THE AUDIT OR
7 FALSIFIED ITS BOOKS OR RECORDS OR OTHERWISE ENGAGED IN AN ACTION THAT
8 PREVENTED AN ACCURATE AUDIT.

9 H. EXCEPT AS PROVIDED BY SUBSECTION I OF THIS SECTION, IF, WITHIN TEN
10 TAXABLE YEARS AFTER FIRST RECEIVING A CREDIT PURSUANT TO THIS SECTION, THE
11 CERTIFICATION OF QUALIFICATION OF A BUSINESS IS TERMINATED OR REVOKED UNDER
12 SECTION 41-1510.02, OTHER THAN FOR REASONS BEYOND THE CONTROL OF THE BUSINESS
13 AS DETERMINED BY THE DEPARTMENT OF COMMERCE, THE TAXPAYER IS PERMANENTLY
14 DISQUALIFIED FROM CREDITS UNDER THIS SECTION IN SUBSEQUENT TAXABLE YEARS AND
15 THE CREDITS ALLOWED THE TAXPAYER IN ALL TAXABLE YEARS PURSUANT TO THIS
16 SECTION ARE SUBJECT TO RECAPTURE PURSUANT TO THIS SUBSECTION. IF THE CREDIT
17 HAS BEEN TRANSFERRED PURSUANT TO SUBSECTION G OF THIS SECTION, ANY RECAPTURE
18 PURSUANT TO THIS SUBSECTION IS FROM THE ORIGINAL TAXPAYER. THIS SUBSECTION
19 APPLIES ONLY IN THE CASE OF THE TERMINATION OR REVOCATION OF A CERTIFICATION
20 OF QUALIFICATION UNDER SECTION 41-1510.02. THIS SUBSECTION DOES NOT APPLY
21 IF, IN ANY TAXABLE YEAR, A TAXPAYER OTHERWISE DOES NOT QUALIFY FOR OR FAILS
22 TO CLAIM THE CREDIT UNDER THIS SECTION. THE RECAPTURE OF CREDITS IS COMPUTED
23 BY INCREASING THE AMOUNT OF TAXES IMPOSED IN THE YEAR FOLLOWING THE YEAR OF
24 TERMINATION OR REVOCATION BY THE FULL AMOUNT OF ALL CREDITS PREVIOUSLY
25 ALLOWED UNDER THIS SECTION WITH ANNUAL SIMPLE INTEREST EQUAL TO THE PRIME
26 RATE CHARGED BY BANKS ON SHORT-TERM BUSINESS LOANS AS DETERMINED FOR
27 PUBLICATION IN THE BULLETIN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE
28 SYSTEM AS OF THE FIRST DAY OF EACH TAXABLE YEAR, PLUS TWO PER CENT.

29 I. A TAXPAYER WHO CLAIMS A CREDIT UNDER SECTION 43-1161, 43-1165 OR
30 43-1167 MAY NOT CLAIM A CREDIT UNDER THIS SECTION WITH RESPECT TO THE SAME
31 FULL-TIME EMPLOYMENT POSITIONS.

32 J. FOR THE PURPOSES OF THIS SECTION, SOLAR ENERGY TECHNOLOGIES ARE
33 LIMITED TO SYSTEMS AND COMPONENTS THAT ARE USED OR USEFUL FOR THE
34 MANUFACTURING OF SOLAR ENERGY DEVICES, AS DEFINED IN SECTION 44-1761, OR FOR
35 THE GENERATION, STORAGE, TESTING AND RESEARCH AND DEVELOPMENT, TRANSMISSION
36 OR DISTRIBUTION OF ELECTRICITY FROM SOLAR RENEWABLE RESOURCES, INCLUDING ANY
37 PHOTOVOLTAIC AND CONCENTRATED SOLAR POWER AND SOLAR THERMAL PROCESS USED OR
38 USEFUL IN GENERATING ELECTRICITY.

39 Sec. 17. Section 43-1165, Arizona Revised Statutes, is amended to
40 read:

41 43-1165. Credit for employment by qualified defense contractor

42 A. A credit is allowed against the taxes imposed by this title for:

43 1. Net increases in employment under United States department of
44 defense contracts during the taxable year, as computed under subsection D of
45 this section, by a qualified defense contractor that is certified by the
46 department of commerce under section 41-1508.

1 2. Net increases in private commercial employment during the taxable
2 year, as computed under subsection E of this section, by a qualified defense
3 contractor that is certified by the department of commerce under section
4 41-1508 due to full-time equivalent employee positions transferred during the
5 taxable year by the taxpayer from exclusively defense related activities to
6 employment by the taxpayer in exclusively private commercial activities.

7 B. The amount of the credit is a dollar amount allowed for each
8 full-time equivalent employee position created, determined as follows:

9 1st year	\$2,500
10 2nd year	\$2,000
11 3rd year	\$1,500
12 4th year	\$1,000
13 5th year	\$ 500

14 C. If the allowable tax credit exceeds the taxes otherwise due under
15 this title on the claimant's income, or if there are no taxes due under this
16 title, the taxpayer may carry the amount of the claim not used to offset the
17 taxes under this title forward until taxable years beginning from and after
18 December 31, 2011 as a credit against subsequent years' income tax liability,
19 regardless of continuing certification as a qualified defense contractor.

20 D. The net increase in employment under defense related contracts
21 shall be determined as follows:

22 1. Establish an employment baseline for the taxpayer based on a
23 multiyear forecast of employment on United States department of defense
24 contracts that was submitted to the department of defense before June 1,
25 1992. The annual average employment forecast for the first year the taxpayer
26 qualified is the baseline. If the taxpayer did not make such a forecast
27 before June 1, 1992, the baseline is the average annual employment as
28 reported to the department of economic security during the preceding taxable
29 year. If a taxpayer qualifies in the same year it relocates into this state,
30 the taxpayer's baseline is zero.

31 2. For the first year of the credit, the taxpayer's net increase in
32 average employment is the increase in employment reported to the department
33 of economic security for the taxable year over the employment baseline.

34 3. For each succeeding year of the credit, the taxpayer's net increase
35 in average employment is the increase in employment reported to the
36 department of economic security for the taxable year over the preceding
37 taxable year's average employment.

38 E. In computing the amount of credit allowed under subsection A,
39 paragraph 2 of this section, the taxpayer shall:

40 1. Prorate employment during the taxable year according to the date of
41 transfer from defense to private commercial activities or the date of
42 transfer from private commercial activities to defense.

43 2. Compute and subtract an amount pursuant to subsection B of this
44 section for full-time equivalent employee positions that were transferred
45 during the taxable year by the taxpayer from exclusively private commercial
46 activities to exclusively defense related activities.

1 F. The taxpayer shall account for qualifying full-time equivalent
2 employee positions on a first-in first-out basis. If a decrease in
3 qualifying employment occurs, the taxpayer shall subtract the decrease from
4 the earliest qualifying positions.

5 G. A credit is not allowed under both subsection A, paragraphs 1 and 2
6 of this section with respect to the same employee position. A full-time
7 equivalent employee position may be considered for purposes of computing the
8 credit under either subsection A, paragraph 1 or 2 of this section, but not
9 both.

10 H. A credit is not allowed under this section with respect to
11 employment that was transferred from an outside contractor in this state to
12 in-house employment by the taxpayer solely for purposes of qualifying for the
13 credit.

14 I. A taxpayer that claims a credit under section 43-1161, 43-1164.01
15 or 43-1167 may not claim a credit under this section with respect to the same
16 ~~employees~~ EMPLOYEE POSITIONS.

17 J. Co-owners of a business, including corporate partners in a
18 partnership, may each claim only the pro rata share of the credit allowed
19 under this section based on the ownership interest. The total of the credits
20 allowed all such owners may not exceed the amount that would have been
21 allowed for a sole owner of the business.

22 Sec. 18. Section 43-1167, Arizona Revised Statutes, is amended to
23 read:

24 43-1167. Credit for increased employment in military reuse
25 zones; definition

26 A. A credit is allowed against the taxes imposed by this title for net
27 increases in employment by the taxpayer of full-time employees working in a
28 military reuse zone, established under title 41, chapter 10, article 3, and
29 who are primarily engaged in providing aviation or aerospace services or in
30 manufacturing, assembling or fabricating aviation or aerospace products. The
31 amount of the credit is a dollar amount allowed for each new employee,
32 determined as follows:

33 1. With respect to each employee other than a dislocated military base
34 employee:

35 1st year of employment	\$ 500
36 2nd year of employment	\$1,000
37 3rd year of employment	\$1,500
38 4th year of employment	\$2,000
39 5th year of employment	\$2,500

40 2. With respect to each dislocated military base employee:

41 1st year of employment	\$1,000
42 2nd year of employment	\$1,500
43 3rd year of employment	\$2,000
44 4th year of employment	\$2,500
45 5th year of employment	\$3,000

1 B. If the allowable tax credit exceeds the taxes otherwise due under
2 this title on the claimant's income, or if there are no taxes due under this
3 title, the amount of the claim not used to offset the taxes under this title
4 may be carried forward as a credit against subsequent years' income tax
5 liability for the period, not to exceed five taxable years, if the business
6 remains in the military reuse zone.

7 C. The net increase in the number of employees for purposes of this
8 section shall be determined by comparing the taxpayer's average employment in
9 the military reuse zone during the taxable year with the taxpayer's previous
10 year's fourth quarter employment in the zone, based on the taxpayer's report
11 to the department of economic security for unemployment insurance purposes
12 but considering only employment in the zone.

13 D. Co-owners of a business, including corporate partners in a
14 partnership, may each claim only the pro rata share of the credit allowed
15 under this section based on the ownership interest. The total of the credits
16 allowed all such owners may not exceed the amount that would have been
17 allowed for a sole owner of the business.

18 E. A credit is not allowed under this section with respect to an
19 employee whose place of employment is relocated by the taxpayer from a
20 location in this state to the military reuse zone unless the employee is
21 engaged in aviation or aerospace services or in manufacturing, assembling or
22 fabricating aviation or aerospace products and the taxpayer maintains at
23 least the same number of employees in this state but outside the zone.

24 F. A taxpayer who claims a credit under section 43-1161, [43-1164.01](#) or
25 43-1165 may not claim a credit under this section with respect to the same
26 employees.

27 G. For the purposes of this section, "dislocated military base
28 employee" means a civilian who previously had permanent full-time civilian
29 employment on the military facility as of the date the closure of the
30 facility was finally determined under federal law, as certified by the
31 department of commerce.

32 Sec. 19. Section 43-1168, Arizona Revised Statutes, is amended to
33 read:

34 [43-1168. Credit for increased research activities](#)

35 A. A credit is allowed against the taxes imposed by this title in an
36 amount determined pursuant to section 41 of the internal revenue code, except
37 that:

38 1. The amount of the credit is computed as follows:

39 (a) Add:

40 (i) The excess, if any, of the qualified research expenses for the
41 taxable year over the base amount as defined in section 41(c) of the internal
42 revenue code.

43 (ii) The basic research payments determined under section 41(e)(1)(A)
44 of the internal revenue code.

1 (b) If the sum computed under subdivision (a) is two million five
2 hundred thousand dollars or less, the credit is equal to ~~twenty~~ TWENTY-FOUR
3 per cent of that amount.

4 (c) If the sum computed under subdivision (a) is over two million five
5 hundred thousand dollars, the credit is equal to ~~five~~ SIX hundred thousand
6 dollars plus ~~eleven~~ FIFTEEN per cent of any amount exceeding two million five
7 hundred thousand dollars, except that:

8 (i) For taxable years beginning from and after December 31, 2000
9 through December 31, 2001, the credit shall not exceed one million five
10 hundred thousand dollars.

11 (ii) For taxable years beginning from and after December 31, 2001
12 through December 31, 2002, the credit shall not exceed two million five
13 hundred thousand dollars.

14 2. Qualified research includes only research conducted in this state
15 including research conducted at a university in this state and paid for by
16 the taxpayer.

17 3. If two or more taxpayers, including corporate partners in a
18 partnership, share in the eligible expenses, each taxpayer is eligible to
19 receive a proportionate share of the credit.

20 4. The credit under this section applies only to expenses incurred
21 from and after December 31, 1993.

22 5. The termination provisions of section 41 of the internal revenue
23 code do not apply.

24 B. If the allowable credit under this section exceeds the taxes
25 otherwise due under this title on the claimant's income, or if there are no
26 taxes due under this title, the amount of the credit not used to offset taxes
27 may be carried forward to the next fifteen consecutive taxable years. The
28 amount of credit carryforward from taxable years beginning from and after
29 December 31, 2000 through December 31, 2002 that may be used under this
30 subsection in any taxable year may not exceed the taxpayer's tax liability
31 under this title or five hundred thousand dollars, whichever is less, minus
32 the credit under this section for the current taxable year's qualified
33 research expenses. The amount of credit carryforward from taxable years
34 beginning from and after December 31, 2002 that may be used under this
35 subsection in any taxable year may not exceed the taxpayer's tax liability
36 under this title minus the credit under this section for the current taxable
37 year's qualified research expenses.

38 C. If a taxpayer has qualified research expenses that are carried
39 forward from taxable years beginning before January 1, 2001, the amount of
40 the expenses carried forward shall be converted to a credit carryforward by
41 multiplying the amount of the qualified expenses carried forward by twenty
42 per cent. A credit carryforward determined under this subsection may be
43 carried forward to not more than fifteen years from the year in which the
44 expenses were incurred. The amount of credit carryforward from taxable years
45 beginning before January 1, 2001 that may be used under this subsection in
46 any taxable year may not exceed the taxpayer's tax liability under this title
47 or five hundred thousand dollars, whichever is less, minus the credit under
48 this section for the current taxable year's qualified research expenses. The

1 total amount of credit carryforward from taxable years beginning before
2 January 1, 2003 that may be used in any taxable year under ~~the provisions of~~
3 subsection B and this subsection may not exceed the taxpayer's tax liability
4 under this title or five hundred thousand dollars, whichever is less, minus
5 the credit under this section for the current taxable year's qualified
6 research expenses.

7 D. ALL OR PART OF ANY UNCLAIMED AMOUNT OF CREDIT UNDER THIS SECTION
8 MAY BE SOLD OR OTHERWISE TRANSFERRED, UNDER TERMS MUTUALLY AGREEABLE BETWEEN
9 THE TRANSFEROR AND TRANSFEREE, BUT SUBJECT TO THE FOLLOWING CONDITIONS:

10 1. A SINGLE SALE OR TRANSFER MAY INVOLVE ONE OR MORE TRANSFEREES, AND
11 ANY TRANSFEREE MAY IN TURN RESELL OR TRANSFER THE CREDIT SUBJECT TO THE SAME
12 CONDITIONS OF THIS SUBSECTION.

13 2. BOTH THE TRANSFEROR AND TRANSFEREE MUST SUBMIT A WRITTEN NOTICE OF
14 THE TRANSFER TO THE DEPARTMENT OF REVENUE WITHIN THIRTY DAYS AFTER THE SALE
15 OR TRANSFER. THE TRANSFEREE'S NOTICE SHALL INCLUDE A PROCESSING FEE EQUAL TO
16 ONE PER CENT OF THE TRANSFEREE'S TAX CREDIT BALANCE OR TWO HUNDRED DOLLARS,
17 WHICHEVER IS LESS. THE NOTICE SHALL INCLUDE:

18 (a) THE NAMES OF THE TRANSFEROR AND TRANSFEREE.

19 (b) THE DATE OF THE TRANSFER.

20 (c) THE AMOUNT OF THE TRANSFER.

21 (d) THE TRANSFEROR'S TAX CREDIT BALANCE BEFORE THE TRANSFER AND THE
22 REMAINING BALANCE AFTER THE TRANSFER.

23 (e) ALL TAX IDENTIFICATION NUMBERS FOR BOTH TRANSFEROR AND TRANSFEREE.

24 (f) ANY OTHER INFORMATION REQUIRED BY RULE.

25 3. A SALE OR TRANSFER OF THE CREDIT DOES NOT EXTEND THE TIME IN WHICH
26 THE CREDIT CAN BE USED.

27 4. THE TRANSFEROR, AT ITS EXPENSE, MUST ENTER INTO A LIMITED MANAGED
28 AUDIT AGREEMENT PURSUANT TO TITLE 42, CHAPTER 2, ARTICLE 7 THAT INCLUDES AN
29 AUDIT OF THE REQUIREMENTS PRESCRIBED BY THIS SECTION TO CONFIRM THE AMOUNT OF
30 ANY CREDIT UNDER THIS SECTION. THE AUDIT MUST BE CONDUCTED BY THE TAXPAYER'S
31 AUTHORIZED REPRESENTATIVE, AS DEFINED IN SECTION 42-2301, WHO IS AN
32 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT LICENSED IN THIS STATE. THE
33 CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT IS
34 AFFILIATED WITH SHALL NOT REGULARLY PERFORM SERVICES FOR THE TAXPAYER OR ANY
35 AFFILIATE OF THE TAXPAYER. IF THE DEPARTMENT OF REVENUE ACCEPTS THE FINDINGS
36 OF THE AUDIT AND ISSUES A NOTICE OF DETERMINATION PURSUANT TO SECTION 42-2303
37 AND THE TAXPAYER TIMELY FILES ITS INCOME TAX RETURNS WITH THE APPROPRIATE
38 CREDIT CLAIM FORMS, THE CREDIT AMOUNT MAY BE TRANSFERRED. THE DEPARTMENT
39 SHALL ISSUE A NOTICE OF DETERMINATION INCLUDING A WRITTEN CERTIFICATE TO THE
40 TAXPAYER STATING THE AMOUNT OF THE CREDIT AND THAT THE CREDIT MAY BE
41 TRANSFERRED. THIS PARAGRAPH DOES NOT PREVENT RECAPTURE OF A CREDIT AMOUNT IF
42 THE TAXPAYER FAILED TO DISCLOSE MATERIAL INFORMATION DURING THE AUDIT OR
43 FALSIFIED ITS BOOKS OR RECORDS OR OTHERWISE ENGAGED IN AN ACTION THAT
44 PREVENTED AN ACCURATE AUDIT.

1 E. THE CREDIT UNDER THIS SECTION IS SUBJECT TO REVIEW PURSUANT TO
2 SECTION 43-222, PARAGRAPH 4, BUT ANY ACTION TAKEN PURSUANT TO THAT REVIEW
3 DOES NOT AFFECT ANY CREDIT UNDER THIS SECTION THAT IS CURRENTLY SUBJECT TO
4 CARRY FORWARD OR THE TRANSFER OF ANY UNCLAIMED CREDIT AS PROVIDED BY THIS
5 SECTION.

6 Sec. 20. Credit for increased research activities; 2009 tax
7 credit amounts

8 A. Notwithstanding section 43-1074.01, subsection A, paragraph 1,
9 Arizona Revised Statutes, as amended by this act, for taxable years beginning
10 from and after December 31, 2009 through December 31, 2010, the amount of the
11 credit is based on the excess, if any, of the qualified research expenses for
12 the taxable year over the base amount as defined in section 41(c) of the
13 internal revenue code and is computed as follows:

14 1. If the excess is two million five hundred thousand dollars or less,
15 the credit is equal to twenty-two per cent of that amount.

16 2. If the excess is over two million five hundred thousand dollars,
17 the credit is equal to five hundred fifty thousand dollars plus thirteen per
18 cent of any amount exceeding two million five hundred thousand dollars.

19 B. Notwithstanding section 43-1168, subsection A, paragraph 1, Arizona
20 Revised Statutes, as amended by this act, for taxable years beginning from
21 and after December 31, 2009 through December 31, 2010, the amount of the
22 credit is computed as follows:

23 1. Add:

24 (a) The excess, if any, of the qualified research expenses for the
25 taxable year over the base amount as defined in section 41(c) of the internal
26 revenue code.

27 (b) The basic research payments determined under section 41(e)(1)(A)
28 of the internal revenue code.

29 2. If the sum computed under paragraph 1 of this subsection is two
30 million five hundred thousand dollars or less, the credit is equal to
31 twenty-two per cent of that amount.

32 3. If the sum computed under paragraph 1 of this subsection is over
33 two million five hundred thousand dollars, the credit is equal to five
34 hundred fifty thousand dollars plus thirteen per cent of any amount exceeding
35 two million five hundred thousand dollars.

36 Sec. 21. Purpose

37 Pursuant to section 43-223, Arizona Revised Statutes, the income tax
38 credits enacted in sections 43-1083.01 and 43-1164.01, Arizona Revised
39 Statutes, as added by this act, are intended to encourage business investment
40 that will produce high quality employment opportunities for citizens of this
41 state and enhance the position of this state as a center for research,
42 development, production and use of solar energy products.

43 Sec. 22. Conditional repeal

44 A. If a majority of the qualified electors voting on the issue in the
45 first election held pursuant to section 5-1103, Arizona Revised Statutes, as
46 added by this act, rejects the levy of taxes and issuance of bonds for the
47 purposes of establishing a sports authority district, title 5, chapter 9,
48 Arizona Revised Statutes, as added by this act, is repealed.

1 B. The clerk of the board of supervisors that conducts the election
2 shall notify the director of legislative council of the results of the
3 election and whether the condition described in subsection A of this section
4 occurred.

5 Sec. 23. Effective date

6 Sections 43-1074.01 and 43-1168, Arizona Revised Statutes, as amended
7 by this act, are effective from and after December 31, 2009."

8 Amend title to conform

MICHELE REAGAN

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