

COMMITTEE ON COMMERCE

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1401

(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 30-221, Arizona Revised Statutes, is amended to
3 read:

4 30-221. Authority to issue revenue bonds

5 ~~A.~~ When the authority finds other financing methods or procedure
6 inadvisable, inadequate or insufficient to acquire or construct transmission
7 lines, projects, works or facilities **FOR THE PURPOSES OF THIS CHAPTER**, it may
8 independently or in conjunction with any other optional or alternative plans
9 provided in this chapter issue bonds as provided by this article.

10 Sec. 2. Section 30-223, Arizona Revised Statutes, is amended to read:

11 30-223. Scope of requisition; filing; hearings and notice

12 A. Requisitions may request approval of a bond issue **UNDER THIS**
13 **ARTICLE** comprehending an entire plan or system or for construction or
14 acquisition of any single or joint project, section, station or other
15 facility of any related electric system or plan proposed for ultimate
16 integration and completion. Requisitions or documents and records in
17 connection with any present or anticipated bond requisition may be filed
18 simultaneously or serially. All pertinent records and documents shall be
19 filed not less than ten days previous to the time set for the
20 hearing. Prehearings respecting any particular document, feature, incidental
21 matter or any separable part or portion of any requisition may be held by the
22 board on ten days previous written notice unless waived in writing, when the
23 holding of prehearings is deemed by the state certification board to be
24 conducive to expediting final hearing, and a decision as to the issues
25 presented may thereupon be rendered. Upon permission of the state
26 certification board, any documents, records, exhibits or other papers may be
27 amended and refiled at least ten days prior to the time set for final
28 hearing.

1 the setting up of adequate yearly reserves with which to meet future payments
2 in accordance with the terms of the bond.

3 C. All bonds issued by the authority UNDER THIS ARTICLE and agreements
4 of the authority with respect thereto shall be subject to the provisions of
5 this chapter, and no bond or agreement shall contain any provisions in
6 conflict with this chapter. No amendment of this chapter shall ever diminish
7 or impair the remedy and rights of the bondholder.

8 D. The bonds shall be signed by the chairman or vice-chairman and the
9 secretary of authority in office at the date of signing, and shall be valid
10 obligations of the authority although before delivery or sale the persons
11 whose signatures appear on the bonds have ceased to be members of the
12 authority.

13 E. The validity of the bonds shall not be dependent on or affected by
14 the legality of any proceeding relating to the acquisition, construction,
15 improvement or extension of a project for which the bonds are issued. The
16 bonds shall recite that they are regularly issued pursuant to this chapter
17 and such recital shall be prima facie evidence of their legality and
18 validity.

19 F. Before delivery or sale the authority may submit the bonds to the
20 attorney general of the state, ~~and he~~ WHO shall examine them and inquire into
21 the legality of all proceedings bearing upon the validity of the bonds. If
22 satisfied that they are legally issued, ~~he~~ THE ATTORNEY GENERAL shall certify
23 in substance on the back of each bond that it is issued in accordance with
24 the constitution and laws of this state.

25 G. Bonds so issued may be sold if and when the money is needed for the
26 purposes for which they were issued. Pending the preparation or execution of
27 definite bonds, interim receipts or certificates or temporary bonds may be
28 delivered to the purchaser or purchasers of bonds.

1 Sec. 4. Title 30, Arizona Revised Statutes, is amended by adding
2 chapter 2, to read:

3 CHAPTER 2

4 SUSTAINABLE ENERGY DEVELOPMENT

5 ARTICLE 1. GENERAL PROVISIONS

6 30-401. Definitions

7 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

8 1. "ADVANCED NUCLEAR PROCESS" MEANS ELECTRICAL GENERATION USING
9 GENERATION III OR LATER NUCLEAR REACTOR DESIGN CRITERIA.

10 2. "AUTHORITY" MEANS THE ARIZONA POWER AUTHORITY.

11 3. "BIOMASS" MEANS RAW OR PROCESSED PLANT-DERIVED ORGANIC MATTER
12 AVAILABLE ON A RENEWABLE BASIS, BUT NOT INCLUDING PAINTED, TREATED OR
13 PRESSURIZED WOOD, WOOD CONTAMINATED WITH PLASTICS OR METALS, TIRES,
14 RECYCLABLE POSTCONSUMER WASTEPAPER OR MUNICIPAL SOLID WASTE.

15 4. "COMMISSION" MEANS THE ARIZONA POWER AUTHORITY COMMISSION.

16 5. "FACILITIES" MEANS ELECTRIC GENERATION AND TRANSMISSION FACILITIES
17 AND ANY RELATED PROPERTY, INCLUDING REAL PROPERTY.

18 6. "OBLIGATIONS" MEANS BONDS, NOTES, BOND ANTICIPATION NOTES,
19 COMMERCIAL PAPER OR OTHER EVIDENCES OF INDEBTEDNESS OR LEASE, INSTALLMENT
20 PURCHASE OR OTHER AGREEMENTS OR PURCHASING PROGRAMS OR CERTIFICATES OF
21 PARTICIPATION.

22 7. "SUSTAINABLE ENERGY" MEANS ELECTRICAL POWER GENERATED FROM SOLAR,
23 WIND, BIOMASS, GEOTHERMAL AND ADVANCED NUCLEAR PROCESSES.

24 8. "SUSTAINABLE ENERGY GENERATION FACILITY" MEANS A FACILITY THAT
25 GENERATES AT LEAST TWO HUNDRED FIFTY MEGAWATTS OF SUSTAINABLE ENERGY THAT IS
26 TRANSMITTED TO A GRID CONNECTION WITH A PUBLIC OR PRIVATE ELECTRIC
27 TRANSMISSION OR DISTRIBUTION UTILITY SYSTEM PURSUANT TO A POWER PURCHASE
28 AGREEMENT.

29 9. "TRANSMISSION FACILITY" MEANS REAL AND PERSONAL PROPERTY AND
30 IMPROVEMENTS USED TO TRANSMIT ELECTRICITY BETWEEN A SUSTAINABLE ENERGY
31 GENERATION FACILITY AND THE FIRST CONNECTION WITH A PUBLIC OR PRIVATE
32 TRANSMISSION GRID.

1 30-402. Purpose and powers

2 A. THE ARIZONA POWER AUTHORITY SHALL ADMINISTER THIS CHAPTER TO
3 SUPPORT AND EXPAND THE ARIZONA ENERGY ECONOMY BY PROVIDING FINANCING AND
4 INCENTIVES FOR THE DEVELOPMENT OF SUSTAINABLE ENERGY GENERATION AND
5 TRANSMISSION FACILITIES AND RELATED SUPPORTING INFRASTRUCTURE.

6 B. THE AUTHORITY, THROUGH ITS COMMISSION, MAY:

7 1. ISSUE BONDS AND OTHER OBLIGATIONS PURSUANT TO THIS CHAPTER.

8 2. ISSUE GRANT AND REVENUE ANTICIPATION NOTES PURSUANT TO TITLE 35,
9 CHAPTER 3, ARTICLE 3.2 OR 3.3.

10 3. PROVIDE FINANCIAL ASSISTANCE FOR THE CONSTRUCTION, DEVELOPMENT,
11 ACQUISITION, OPERATION AND MAINTENANCE OF SUSTAINABLE ENERGY GENERATION AND
12 TRANSMISSION FACILITIES AND RELATED INFRASTRUCTURE IN THIS STATE.

13 4. INVESTIGATE, PLAN, PRIORITIZE AND ESTABLISH FINANCING PLANS FOR THE
14 GENERATION AND TRANSMISSION OF SUSTAINABLE ENERGY.

15 5. APPLY FOR, ACCEPT AND ADMINISTER GRANTS AND OTHER FINANCIAL
16 ASSISTANCE FROM THE UNITED STATES GOVERNMENT AND FROM OTHER PUBLIC AND
17 PRIVATE SOURCES.

18 6. CONTRACT FOR THE SERVICES OF OUTSIDE LEGAL, FINANCIAL AND FISCAL
19 ADVISORS, AGENTS, CONSULTANTS AND AIDES THAT ARE REASONABLY NECESSARY OR
20 DESIRABLE TO ALLOW THE AUTHORITY TO ADEQUATELY PERFORM ITS DUTIES UNDER THIS
21 CHAPTER.

22 7. CONTRACT AND INCUR OBLIGATIONS AS REASONABLY NECESSARY OR DESIRABLE
23 WITHIN THE GENERAL SCOPE OF AUTHORITY ACTIVITIES AND OPERATIONS TO ALLOW THE
24 AUTHORITY TO ADEQUATELY PERFORM ITS DUTIES UNDER THIS CHAPTER.

25 8. ASSESS FINANCIAL ASSISTANCE ORIGINATION FEES, ANNUAL FEES AND OTHER
26 FEES FOR ADMINISTERING THIS CHAPTER AND THE MONIES ADMINISTERED BY THE
27 AUTHORITY PURSUANT TO THIS CHAPTER. ANY FEES COLLECTED PURSUANT TO THIS
28 PARAGRAPH CONSTITUTE GOVERNMENTAL REVENUE AND MAY BE USED FOR ANY PURPOSE
29 CONSISTENT WITH THE MISSION AND OBJECTIVES OF THE AUTHORITY UNDER THIS
30 CHAPTER.

31 9. ADOPT RULES GOVERNING THE APPLICATION FOR AND AWARDING OF FINANCING
32 AND OTHER FINANCIAL ASSISTANCE FROM THE SUSTAINABLE ENERGY DEVELOPMENT FUND.

1 RULES ADOPTED PURSUANT TO THIS SECTION ARE EXEMPT FROM TITLE 41, CHAPTER 6,
2 EXCEPT THAT THE AUTHORITY SHALL:

3 (a) SUBMIT THE RULES FOR PUBLICATION, AND THE SECRETARY OF STATE SHALL
4 PUBLISH THE RULES IN THE ARIZONA ADMINISTRATIVE REGISTER.

5 (b) PROVIDE THIRTY DAYS FOR INTERESTED PERSONS TO COMMENT ON THE
6 PROPOSED RULES BEFORE ADOPTION AND AFTER PUBLICATION.

7 10. ENTER INTO AGREEMENTS WITH ANY PERSON OR ENTITY FOR THE SALE OR
8 PURCHASE OF POWER AND ENERGY AND ENTER INTO AGREEMENTS WITH ANY PERSON OR
9 ENTITY FOR THE TRANSMISSION OF POWER AND ENERGY, IN EACH CASE IN AND OUTSIDE
10 OF THIS STATE.

11 11. ENTER INTO CONTRACTS WITH ANY PERSON OR ENTITY FOR THE MANAGEMENT
12 AND OPERATION OF ITS PROJECTS.

13 12. OWN PROJECTS BY ITSELF OR JOINTLY WITH OTHER OWNERS AND DEVELOP
14 OPERATIONAL AND JOINT OWNERSHIP PROTOCOLS.

15 13. AUTHORIZE MUNICIPAL CORPORATIONS AND EXISTING OR NEW POWER
16 AUTHORITIES TO ENTER INTO CONTRACTS WITH THE AUTHORITY TO PURCHASE
17 ELECTRICITY FROM THE AUTHORITY AND MAKE PAYMENTS FOR ELECTRICITY
18 UNCONDITIONALLY WHETHER THE ELECTRICITY IS DELIVERED OR WHETHER THE
19 PARTICULAR PROJECT IS COMPLETED, OPERABLE OR OPERATING, AND PAY OBLIGATIONS
20 OF ANOTHER MUNICIPAL CORPORATION IF THAT MUNICIPAL CORPORATION DEFAULTS IN
21 MAKING PAYMENTS TO THE AUTHORITY AS PROVIDED IN THE DEFAULTING MUNICIPAL
22 CORPORATION'S AGREEMENT WITH THE AUTHORITY.

23 14. FINANCE A PROJECT IN WHICH THE SALE OF ELECTRICITY WILL BE TO
24 ENTITIES OUTSIDE THIS STATE, IF THE AUTHORITY FINDS THAT THE PROJECT WILL
25 ALSO SUPPORT AN AMPLE SUPPLY OF LOW-COST ELECTRICITY TO CITIZENS OF THIS
26 STATE.

27 15. PLEDGE THE REVENUES UNDER THE POWER PURCHASE AGREEMENTS, STATE AND
28 FEDERAL MONIES AND GRANTS AND RELATED RESOURCES TO A FINANCING PROGRAM.

29 16. DEVELOP MINIMUM CREDIT GUIDELINES FOR POWER PURCHASE AGREEMENTS TO
30 ENSURE ADEQUATE FINANCING CAPACITY AND ENHANCED FINANCING EFFICIENCY AND
31 DEVELOP STEP-UP PROVISIONS AS CREDIT BACKSTOPS IN POWER PURCHASE AGREEMENTS.

1 17. LEVY AND OVERRIDE FEES OR CHARGES IN THE POWER PURCHASE AGREEMENTS
2 TO PARTIALLY OFFSET THE OPERATION AND MAINTENANCE COST OF THE AUTHORITY.

3 30-403. Annual audit and report

4 A. THE AUTHORITY SHALL CAUSE AN AUDIT TO BE MADE OF ANY FUND
5 ADMINISTERED BY THE AUTHORITY UNDER THIS CHAPTER. THE AUDIT SHALL BE
6 CONDUCTED BY A CERTIFIED PUBLIC ACCOUNTANT WITHIN ONE HUNDRED TWENTY DAYS
7 AFTER THE END OF THE FISCAL YEAR. THE AUTHORITY SHALL IMMEDIATELY FILE A
8 CERTIFIED COPY OF THE AUDIT WITH THE AUDITOR GENERAL.

9 B. THE AUDITOR GENERAL MAY MAKE ANY FURTHER AUDITS AND EXAMINATIONS AS
10 NECESSARY AND MAY TAKE APPROPRIATE ACTION RELATING TO THE AUDIT OR
11 EXAMINATION PURSUANT TO TITLE 41, CHAPTER 7, ARTICLE 10.1. IF THE AUDITOR
12 GENERAL TAKES NO OFFICIAL ACTION WITHIN TWENTY DAYS AFTER THE AUDIT IS FILED,
13 THE AUDIT IS CONSIDERED TO BE SUFFICIENT.

14 C. THE AUTHORITY SHALL PAY ANY FEES AND COSTS OF THE CERTIFIED PUBLIC
15 ACCOUNTANT AND AUDITOR GENERAL UNDER THIS SECTION FROM THE FUNDS ADMINISTERED
16 BY THE COMMISSION UNDER THIS CHAPTER.

17 D. NOT LATER THAN MARCH 1 OF EACH YEAR, THE AUTHORITY SHALL MAKE A
18 REPORT OF ITS ACTIVITIES UNDER THIS CHAPTER IN THE PRECEDING CALENDAR YEAR,
19 INCLUDING A COPY OF THE ANNUAL AUDIT, TO THE GOVERNOR, THE PRESIDENT OF THE
20 SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES. THE REPORT SHALL
21 INCLUDE A STATEMENT OF:

22 1. THE NUMBER AND LOCATION OF SUSTAINABLE ENERGY DEVELOPMENT PARKS
23 ESTABLISHED AS OF THE END OF THE CALENDAR YEAR PURSUANT TO ARTICLE 3 OF THIS
24 CHAPTER.

25 2. THE AUTHORITY'S SUCCESS IN ATTRACTING SUSTAINABLE ENERGY GENERATION
26 FACILITIES TO SUSTAINABLE ENERGY DEVELOPMENT PARKS PURSUANT TO ARTICLE 3 OF
27 THIS CHAPTER.

28 3. THE AMOUNT OF INCOME TAX CREDITS AND PROPERTY TAX REDUCTIONS
29 AUTHORIZED FOR THE CALENDAR YEAR PURSUANT TO ARTICLE 3 OF THIS CHAPTER.

ARTICLE 2. FINANCIAL PROVISIONS

30-421. Sustainable energy development fund

A. THE SUSTAINABLE ENERGY DEVELOPMENT FUND IS ESTABLISHED TO BE MAINTAINED IN PERPETUITY CONSISTING OF:

1. MONIES RECEIVED FROM THE UNITED STATES GOVERNMENT, INCLUDING CAPITALIZATION GRANTS.

2. MONIES RECEIVED FROM THE ISSUANCE AND SALE OF OBLIGATIONS AND NOTES UNDER THIS CHAPTER.

3. INTEREST AND OTHER INCOME RECEIVED FROM INVESTING MONIES IN THE FUND, INCLUDING THE INVESTMENT OF SURPLUS REVENUES.

4. AD VALOREM PROPERTY TAX REVENUES RECEIVED PURSUANT TO SECTION 42-14554.

5. MONIES APPROPRIATED BY THE LEGISLATURE.

6. MONIES RECEIVED BY THE AUTHORITY FROM RENTS, FEES, CHARGES, CONTRACTS AND OTHER PAYMENTS.

7. GIFTS, GRANTS AND DONATIONS RECEIVED FROM ANY PUBLIC OR PRIVATE SOURCE.

B. THE FUND SHALL INCLUDE A SEPARATE DECOMMISSIONING ACCOUNT CONSISTING SOLELY OF:

1. MONIES RECEIVED FROM THE ISSUANCE AND SALE OF OBLIGATIONS AND NOTES UNDER THIS CHAPTER FOR DECOMMISSIONING PURPOSES.

2. INTEREST AND OTHER INCOME RECEIVED FROM SEPARATELY INVESTING MONIES IN THE ACCOUNT.

3. MONIES RECEIVED FOR DECOMMISSIONING PURPOSES FROM THE UNITED STATES GOVERNMENT, LEGISLATIVE APPROPRIATIONS AND GIFTS, GRANTS AND DONATIONS FROM ANY PUBLIC OR PRIVATE SOURCE.

C. THE COMMISSION MAY ADOPT RESOLUTIONS TO ESTABLISH, AND SEGREGATE THE FUND INTO, ADDITIONAL ACCOUNTS AND SUBACCOUNTS TO SECURE BONDS OR OTHER OBLIGATIONS UNDER THIS CHAPTER OR TO FURTHER SEGREGATE MONIES PLEDGED FOR SPECIFIC PURPOSES AND PROJECTS UNDER THIS CHAPTER.

1 D. ANY ACCOUNT OR SUBACCOUNT OF THE FUND MAY BE PLEDGED OR ASSIGNED TO
2 OBLIGATION HOLDERS AS SECURITY FOR SPECIFIC OBLIGATIONS OR TO A TRUSTEE WHO
3 MAY BE APPOINTED TO ACT ON BEHALF OF THE OBLIGATION HOLDERS.

4 E. THE FISCAL AGENT FOR THE FUND SHALL INVEST AND OTHERWISE MANAGE THE
5 MONIES IN THE FUND AS DIRECTED BY THE COMMISSION.

6 F. MONIES IN THE FUND MAY BE USED FOR ANY PURPOSE OF THE AUTHORITY
7 UNDER THIS CHAPTER, EXCEPT THAT MONIES SEGREGATED IN SPECIFIC ACCOUNTS AND
8 SUBACCOUNTS MAY BE USED ONLY FOR THE SPECIFIC OBJECTIVE OF THE ACCOUNT OR
9 SUBACCOUNT.

10 G. MONIES IN THE FUND AND ITS ACCOUNTS AND SUBACCOUNTS ARE
11 CONTINUOUSLY APPROPRIATED AND ARE EXEMPT FROM THE PROVISIONS OF SECTION
12 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

13 30-422. Bonds and other obligations

14 A. THE AUTHORITY, THROUGH ITS COMMISSION, MAY ISSUE NEGOTIABLE
15 OBLIGATIONS IN A PRINCIPAL AMOUNT THAT IN ITS OPINION IS NECESSARY TO PROVIDE
16 SUFFICIENT MONIES FOR ACCOMPLISHING THE PURPOSES OF THIS CHAPTER, FOR
17 MAINTAINING SUFFICIENT RESERVES TO SECURE THE OBLIGATIONS, TO PAY THE
18 NECESSARY COSTS OF ISSUING, SELLING AND REDEEMING THE OBLIGATIONS AND TO PAY
19 OTHER EXPENDITURES OF THE AUTHORITY INCIDENTAL TO AND NECESSARY AND
20 CONVENIENT TO CARRY OUT THE PURPOSES OF THIS CHAPTER. THE OBLIGATIONS MAY BE
21 FIXED RATE OR VARIABLE RATE, FEDERALLY TAX EXEMPT OR TAXABLE, OR SHORT TERM
22 OR LONG TERM TO FUND SUSTAINABLE ENERGY GENERATION FACILITIES AND RELATED
23 PROJECTS.

24 B. THE COMMISSION MUST AUTHORIZE THE OBLIGATIONS BY RESOLUTION. THE
25 RESOLUTION SHALL PRESCRIBE:

26 1. THE RATE OR RATES OF INTEREST AND THE DENOMINATIONS OF THE
27 OBLIGATIONS.

28 2. THE DATE OR DATES OF THE OBLIGATIONS AND MATURITY.

29 3. THE MANNER OF EXECUTING THE OBLIGATIONS.

30 4. THE MEDIUM AND PLACE OF PAYMENT.

31 5. THE TERMS OF REDEMPTION.

1 C. THE COMMISSION SHALL PROVIDE NOTICE OF ITS INTENTION TO ISSUE
2 OBLIGATIONS IN A MANNER CONSISTENT WITH CURRENT MARKET PRACTICE.

3 D. THE COMMISSION MAY SELL THE OBLIGATIONS BY COMPETITIVE BID,
4 INCLUDING AN ONLINE BIDDING PROCESS, OR BY NEGOTIATED SALE FOR PUBLIC OR
5 PRIVATE OFFERING AT THE PRICE AND ON THE TERMS PRESCRIBED IN THE
6 RESOLUTION. IF OBLIGATIONS ARE SOLD THROUGH AN ONLINE BIDDING PROCESS, BIDS
7 FOR THE OBLIGATIONS THAT ARE ENTERED INTO THE SYSTEM MAY BE CONCEALED UNTIL A
8 SPECIFIED TIME OR DISCLOSED IN THE BIDDING PROCESS. FOR THE PURPOSES OF THIS
9 SUBSECTION, "ONLINE BIDDING PROCESS" MEANS A PROCUREMENT PROCESS IN WHICH THE
10 COMMISSION RECEIVES BIDS ELECTRONICALLY OVER THE INTERNET IN A REAL-TIME,
11 COMPETITIVE BIDDING EVENT.

12 E. ALL PROCEEDS FROM THE SALE OF THE OBLIGATIONS SHALL BE DEPOSITED IN
13 THE APPROPRIATE ACCOUNT OR SUBACCOUNT OF THE SUSTAINABLE ENERGY DEVELOPMENT
14 FUND.

15 F. TO SECURE ANY OBLIGATIONS AUTHORIZED BY THIS SECTION, THE
16 COMMISSION BY RESOLUTION MAY:

17 1. PROVIDE THAT OBLIGATIONS ISSUED UNDER THIS SECTION BE SECURED BY A
18 FIRST LIEN ON ALL OR PART OF THE MONIES PAID INTO THE APPROPRIATE ACCOUNT OR
19 SUBACCOUNT OF THE SUSTAINABLE ENERGY DEVELOPMENT FUND.

20 2. PLEDGE OR ASSIGN TO OR IN TRUST FOR THE BENEFIT OF THE HOLDER OR
21 HOLDERS OF THE OBLIGATIONS ANY PART OR APPROPRIATE ACCOUNT OR SUBACCOUNT OF
22 THE MONIES IN THE FUND AS IS NECESSARY TO PAY THE PRINCIPAL AND INTEREST OF
23 THE OBLIGATIONS AS THEY COME DUE.

24 3. SET ASIDE, REGULATE AND DISPOSE OF RESERVES AND SINKING FUNDS.

25 4. PROVIDE THAT SUFFICIENT AMOUNTS OF THE PROCEEDS FROM THE SALE OF
26 THE OBLIGATIONS BE USED TO FULLY OR PARTLY FUND ANY RESERVES OR SINKING FUNDS
27 SET UP BY THE RESOLUTION.

28 5. PRESCRIBE THE PROCEDURE, IF ANY, BY WHICH THE TERMS OF ANY CONTRACT
29 WITH HOLDERS OF OBLIGATIONS MAY BE AMENDED OR ABROGATED, THE AMOUNT OF
30 OBLIGATIONS THE HOLDERS OF WHICH MUST CONSENT TO AND THE MANNER IN WHICH
31 CONSENT MAY BE GIVEN.

1 6. PROVIDE FOR PAYMENT FROM THE PROCEEDS OF THE SALE OF THE
2 OBLIGATIONS OF ALL LEGAL AND FINANCIAL EXPENSES INCURRED BY THE COMMISSION IN
3 ISSUING, SELLING, DELIVERING AND PAYING THE OBLIGATIONS.

4 7. CONDUCT ANY OTHER MATTERS THAT IN ANY WAY MAY AFFECT THE SECURITY
5 AND PROTECTION OF THE OBLIGATIONS.

6 G. THE MEMBERS OF THE COMMISSION OR ANY PERSON EXECUTING THE
7 OBLIGATIONS ARE NOT PERSONALLY LIABLE FOR THE PAYMENT OF THE
8 OBLIGATIONS. THE OBLIGATIONS ARE VALID AND BINDING NOTWITHSTANDING THAT
9 BEFORE THEIR DELIVERY ANY OF THE PERSONS WHOSE SIGNATURES APPEAR ON THE
10 OBLIGATIONS CEASE TO BE MEMBERS OF THE COMMISSION. FROM AND AFTER THE SALE
11 AND DELIVERY OF THE OBLIGATIONS, THEY ARE INCONTESTABLE BY THE COMMISSION.

12 H. THE OBLIGATIONS ISSUED UNDER THIS CHAPTER, THEIR TRANSFER AND THE
13 INCOME FROM THE OBLIGATIONS ARE AT ALL TIMES FREE FROM TAXATION IN THIS
14 STATE.

15 I. THE COMMISSION MAY PLACE ANY RESTRICTIONS ON REINVESTMENT YIELD ON
16 THE OBLIGATIONS OR ON ANY MONIES PLEDGED TO PAY THE OBLIGATIONS IF NECESSARY
17 TO COMPLY WITH FEDERAL INCOME TAX LAWS AND REGULATIONS TO GAIN FEDERAL TAX
18 BENEFITS AVAILABLE WITH RESPECT TO THE OBLIGATIONS. PROCEEDS OF THE
19 OBLIGATIONS SHALL BE INVESTED IN A MANNER THAT AVOIDS ARBITRAGE PENALTIES
20 PRESCRIBED BY FEDERAL LAW.

21 J. THE COMMISSION, OUT OF ANY MONIES AVAILABLE FOR THAT PURPOSE, MAY
22 PURCHASE OBLIGATIONS, WHICH MAY BE CANCELED, AT A PRICE NOT EXCEEDING EITHER
23 OF THE FOLLOWING:

24 1. IF THE OBLIGATIONS ARE THEN REDEEMABLE, THE REDEMPTION PRICE THEN
25 APPLICABLE PLUS ACCRUED INTEREST TO THE NEXT INTEREST PAYMENT DATE.

26 2. IF THE OBLIGATIONS ARE NOT THEN REDEEMABLE, THE REDEMPTION PRICE
27 APPLICABLE ON THE FIRST DATE AFTER PURCHASE ON WHICH THE OBLIGATIONS BECOME
28 SUBJECT TO REDEMPTION PLUS ACCRUED INTEREST TO THAT DATE.

29 30-423. Bond obligations of the authority

30 A. BONDS AND OTHER OBLIGATIONS ISSUED UNDER THIS CHAPTER ARE
31 OBLIGATIONS OF THE ARIZONA POWER AUTHORITY, ARE PAYABLE ONLY ACCORDING TO THE

1 TERMS OF THE BONDS AND ARE NOT GENERAL, SPECIAL OR OTHER OBLIGATIONS OF THIS
2 STATE.

3 B. THE BONDS AND OTHER OBLIGATIONS DO NOT CONSTITUTE A LEGAL DEBT OF
4 THIS STATE AND ARE NOT ENFORCEABLE AGAINST THIS STATE.

5 C. PAYMENT OF THE BONDS AND OBLIGATIONS IS NOT ENFORCEABLE OUT OF ANY
6 STATE MONIES OTHER THAN THE INCOME AND REVENUE PLEDGED AND ASSIGNED PURSUANT
7 TO THIS ARTICLE TO, OR IN TRUST FOR THE BENEFIT OF, THE HOLDER OR HOLDERS OF
8 THE OBLIGATIONS.

9 30-424. Certification of bonds by attorney general

10 THE COMMISSION MAY SUBMIT ANY BONDS AND OTHER OBLIGATIONS ISSUED UNDER
11 THIS CHAPTER TO THE ATTORNEY GENERAL AFTER ALL PROCEEDINGS FOR THEIR
12 AUTHORIZATION HAVE BEEN COMPLETED. ON SUBMISSION THE ATTORNEY GENERAL SHALL
13 EXAMINE AND PASS ON THE VALIDITY OF THE OBLIGATIONS AND THE REGULARITY OF THE
14 PROCEEDINGS. IF THE PROCEEDINGS COMPLY WITH THIS CHAPTER, AND IF THE
15 ATTORNEY GENERAL DETERMINES THAT, WHEN DELIVERED AND PAID FOR, THE
16 OBLIGATIONS WILL CONSTITUTE BINDING AND LEGAL OBLIGATIONS OF THE AUTHORITY,
17 THE ATTORNEY GENERAL SHALL CERTIFY, IN SUBSTANCE, THAT THEY ARE ISSUED
18 ACCORDING TO THE CONSTITUTION AND LAWS OF THIS STATE.

19 30-425. Obligations as legal investments

20 BONDS AND OTHER OBLIGATIONS ISSUED UNDER THIS CHAPTER ARE SECURITIES IN
21 WHICH PUBLIC OFFICERS AND BODIES OF THIS STATE AND OF MUNICIPALITIES AND
22 POLITICAL SUBDIVISIONS OF THIS STATE, ALL COMPANIES, ASSOCIATIONS AND OTHER
23 PERSONS CARRYING ON AN INSURANCE BUSINESS, ALL FINANCIAL INSTITUTIONS,
24 INVESTMENT COMPANIES AND OTHER PERSONS CARRYING ON A BANKING BUSINESS, ALL
25 FIDUCIARIES AND ALL OTHER PERSONS WHO ARE AUTHORIZED TO INVEST IN OBLIGATIONS
26 OF THIS STATE MAY PROPERLY AND LEGALLY INVEST. THE OBLIGATIONS ARE ALSO
27 SECURITIES THAT MAY BE DEPOSITED WITH PUBLIC OFFICERS OR BODIES OF THIS STATE
28 AND MUNICIPALITIES AND POLITICAL SUBDIVISIONS OF THIS STATE FOR PURPOSES THAT
29 REQUIRE THE DEPOSIT OF STATE BONDS OR OBLIGATIONS.

30 30-426. Agreement of state

31 THIS STATE PLEDGES TO AND AGREES WITH THE HOLDERS OF THE OBLIGATIONS
32 THAT THIS STATE WILL NOT LIMIT OR ALTER THE RIGHTS VESTED IN THE ARIZONA

1 POWER AUTHORITY OR ANY SUCCESSOR AGENCY TO PRODUCE SUFFICIENT REVENUE TO
2 FULFILL THE TERMS OF ANY AGREEMENTS MADE WITH THE HOLDERS OF THE OBLIGATIONS,
3 OR IN ANY WAY IMPAIR THE RIGHTS AND REMEDIES OF THE OBLIGATION HOLDERS, UNTIL
4 ALL OBLIGATIONS ISSUED UNDER THIS CHAPTER, TOGETHER WITH INTEREST, INCLUDING
5 INTEREST ON ANY UNPAID INSTALLMENTS OF INTEREST, AND ALL COSTS AND EXPENSES
6 IN CONNECTION WITH ANY ACTION OR PROCEEDINGS BY OR ON BEHALF OF THE
7 OBLIGATION HOLDERS, ARE FULLY MET AND DISCHARGED. THE COMMISSION AS AGENT
8 FOR THIS STATE MAY INCLUDE THIS PLEDGE AND UNDERTAKING IN ITS RESOLUTIONS AND
9 INDENTURES SECURING ITS OBLIGATIONS.

10 ARTICLE 3. SUSTAINABLE ENERGY DEVELOPMENT PARKS

11 30-441. Definitions

12 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

13 1. "BUSINESS ENTITY" MEANS AN OWNER OF A SUSTAINABLE ENERGY GENERATION
14 FACILITY LOCATED IN A SUSTAINABLE ENERGY DEVELOPMENT PARK REGARDLESS OF THE
15 FORM OF THE OWNER'S OWNERSHIP INTEREST.

16 2. "SUSTAINABLE ENERGY DEVELOPMENT PARK" OR "PARK" MEANS A SUSTAINABLE
17 ENERGY DEVELOPMENT PARK ESTABLISHED UNDER THIS ARTICLE.

18 30-442. Sustainable energy development parks; plan; hearing

19 A. THE COMMISSION MAY ESTABLISH SUSTAINABLE ENERGY DEVELOPMENT PARKS
20 AS PROVIDED BY THIS ARTICLE.

21 B. THE COMMISSION SHALL HOLD AT LEAST ONE PUBLIC HEARING ON THE PLAN
22 FOR A PROPOSED PARK IN THE INCORPORATED CITY OR TOWN NEAREST TO THE PROPOSED
23 PARK. A NOTICE OF THE HEARING SHALL BE PUBLISHED ONCE A WEEK FOR AT LEAST
24 FOUR CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION IN THE CITY OR
25 TOWN, SHALL BE POSTED ON THE AUTHORITY'S OFFICIAL WEBSITE FOR AT LEAST FOUR
26 WEEKS BEFORE THE HEARING AND SHALL BE SENT BY CERTIFIED MAIL TO THE GOVERNING
27 BODIES OF THE COUNTY AND EACH CITY OR TOWN LOCATED WITHIN FIFTEEN MILES OF
28 THE EXTERIOR BOUNDARIES OF THE PROPOSED PARK. AT THE HEARING THE COMMISSION
29 SHALL HEAR AND RECEIVE ORAL AND WRITTEN COMMENTS ON THE PROPOSED PARK.

30 C. A SUSTAINABLE ENERGY DEVELOPMENT PARK:

1 1. SHALL BE LOCATED IN AN UNINCORPORATED AREA IN A SINGLE COUNTY AND
2 ZONED FOR COMMERCIAL, INDUSTRIAL, MANUFACTURING, BUSINESS PARK, RESEARCH PARK
3 OR ANY OTHER APPROPRIATE USE CONSISTENT WITH THE COUNTY'S COMPREHENSIVE PLAN.

4 2. SHALL NOT:

5 (a) INCLUDE A GEOGRAPHICAL AREA LARGER THAN THE ACTUAL SITE OF THE
6 SUSTAINABLE ENERGY GENERATION FACILITIES AND ADMINISTRATIVE AND OPERATIONAL
7 IMPROVEMENTS THAT ARE NECESSARY AND ANCILLARY TO THE GENERATION AND
8 TRANSMISSION PROCESS.

9 (b) INCLUDE ANY NONCONTIGUOUS TERRITORY.

10 (c) SURROUND AN AREA THAT IS NOT PART OF THE PARK.

11 D. THE PLAN FOR THE PROPOSED PARK SHALL INCLUDE:

12 1. A MAP SHOWING THE PROPOSED BOUNDARIES OF THE PARK.

13 2. A WRITTEN NARRATIVE EXPLAINING THE AREA AND THE DEVELOPMENT GOALS
14 AND STRATEGY FOR THE PARK, INCLUDING PROSPECTIVE SUSTAINABLE ENERGY
15 GENERATION FACILITIES TO BE LOCATED IN THE PARK AND THE IDENTITIES OF
16 DEVELOPERS, PROMOTERS, OWNERS AND OPERATORS OF THE FACILITIES.

17 3. APPROPRIATE INCENTIVES AND INITIATIVES THAT LOCAL GOVERNMENTS COULD
18 PROVIDE OR ESTABLISH TO ENCOURAGE THE LOCATION OF SUSTAINABLE ENERGY
19 GENERATION FACILITIES IN THE PARK, INCLUDING ECONOMIC OR FINANCIAL
20 INCENTIVES, INCREASED PUBLIC SERVICES, IMPROVED INFRASTRUCTURE AND REGULATORY
21 SIMPLIFICATION AND EXPEDITION.

22 4. THE MANAGEMENT OR ADMINISTRATIVE RESPONSIBILITY FOR THE PARK.

23 5. A TERMINATION DATE FOR THE PARK. DURING THE LAST YEAR BEFORE
24 TERMINATION, THE COMMISSION MAY CONSIDER RENEWAL OF THE PARK AND AFTER A
25 PUBLIC HEARING MAY RENEW THE PARK FOR AN ADDITIONAL SPECIFIC NUMBER OF YEARS
26 IF THE PARK CONTINUES TO MEET THE CRITERIA PRESCRIBED BY THIS ARTICLE. A
27 RENEWAL OF THE PARK MAY NOT INCLUDE A CHANGE IN THE PARK BOUNDARIES.

28 E. BEFORE ESTABLISHING THE PARK, THE COMMISSION SHALL CONSIDER ALL
29 COMMENTS RECEIVED AT THE PUBLIC HEARING AND COMMENTS RECEIVED FROM THE COUNTY
30 BOARD OF SUPERVISORS, THE GOVERNING BODIES OF OTHER LOCAL GOVERNMENTAL
31 ENTITIES AND STATE AGENCIES, AND MAY AMEND OR ADJUST THE PLAN FOR THE
32 PROPOSED PARK AS APPROPRIATE.

1 30-443. Qualifying sustainable energy generation facilities

2 THE COMMISSION SHALL ADOPT BY RULE PURSUANT TO TITLE 41, CHAPTER 6,
3 ARTICLE 3 APPROPRIATE STANDARDS THAT A SUSTAINABLE ENERGY GENERATION FACILITY
4 MUST MEET TO QUALIFY FOR THE STATE AND LOCAL INCENTIVES PROVIDED PURSUANT TO
5 THIS ARTICLE. QUALIFYING SUSTAINABLE ENERGY GENERATION FACILITIES MUST MEET
6 THE FOLLOWING REQUIREMENTS:

7 1. INCLUDE DIRECT CAPITAL INVESTMENT IN PHYSICAL PLANT FACILITIES
8 LOCATED WITHIN THE GEOGRAPHIC BOUNDARIES OF THE PARK.

9 2. BRING NEW INCREMENTAL JOBS TO THE COUNTY IN WHICH THE PARK IS
10 LOCATED. FOR THE PURPOSES OF THIS PARAGRAPH, "NEW INCREMENTAL JOBS" MEANS
11 NEW FULL-TIME EMPLOYMENT POSITIONS THAT ARE NOT SHIFTED FROM ANOTHER LOCATION
12 IN THIS STATE.

13 3. INCLUDE SIGNIFICANT CAPITAL INVESTMENT, HIGH PAYING EMPLOYMENT OR
14 SIGNIFICANT PURCHASES FROM VENDORS AND PROVIDERS IN THIS STATE OR ANY
15 COMBINATION OF THESE ECONOMIC FACTORS. FOR THE PURPOSES OF THIS PARAGRAPH:

16 (a) "HIGH PAYING EMPLOYMENT" MEANS ANNUAL COMPENSATION OF FULL-TIME
17 EMPLOYMENT POSITIONS IN A BUSINESS ENTITY THAT IS AT LEAST EQUAL TO THE WAGE
18 OFFERED IN THE COUNTY IN WHICH THE PARK IS LOCATED AS COMPUTED ANNUALLY BY
19 THE DEPARTMENT OF ECONOMIC SECURITY RESEARCH ADMINISTRATION DIVISION.

20 (b) "SIGNIFICANT CAPITAL INVESTMENT" MEANS AT LEAST ONE BILLION
21 DOLLARS SPENT OR FINANCED TO ACQUIRE, LEASE OR IMPROVE PROPERTY, INCLUDING
22 LAND, BUILDINGS, MACHINERY AND FIXTURES.

23 (c) "SIGNIFICANT PURCHASES" MEANS AT LEAST TWENTY-FIVE PER CENT OF
24 CAPITAL INVESTMENT.

25 4. AFTER ACCOUNTING FOR THE TAX INCENTIVES, PRODUCE A NET INCREASE,
26 OVER THE FIRST FIVE YEARS OF THE PROJECT, IN TAX REVENUES DERIVED BY THIS
27 STATE FROM:

28 (a) TRANSACTION PRIVILEGE AND AFFILIATED EXCISE TAXES PURSUANT TO
29 TITLE 42, CHAPTER 5.

30 (b) CORPORATE INCOME TAXES PAID BY BUSINESS ENTITIES OWNING OR
31 OPERATING THE FACILITY PURSUANT TO TITLE 43, CHAPTER 11.

1 (c) INDIVIDUAL INCOME TAXES PAID BY BUSINESS ENTITIES, AND BY
2 EMPLOYEES OF BUSINESS ENTITIES, OWNING OR OPERATING THE FACILITY PURSUANT TO
3 TITLE 43, CHAPTER 10.

4 30-444. Qualifying for tax incentives; certificate; procedure

5 A. A BUSINESS ENTITY THAT OWNS A SUSTAINABLE ENERGY GENERATION
6 FACILITY OPERATING IN A SUSTAINABLE ENERGY DEVELOPMENT PARK IS ELIGIBLE FOR
7 AN INCOME TAX CREDIT UNDER SECTION 43-1083.01 OR 43-1164.01. REAL AND
8 PERSONAL PROPERTY AND IMPROVEMENTS THAT ARE USED IN A SUSTAINABLE ENERGY
9 DEVELOPMENT PARK FOR GENERATING SUSTAINABLE ENERGY SHALL BE ASSESSED AS CLASS
10 SIX PROPERTY AS PROVIDED BY SECTION 42-12006.

11 B. THE AUTHORITY SHALL CERTIFY THE ELIGIBILITY OF BUSINESS ENTITIES
12 FOR THE TAX INCENTIVES PURSUANT TO THIS ARTICLE. A BUSINESS ENTITY MAY NOT
13 CLAIM AN INCOME TAX CREDIT UNDER SECTION 43-1083.01 OR 43-1164.01 OR CLAIM
14 CLASS SIX CLASSIFICATION FOR ITS TAXABLE PROPERTY IN A SUSTAINABLE ENERGY
15 DEVELOPMENT PARK UNLESS THE BUSINESS ENTITY HAS A CERTIFICATE OF
16 QUALIFICATION UNDER THIS SECTION.

17 C. A BUSINESS ENTITY MUST APPLY TO THE AUTHORITY FOR A CERTIFICATE OF
18 QUALIFICATION. THE APPLICATION SHALL INCLUDE:

19 1. THE NATURE OF THE BUSINESS ORGANIZATION AND THE OWNERSHIP INTEREST
20 OF EACH BUSINESS ENTITY IN THE SUSTAINABLE ENERGY GENERATION FACILITY.

21 2. DOCUMENTATION OF NEW STATE REVENUES GENERATED FROM THE BUSINESS
22 ENTITY'S SUSTAINABLE ENERGY GENERATION FACILITY THAT WERE PAID DURING THE
23 PRECEDING CALENDAR YEAR.

24 3. A DOCUMENT THAT EXPRESSLY WAIVES THE CONFIDENTIALITY OF THE
25 ENTITY'S TAXPAYER INFORMATION FOR THE PURPOSES OF THIS SECTION AND DIRECTS
26 AND AUTHORIZES THE DEPARTMENT OF REVENUE TO DISCLOSE TO THE AUTHORITY THE
27 BUSINESS ENTITY'S STATE TAX RETURNS AND OTHER INFORMATION CONCERNING THE
28 ENTITY THAT WOULD OTHERWISE BE SUBJECT TO CONFIDENTIALITY UNDER TITLE 42,
29 CHAPTER 2, ARTICLE 1 OR SECTION 6103 OF THE INTERNAL REVENUE CODE. THE
30 AUTHORITY SHALL TRANSMIT THIS DOCUMENT TO THE DEPARTMENT OF REVENUE, WHICH
31 SHALL THEN PROVIDE TO THE AUTHORITY THE INFORMATION THAT THE BUSINESS ENTITY
32 AUTHORIZES. TAXPAYER INFORMATION THAT THE DEPARTMENT OF REVENUE PROVIDES TO

1 THE AUTHORITY REMAINS CONFIDENTIAL AND IS NOT SUBJECT TO DISCLOSURE BY THE
2 AUTHORITY UNDER TITLE 39.

3 D. IF, AFTER REVIEW OF THE INFORMATION PROVIDED BY THE BUSINESS ENTITY
4 AND THE DEPARTMENT OF REVENUE, THE COMMISSION DETERMINES THAT THE
5 DOCUMENTATION PROVIDED BY THE BUSINESS ENTITY:

6 1. IS NOT SUBSTANTIALLY ACCURATE OR COMPLETE, THE COMMISSION SHALL
7 EITHER:

8 (a) DENY THE TAX INCENTIVE CERTIFICATION.

9 (b) INFORM THE BUSINESS ENTITY THAT THE DOCUMENTATION WAS INADEQUATE
10 AND ALLOW THE ENTITY THIRTY DAYS TO SUBMIT NEW DOCUMENTATION.

11 2. IS SUBSTANTIALLY ACCURATE AND COMPLETE, THE COMMISSION SHALL ISSUE
12 A TAX INCENTIVE CERTIFICATE TO THE BUSINESS ENTITY AND PROVIDE A COPY OF THE
13 CERTIFICATE TO THE DEPARTMENT OF REVENUE AND THE COUNTY ASSESSOR.

14 E. A BUSINESS ENTITY THAT CLAIMS TAX INCENTIVES PURSUANT TO THIS
15 SECTION MUST RETAIN THE TAX INCENTIVE CERTIFICATE AS EVIDENCE OF
16 QUALIFICATION.

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

18 42-2003. Authorized disclosure of confidential information

19 A. Confidential information relating to:

20 1. A taxpayer may be disclosed to the taxpayer, its successor in
21 interest or a designee of the taxpayer who is authorized in writing by the
22 taxpayer. A principal corporate officer of a parent corporation may execute
23 a written authorization for a controlled subsidiary.

24 2. A corporate taxpayer may be disclosed to any principal officer, any
25 person designated by a principal officer or any person designated in a
26 resolution by the corporate board of directors or other similar governing
27 body.

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

31 4. An estate may be disclosed to the personal representative of the
32 estate and to any heir, next of kin or beneficiary under the will of the

1 decedent if the department finds that the heir, next of kin or beneficiary
2 has a material interest which will be affected by the confidential
3 information.

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

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

11 7. The name and taxpayer identification numbers of persons issued
12 direct payment permits may be publicly disclosed.

13 B. Confidential information may be disclosed to:

14 1. Any employee of the department whose official duties involve tax
15 administration.

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

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

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

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

6 (a) The United States internal revenue service, alcohol and tobacco
7 tax and trade bureau of the United States treasury, United States bureau of
8 alcohol, tobacco, firearms and explosives of the United States department of
9 justice, United States drug enforcement agency and federal bureau of
10 investigation.

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

12 (c) An organization of states, federation of tax administrators or
13 multistate tax commission that operates an information exchange for tax
14 administration purposes.

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

18 (e) An agency, official or organization of an Indian tribal government
19 with responsibilities comparable to the responsibilities of the agencies,
20 officials or organizations identified in subdivision (a), (b) or (c) of this
21 paragraph.

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

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

26 (a) The processing, storage, transmission, destruction and
27 reproduction of the information.

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

30 8. The office of administrative hearings relating to taxes
31 administered by the department pursuant to section 42-1101, but the
32 department shall not disclose any confidential information:

1 (a) Regarding income tax, withholding tax or estate tax.

2 (b) On any tax issue relating to information associated with the
3 reporting of income tax, withholding tax or estate tax.

4 9. The United States treasury inspector general for tax administration
5 for the purpose of reporting a violation of internal revenue code section
6 7213A (26 United States Code section 7213A), unauthorized inspection of
7 returns or return information.

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

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

13 12. The department of commerce for its use in:

14 (a) Qualifying motion picture production companies for the tax
15 incentives provided for motion picture production under chapter 5 of this
16 title and sections 43-1075 and 43-1163.

17 (b) Fulfilling its annual reporting responsibility pursuant to section
18 41-1517, subsections S and T.

19 (c) Qualifying applicants for the motion picture infrastructure
20 project tax credits under sections 43-1075.01 and 43-1163.01.

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

22 14. The state fire marshal for use in determining compliance with and
23 enforcing title 41, chapter 16, article 3.1.

24 15. THE ARIZONA POWER AUTHORITY FOR ITS USE IN QUALIFYING BUSINESS
25 ENTITIES FOR TAX INCENTIVES PURSUANT TO SECTION 30-444.

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

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

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

31 (b) The proceeding arose out of, or in connection with, determining
32 the taxpayer's civil or criminal liability, or the collection of the

1 taxpayer's civil liability, with respect to any tax imposed under this title
2 or title 43.

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

5 (d) Return information directly relates to a transactional
6 relationship between a person who is a party to the proceeding and the
7 taxpayer and directly affects the resolution of an issue in the proceeding.

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

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

13 E. The department, upon the request of any person, shall provide the
14 names and addresses of bingo licensees as defined in section 5-401, verify
15 whether or not a person has a privilege license and number, a distributor's
16 license and number or a withholding license and number or disclose the
17 information to be posted on the department's web site or otherwise publicly
18 accessible pursuant to section 42-1124, subsection F and section 42-3201,
19 subsection A.

20 F. A department employee, in connection with the official duties
21 relating to any audit, collection activity or civil or criminal
22 investigation, may disclose return information to the extent that disclosure
23 is necessary to obtain information which is not otherwise reasonably
24 available. These official duties include the correct determination of and
25 liability for tax, the amount to be collected or the enforcement of other
26 state tax revenue laws.

27 G. If an organization is exempt from this state's income tax as
28 provided in section 43-1201 for any taxable year, the name and address of the
29 organization and the application filed by the organization upon which the
30 department made its determination for exemption together with any papers
31 submitted in support of the application and any letter or document issued by
32 the department concerning the application are open to public inspection.

1 H. Confidential information relating to transaction privilege tax, use
2 tax, severance tax, jet fuel excise and use tax and rental occupancy tax may
3 be disclosed to any county, city or town tax official if the information
4 relates to a taxpayer who is or may be taxable by the county, city or
5 town. Any taxpayer information released by the department to the county,
6 city or town:

7 1. May only be used for internal purposes.

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

15 I. The department may disclose statistical information gathered from
16 confidential information if it does not disclose confidential information
17 attributable to any one taxpayer. In order to comply with the requirements
18 of section 42-5029, subsection A, paragraph 3, the department may disclose to
19 the state treasurer statistical information gathered from confidential
20 information, even if it discloses confidential information attributable to a
21 taxpayer.

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

27 K. Except as provided in section 42-2002, subsection C, confidential
28 information, described in section 42-2001, paragraph 2, subdivision (a), item
29 (iii), may be disclosed to law enforcement agencies for law enforcement
30 purposes.

1 L. The department may provide transaction privilege tax license
2 information to property tax officials in a county for the purpose of
3 identification and verification of the tax status of commercial property.

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

7 N. Except as provided in section 42-2002, subsection D, a court may
8 order the department to disclose confidential information pertaining to a
9 party to an action. An order shall be made only upon a showing of good cause
10 and that the party seeking the information has made demand upon the taxpayer
11 for the information.

12 O. This section does not prohibit the disclosure by the department of
13 any information or documents submitted to the department by a bingo
14 licensee. Before disclosing the information the department shall obtain the
15 name and address of the person requesting the information.

16 P. If the department is required or permitted to disclose confidential
17 information, it may charge the person or agency requesting the information
18 for the reasonable cost of its services.

19 Q. Except as provided in section 42-2002, subsection D, the department
20 of revenue shall release confidential information as requested by the
21 department of economic security pursuant to section 42-1122 or 46-291.
22 Information disclosed under this subsection is limited to the same type of
23 information that the United States internal revenue service is authorized to
24 disclose under section 6103(1)(6) of the internal revenue code.

25 R. Except as provided in section 42-2002, subsection D, the department
26 of revenue shall release confidential information as requested by the courts
27 and clerks of the court pursuant to section 42-1122.

28 S. To comply with the requirements of section 42-5031, the department
29 may disclose to the state treasurer, to the county stadium district board of
30 directors and to any city or town tax official that is part of the county
31 stadium district confidential information attributable to a taxpayer's
32 business activity conducted in the county stadium district.

1 T. The department shall release confidential information as requested
2 by the attorney general for purposes of determining compliance with and
3 enforcing section 44-7101, the master settlement agreement referred to
4 therein and subsequent agreements to which the state is a party that amend or
5 implement the master settlement agreement. Information disclosed under this
6 subsection is limited to luxury tax information relating to tobacco
7 manufacturers, distributors, wholesalers and retailers and information
8 collected by the department pursuant to section 44-7101(2)(j).

9 U. For proceedings before the department, the office of administrative
10 hearings, the board of tax appeals or any state or federal court involving
11 penalties that were assessed against a return preparer or electronic return
12 preparer pursuant to section 42-1103.02 or 42-1125.01, confidential
13 information may be disclosed only before the judge or administrative law
14 judge adjudicating the proceeding, the parties to the proceeding and the
15 parties' representatives in the proceeding prior to its introduction into
16 evidence in the proceeding. The confidential information may be introduced
17 as evidence in the proceeding only if the taxpayer's name, the names of any
18 dependents listed on the return, all social security numbers, the taxpayer's
19 address, the taxpayer's signature and any attachments containing any of the
20 foregoing information are redacted and if either:

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

23 2. Such return or return information relates or may relate to a
24 transactional relationship between a person who is a party to the proceeding
25 and the taxpayer which directly affects the resolution of an issue in the
26 proceeding.

27 V. The department may disclose to the attorney general confidential
28 information received under section 44-7111 and requested by the attorney
29 general for purposes of determining compliance with and enforcing section
30 44-7111. The department and attorney general shall share with each other the
31 information received under section 44-7111, and may share the information
32 with other federal, state or local agencies only for the purposes of

1 enforcement of section 44-7101, section 44-7111 or corresponding laws of
2 other states.

3 Sec. 6. Section 42-12001, Arizona Revised Statutes, is amended to
4 read:

5 42-12001. Class one property

6 For purposes of taxation, class one is established consisting of the
7 following subclasses:

8 1. Producing mines and mining claims, personal property used on mines
9 and mining claims, improvements to mines and mining claims and mills and
10 smelters operated in conjunction with mines and mining claims that are valued
11 at full cash value pursuant to section 42-14053.

12 2. Standing timber that is valued at full cash value.

13 3. Real and personal property of gas distribution companies, electric
14 transmission companies, electric distribution companies, combination gas and
15 electric transmission and distribution companies, companies engaged in the
16 generation of electricity and electric cooperatives **OTHER THAN PROPERTY THAT**
17 **IS SPECIFICALLY INCLUDED IN CLASS SIX** that are valued at full cash value
18 pursuant to section 42-14151.

19 4. Real and personal property of airport fuel delivery companies that
20 are valued pursuant to section 42-14503.

21 5. Real and personal property that is used by producing oil, gas and
22 geothermal resource interests that are valued at full cash value pursuant to
23 section 42-14102.

24 6. Real and personal property of water, sewer and wastewater utility
25 companies that are valued at full cash value pursuant to section 42-14151.

26 7. Real and personal property of pipeline companies that are valued at
27 full cash value pursuant to section 42-14201.

28 8. Real and personal property of shopping centers that are valued at
29 full cash value or pursuant to chapter 13, article 5 of this title, as
30 applicable.

31 9. Real and personal property of golf courses that are valued at full
32 cash value or pursuant to chapter 13, article 4 of this title.

1 10. All property, both real and personal, of manufacturers, assemblers
2 or fabricators valued under the provisions of this title.

3 11. Real and personal property that is used in communications
4 transmission facilities and that provides public telephone or
5 telecommunications exchange or interexchange access for compensation to
6 effect two-way communication to, from, through or within this state.

7 12. Real property and improvements that are devoted to any other
8 commercial or industrial use, other than property that is specifically
9 included in another class described in this article, and that are valued at
10 full cash value.

11 13. Personal property that is devoted to any other commercial or
12 industrial use, other than property that is specifically included in another
13 class described in this article, and that is valued at full cash value.

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

16 42-12006. Class six property

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

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

20 2. Real and personal property that is located within the area of a
21 foreign trade zone or subzone established under 19 United States Code section
22 81 and title 44, chapter 18, that is activated for foreign trade zone use by
23 the district director of the United States customs service pursuant to
24 19 Code of Federal Regulations section 146.6 and that is valued at full cash
25 value. Property that is classified under this paragraph shall not thereafter
26 be classified under paragraph 7 OR 9 of this section.

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

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

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

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

9 (d) Property that is classified under this paragraph shall not
10 thereafter be classified under paragraph 4, ~~or 7~~ OR 9 of this section.

11 4. Real and personal property and improvements that are located in an
12 enterprise zone, that are owned or used by a small manufacturing or small
13 commercial ~~printer~~ PRINTING business that is certified by the department of
14 commerce pursuant to section 41-1525.01 and that are valued at full cash
15 value, subject to the following terms and conditions:

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

18 (b) Property that is classified under this paragraph shall not
19 thereafter be classified under paragraph 3, ~~or 7~~ OR 9 of this section.

20 5. Real and personal property and improvements or a portion of such
21 property comprising a qualified environmental technology manufacturing,
22 producing or processing facility as described in section 41-1514.02, valued
23 at full cash value and subject to the following terms and conditions:

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

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

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

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

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

16 (a) Monitoring, assessing or evaluating the release or threatened
17 release.

18 (b) Excavating, removing, transporting, treating and disposing of
19 contaminated soil.

20 (c) Pumping and treating contaminated water.

21 (d) Treatment, containment or removal of contaminants in groundwater
22 or soil.

23 7. Real and personal property and improvements constructed or
24 installed from and after December 31, 2004 through December 31, 2010 and
25 owned by a qualified business under section 41-1516 and used solely for the
26 purpose of harvesting, transporting or the initial processing of qualifying
27 forest products removed from qualifying projects as defined in section
28 41-1516. The classification under this paragraph is subject to the following
29 terms and conditions:

30 (a) Property may be initially classified under this paragraph only in
31 valuation years 2005 through 2010.

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

3 (c) Any new addition or improvement, constructed or installed from and
4 after December 31, 2004 through December 31, 2010, to property already
5 classified under this paragraph qualifies separately for classification and
6 assessment under this paragraph for not more than five years.

7 (d) Property that is classified under this paragraph shall not
8 thereafter be classified under paragraph 2, 3, 4 or 5 of this section.

9 8. Real and personal property and improvements to the property that
10 are used specifically and solely to manufacture from and after December 31,
11 2006 through December 31, 2016 biodiesel fuel that is one hundred per cent
12 biodiesel and its by-products and that are valued at full cash value. This
13 paragraph applies only to the portion of property that is used specifically
14 for manufacturing and processing one hundred per cent biodiesel fuel, or its
15 related by-products, from raw feedstock obtained from off-site sources,
16 including necessary on-site storage facilities that are intrinsically
17 associated with the manufacturing process. Any other commercial or industrial
18 use disqualifies the entire property from classification under this
19 paragraph.

20 9. PERSONAL PROPERTY AND IMPROVEMENTS THAT ARE LOCATED IN A
21 SUSTAINABLE ENERGY DEVELOPMENT PARK ESTABLISHED PURSUANT TO TITLE 30, CHAPTER
22 2, ARTICLE 3, CONSISTING OF A CENTRAL STATION ELECTRIC GENERATION FACILITY
23 THAT GENERATES AT LEAST TWO HUNDRED FIFTY MEGAWATTS OF SUSTAINABLE ENERGY
24 THAT IS SUPPLIED THROUGH A CONNECTION TO A PUBLIC OR PRIVATE ELECTRIC
25 TRANSMISSION OR DISTRIBUTION UTILITY GRID PURSUANT TO A POWER PURCHASE AND
26 DELIVERY AGREEMENT AND THAT IS VALUED PURSUANT TO SECTION 42-14553 AND
27 ADMINISTRATIVE AND OPERATIONAL IMPROVEMENTS THAT ARE NECESSARY AND ANCILLARY
28 TO THE GENERATION AND TRANSMISSION PROCESS. PROPERTY MAY NOT BE CLASSIFIED
29 UNDER THIS PARAGRAPH FOR MORE THAN TWENTY YEARS EXCEPT THAT ANY NEW ADDITION
30 OR IMPROVEMENT TO PROPERTY ALREADY CLASSIFIED UNDER THIS PARAGRAPH QUALIFIES
31 SEPARATELY FOR CLASSIFICATION UNDER THIS PARAGRAPH FOR NOT MORE THAN TWENTY

1 YEARS. PROPERTY THAT IS ORIGINALLY CLASSIFIED UNDER THIS PARAGRAPH SHALL NOT
2 THEREAFTER BE CLASSIFIED UNDER PARAGRAPH 2, 3 OR 4 OF THIS SECTION.

3 Sec. 8. Title 42, chapter 12, article 2, Arizona Revised Statutes, is
4 amended by adding section 42-12057, to read:

5 42-12057. Qualifying sustainable energy development park
6 property

7 TO QUALIFY SUSTAINABLE ENERGY DEVELOPMENT PARK PROPERTY AS CLASS SIX
8 PURSUANT TO SECTION 42-12006, PARAGRAPH 9, THE OWNER OF THE PROPERTY MUST
9 PROVIDE DOCUMENTATION TO THE DEPARTMENT THAT THE CENTRAL STATION SUSTAINABLE
10 ENERGY GENERATION FACILITY HAS THE CAPACITY TO GENERATE AT LEAST TWO HUNDRED
11 FIFTY MEGAWATTS OF ELECTRICITY AND HAS A GRID CONNECTION TO AND A CURRENT
12 POWER PURCHASE AND DELIVERY AGREEMENT WITH A PUBLIC OR PRIVATE ELECTRIC
13 TRANSMISSION OR DISTRIBUTION UTILITY SYSTEM.

14 Sec. 9. Section 42-14151, Arizona Revised Statutes, is amended to
15 read:

16 42-14151. Annual determination of valuation; definition

17 A. The department shall annually determine the valuation, in the
18 manner prescribed by this article, of all property, owned or leased, and used
19 by taxpayers in the following businesses:

- 20 1. Operation of a natural gas distribution system.
- 21 2. Operation of a water utility system.
- 22 3. Operation of a sewer system or wastewater treatment facility.
- 23 4. Operation of an electric generation facility, EXCEPT FOR FACILITIES
24 THAT ARE SUBJECT TO TAXATION UNDER ARTICLE 11 OF THIS CHAPTER.
- 25 5. Operation of an electric transmission or distribution system.

26 B. For the purposes of this article, "generation of electricity" means
27 the process of taking a source of energy, including coal, natural gas, oil,
28 nuclear fuel or renewable sources and converting the energy into electricity
29 to be delivered to customers through a transmission and distribution system.

1 Sec. 10. Title 42, chapter 14, Arizona Revised Statutes, is amended by
2 adding article 11, to read:

3 ARTICLE 11. VALUATION AND TAXATION OF
4 SUSTAINABLE ENERGY DEVELOPMENT PARK PROPERTY

5 42-14551. Annual determination of valuation; definition

6 A. THE DEPARTMENT SHALL ANNUALLY DETERMINE, AS PRESCRIBED BY THIS
7 ARTICLE, THE VALUATION OF PERSONAL PROPERTY AND IMPROVEMENTS THAT ARE USED IN
8 A SUSTAINABLE ENERGY DEVELOPMENT PARK FOR GENERATING SUSTAINABLE
9 ENERGY. REAL PROPERTY THAT IS LOCATED IN A SUSTAINABLE ENERGY DEVELOPMENT
10 PARK SHALL NOT BE VALUED OR SUBJECT TO TAXATION UNDER THIS ARTICLE.

11 B. FOR THE PURPOSES OF THIS ARTICLE, "BUSINESS ENTITY", "SUSTAINABLE
12 ENERGY", "SUSTAINABLE ENERGY DEVELOPMENT PARK" AND "SUSTAINABLE ENERGY
13 GENERATION FACILITY" HAVE THE SAME MEANINGS PRESCRIBED BY SECTIONS 30-401 AND
14 30-441.

15 42-14552. Annual report for purposes of determining valuation;
16 failure to file; penalty; forfeiture of appeal
17 rights

18 A. ON OR BEFORE APRIL 1 OF EACH YEAR, A BUSINESS ENTITY THAT OPERATES
19 A SUSTAINABLE ENERGY GENERATION FACILITY IN A SUSTAINABLE ENERGY DEVELOPMENT
20 PARK FOR GENERATING SUSTAINABLE ENERGY AND THAT IS VALUED PURSUANT TO THIS
21 ARTICLE SHALL FILE A REPORT WITH THE DEPARTMENT, UNDER OATH, STATING THE
22 INFORMATION THAT THE DEPARTMENT REQUIRES TO ENABLE IT TO MAKE A VALUATION OF
23 THE PROPERTY. ON OR BEFORE FEBRUARY 1 OF EACH YEAR, THE DEPARTMENT SHALL
24 MAIL TO THE BUSINESS ENTITY THE FORMS FOR FILING THE REPORT. ON WRITTEN
25 REQUEST AND FOR GOOD CAUSE SHOWN, THE DIRECTOR MAY EXTEND THE TIME FOR FILING
26 THE REPORT REQUIRED BY THIS SECTION.

27 B. IF A BUSINESS ENTITY FAILS TO FILE THE REPORT ON OR BEFORE APRIL 1
28 OF THE VALUATION YEAR, OR THE EXTENDED DUE DATE IF AN EXTENSION IS GRANTED,
29 THE DEPARTMENT SHALL BOTH:

30 1. ESTIMATE THE VALUE OF THE PROPERTY BASED ON ONE HUNDRED FIVE PER
31 CENT OF THE PRECEDING YEAR'S VALUATION OR ON ANY INFORMATION THAT IS
32 AVAILABLE TO THE DEPARTMENT.

1 MACHINERY AND EQUIPMENT TO BE USEFUL FOR THE PURPOSE FOR WHICH IT IS BEING
2 CONSTRUCTED.

3 D. FOR THE PURPOSES OF THIS SECTION:

4 1. "PERSONAL PROPERTY" MEANS ALL TANGIBLE PROPERTY EXCEPT FOR LAND AND
5 REAL PROPERTY IMPROVEMENTS. PERSONAL PROPERTY INCLUDES FOUNDATIONS OR
6 SUPPORTS FOR THE MACHINERY OR APPARATUS FOR WHICH THEY ARE PROVIDED,
7 INCLUDING WATER COOLING TOWERS.

8 2. "REAL PROPERTY IMPROVEMENTS" MEANS BUILDINGS, INCLUDING
9 ADMINISTRATION BUILDINGS, MAINTENANCE WAREHOUSES AND GUARD SHACKS, WATER
10 RETENTION PONDS, SEWAGE TREATMENT PONDS, RESERVOIRS, SIDEWALKS, DRIVES,
11 CURBS, PARKING LOTS, TUNNELS, DUCT BANKS, CANALS, FENCING AND LANDSCAPING.

12 42-14554. Assessment, levy and collection of tax; debt; lien

13 A. THE DEPARTMENT SHALL ANNUALLY:

14 1. ENTER IN ITS RECORDS THE VALUATION OF SUSTAINABLE ENERGY GENERATION
15 FACILITIES AS DETERMINED UNDER SECTION 42-14553.

16 2. DETERMINE THE ASSESSED VALUATION OF THE PROPERTY AS PROVIDED BY
17 SECTIONS 42-12006 AND 42-15006.

18 3. LEVY A TAX AGAINST THE ASSESSED VALUATION AT A RATE THAT EQUALS THE
19 SUM OF THE AVERAGE RATES FOR PRIMARY AND SECONDARY PROPERTY TAXES IN THE
20 TAXING JURISDICTIONS IN THIS STATE FOR THE CURRENT TAX YEAR.

21 4. COLLECT THE TAXES ACCORDING TO THE SCHEDULES PRESCRIBED BY SECTION
22 42-18052.

23 5. TRANSMIT THE TAX REVENUES TO THE ARIZONA POWER AUTHORITY FOR
24 DEPOSIT IN THE SUSTAINABLE ENERGY DEVELOPMENT FUND PURSUANT TO SECTION
25 30-421, SUBSECTION A.

26 B. THE TAX IMPOSED BY THIS SECTION IS IN LIEU OF ALL OTHER AD VALOREM
27 TAXES ON PERSONAL PROPERTY AND IMPROVEMENTS CONSTITUTING SUSTAINABLE ENERGY
28 GENERATION FACILITIES LOCATED IN SUSTAINABLE ENERGY DEVELOPMENT PARKS.

29 C. DELINQUENT TAXES BEAR INTEREST AT THE RATE DETERMINED PURSUANT TO
30 SECTION 42-1123.

1 D. THE VALUATIONS THAT ARE USED FOR TAX PURPOSES PURSUANT TO THIS
2 ARTICLE ARE A MATTER OF PUBLIC RECORD AND ARE NOT CONFIDENTIAL INFORMATION
3 UNDER CHAPTER 2, ARTICLE 1 OF THIS TITLE.

4 E. THE TAX IMPOSED BY THIS ARTICLE:

5 1. IS A DEBT OF THE BUSINESS ENTITY THAT OWNS THE SUSTAINABLE ENERGY
6 GENERATION FACILITY.

7 2. MAY BE COLLECTED BY AN ACTION INSTITUTED AND PROSECUTED BY THE
8 ATTORNEY GENERAL ON THE DIRECTOR'S REQUEST.

9 3. IS A LIEN PURSUANT TO SECTION 42-17154 AGAINST THE ASSESSED
10 SUSTAINABLE ENERGY GENERATION FACILITY.

11 Sec. 11. Section 42-15006, Arizona Revised Statutes, is amended to
12 read:

13 42-15006. Assessed valuation of class six property

14 The assessed valuation of class six property described in
15 section 42-12006 is based on the following percentages to the full cash value
16 or limited valuation of class six property, as applicable:

17 1. Property described in section 42-12006, paragraphs 1, 2, 3, 5, 6,
18 7, ~~and~~ 8 AND 9, five per cent.

19 2. Property described in section 42-12006, paragraph 4:

20 (a) For primary property tax purposes, five per cent.

21 (b) Except as provided in subdivision (c), for secondary property tax
22 purposes:

23 (i) Twenty-five per cent through December 31, 2006.

24 (ii) Twenty-four per cent beginning from and after December 31, 2006
25 through December 31, 2007.

26 (iii) Twenty-three per cent beginning from and after December 31, 2007
27 through December 31, 2008.

28 (iv) Twenty-two per cent beginning from and after December 31, 2008
29 through December 31, 2009.

30 (v) Twenty-one per cent beginning from and after December 31, 2009
31 through December 31, 2010.

32 (vi) Twenty per cent beginning from and after December 31, 2010.

1 (c) If subdivision (b) is finally adjudicated to be invalid, for
2 secondary property tax purposes, five per cent.

3 Sec. 12. Repeal

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

5 Sec. 13. Title 43, chapter 2, article 2, Arizona Revised Statutes, is
6 amended by adding a new section 43-222, to read:

7 43-222. Income tax credit review schedule

8 THE JOINT LEGISLATIVE INCOME TAX CREDIT REVIEW COMMITTEE SHALL REVIEW
9 THE FOLLOWING INCOME TAX CREDITS:

10 1. FOR YEARS ENDING IN 0 AND 5, SECTIONS 43-1075, 43-1075.01,
11 43-1079.01, 43-1087, 43-1088, 43-1090.01, 43-1163, 43-1163.01, 43-1167.01,
12 43-1175 AND 43-1182.

13 2. FOR YEARS ENDING IN 1 AND 6, SECTIONS 43-1074.02, 43-1083, 43-1085,
14 43-1164 AND 43-1183.

15 3. FOR YEARS ENDING IN 2 AND 7, SECTIONS 43-1073, 43-1079, 43-1080,
16 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1090, 43-1167, 43-1169, 43-1176
17 AND 43-1181.

18 4. FOR YEARS ENDING IN 3 AND 8, SECTIONS 43-1074.01, 43-1081, 43-1168,
19 43-1170 AND 43-1178.

20 5. FOR YEARS ENDING IN 4 AND 9, SECTIONS 43-1076, 43-1081.01,
21 43-1083.01, 43-1084, 43-1162, 43-1164.01 AND 43-1170.01.

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

24 43-1083.01. Credit for sustainable energy development

25 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2010
26 THROUGH DECEMBER 31, 2030, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY
27 THIS TITLE FOR INVESTMENT AND EMPLOYMENT BY A BUSINESS ENTITY THAT OWNS A
28 BUSINESS INTEREST IN OR OPERATES A SUSTAINABLE ENERGY GENERATION FACILITY IN
29 A SUSTAINABLE ENERGY DEVELOPMENT PARK ESTABLISHED PURSUANT TO TITLE 30,
30 CHAPTER 2, ARTICLE 3. TO BE ELIGIBLE FOR THE CREDIT, A TAXPAYER MUST BE A
31 BUSINESS ENTITY THAT IS CERTIFIED BY THE ARIZONA POWER AUTHORITY PURSUANT TO
32 SECTION 30-444. WHEN CLAIMING THE CREDIT THE TAXPAYER MUST SUBMIT TO THE

1 DEPARTMENT A COPY OF THE CERTIFICATE OF QUALIFICATION ISSUED BY THE
2 AUTHORITY.

3 B. THE AMOUNT OF THE CREDIT IS 1.5 CENTS PER KILOWATT-HOUR OF
4 ELECTRICITY GENERATED BY THE FACILITY IN THE TAXABLE YEAR. THE CREDIT AMOUNT
5 IS APPORTIONED, AND THE TAXPAYER SHALL CLAIM THE CREDIT IN FIVE EQUAL ANNUAL
6 INSTALLMENTS IN EACH OF FIVE CONSECUTIVE TAXABLE YEARS.

7 C. CO-OWNERS OF THE SUSTAINABLE ENERGY GENERATION FACILITY, INCLUDING
8 PARTNERS IN A PARTNERSHIP AND SHAREHOLDERS OF AN S CORPORATION, AS DEFINED IN
9 SECTION 1361 OF THE INTERNAL REVENUE CODE, MAY EACH CLAIM ONLY THE PRO RATA
10 SHARE OF THE CREDIT ALLOWED UNDER THIS SECTION BASED ON THE OWNERSHIP
11 INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH OWNERS MAY NOT EXCEED
12 THE AMOUNT THAT WOULD BE ALLOWED FOR A SOLE OWNER OF THE FACILITY.

13 D. IF THE ALLOWABLE TAX CREDIT FOR A TAXABLE YEAR EXCEEDS THE INCOME
14 TAXES OTHERWISE DUE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO STATE INCOME
15 TAXES DUE ON THE CLAIMANTS INCOME, THE EXCESS AMOUNT OF THE CLAIM MAY BE
16 CARRIED FORWARD AS A CREDIT AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY
17 FOR NOT MORE THAN FIFTEEN TAXABLE YEARS.

18 E. IF, AFTER RECEIVING A CREDIT PURSUANT TO THIS SECTION, THE ARIZONA
19 POWER AUTHORITY REVOKES THE CERTIFICATE OF QUALIFICATION OF A BUSINESS
20 ENTITY, OTHER THAN FOR REASONS BEYOND THE CONTROL OF THE BUSINESS ENTITY AS
21 DETERMINED BY THE AUTHORITY, THE TAXPAYER IS PERMANENTLY DISQUALIFIED FROM
22 CREDITS UNDER THIS SECTION IN SUBSEQUENT TAXABLE YEARS, INCLUDING INSTALLMENT
23 AMOUNTS APPORTIONED PURSUANT TO SUBSECTION B OF THIS SECTION, AND THE AMOUNT
24 OF CREDIT ALLOWED THE TAXPAYER IN ALL TAXABLE YEARS PURSUANT TO THIS SECTION
25 IS SUBJECT TO RECAPTURE PURSUANT TO THIS SUBSECTION. THE RECAPTURE OF
26 CREDITS IS COMPUTED BY INCREASING THE AMOUNT OF TAXES IMPOSED IN THE YEAR
27 FOLLOWING THE YEAR OF TERMINATION OR REVOCATION BY THE FULL AMOUNT OF ALL
28 CREDITS PREVIOUSLY ALLOWED UNDER THIS SECTION WITH ANNUAL SIMPLE INTEREST
29 EQUAL TO THE PRIME RATE CHARGED BY BANKS ON SHORT-TERM BUSINESS LOANS AS
30 DETERMINED FOR PUBLICATION IN THE BULLETIN OF THE BOARD OF GOVERNORS OF THE
31 FEDERAL RESERVE SYSTEM AS OF THE FIRST DAY OF EACH TAXABLE YEAR, PLUS TWO PER
32 CENT.

1 Sec. 15. 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 sustainable energy development

4 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2010
5 THROUGH DECEMBER 31, 2030, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY
6 THIS TITLE FOR INVESTMENT AND EMPLOYMENT BY A BUSINESS ENTITY THAT OWNS A
7 BUSINESS INTEREST IN OR OPERATES A SUSTAINABLE ENERGY GENERATION FACILITY IN
8 A SUSTAINABLE ENERGY DEVELOPMENT PARK ESTABLISHED PURSUANT TO TITLE 30,
9 CHAPTER 2, ARTICLE 3. TO BE ELIGIBLE FOR THE CREDIT, A TAXPAYER MUST BE A
10 BUSINESS ENTITY THAT IS CERTIFIED BY THE ARIZONA POWER AUTHORITY PURSUANT TO
11 SECTION 30-444. WHEN CLAIMING THE CREDIT THE TAXPAYER MUST SUBMIT TO THE
12 DEPARTMENT A COPY OF THE CERTIFICATE OF QUALIFICATION ISSUED BY THE
13 AUTHORITY.

14 B. THE AMOUNT OF THE CREDIT IS 1.5 CENTS PER KILOWATT-HOUR OF
15 ELECTRICITY GENERATED BY THE FACILITY IN THE TAXABLE YEAR. THE CREDIT AMOUNT
16 IS APPORTIONED, AND THE TAXPAYER SHALL CLAIM THE CREDIT IN FIVE EQUAL ANNUAL
17 INSTALLMENTS IN EACH OF FIVE CONSECUTIVE TAXABLE YEARS.

18 C. CO-OWNERS OF THE SUSTAINABLE ENERGY GENERATION FACILITY, INCLUDING
19 CORPORATE PARTNERS IN A PARTNERSHIP, MAY EACH CLAIM ONLY THE PRO RATA SHARE
20 OF THE CREDIT ALLOWED UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST.
21 THE TOTAL OF THE CREDITS ALLOWED ALL SUCH OWNERS MAY NOT EXCEED THE AMOUNT
22 THAT WOULD BE ALLOWED FOR A SOLE OWNER OF THE FACILITY.

23 D. IF THE ALLOWABLE TAX CREDIT FOR A TAXABLE YEAR EXCEEDS THE INCOME
24 TAXES OTHERWISE DUE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO STATE INCOME
25 TAXES DUE ON THE CLAIMANTS INCOME, THE EXCESS AMOUNT OF THE CLAIM MAY BE
26 CARRIED FORWARD AS A CREDIT AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY
27 FOR NOT MORE THAN FIFTEEN TAXABLE YEARS.

28 E. IF, AFTER RECEIVING A CREDIT PURSUANT TO THIS SECTION, THE ARIZONA
29 POWER AUTHORITY REVOKES THE CERTIFICATE OF QUALIFICATION OF A BUSINESS
30 ENTITY, OTHER THAN FOR REASONS BEYOND THE CONTROL OF THE BUSINESS ENTITY AS
31 DETERMINED BY THE AUTHORITY, THE TAXPAYER IS PERMANENTLY DISQUALIFIED FROM
32 CREDITS UNDER THIS SECTION IN SUBSEQUENT TAXABLE YEARS, INCLUDING INSTALLMENT

1 AMOUNTS APPORTIONED PURSUANT TO SUBSECTION B OF THIS SECTION, AND THE AMOUNT
2 OF CREDIT ALLOWED THE TAXPAYER IN ALL TAXABLE YEARS PURSUANT TO THIS SECTION
3 IS SUBJECT TO RECAPTURE PURSUANT TO THIS SUBSECTION. THE RECAPTURE OF
4 CREDITS IS COMPUTED BY INCREASING THE AMOUNT OF TAXES IMPOSED IN THE YEAR
5 FOLLOWING THE YEAR OF TERMINATION OR REVOCATION BY THE FULL AMOUNT OF ALL
6 CREDITS PREVIOUSLY ALLOWED UNDER THIS SECTION WITH ANNUAL SIMPLE INTEREST
7 EQUAL TO THE PRIME RATE CHARGED BY BANKS ON SHORT-TERM BUSINESS LOANS AS
8 DETERMINED FOR PUBLICATION IN THE BULLETIN OF THE BOARD OF GOVERNORS OF THE
9 FEDERAL RESERVE SYSTEM AS OF THE FIRST DAY OF EACH TAXABLE YEAR, PLUS TWO PER
10 CENT.

11 Sec. 16. Purpose

12 Pursuant to section 43-223, Arizona Revised Statutes, the income tax credits enacted
13 in sections 43-1083.01 and 43-1164.01, Arizona Revised Statutes, as added by this
14 act, are intended to encourage investment in sustainable energy generation
15 facilities located in this state."

16 Amend title to conform

and, as so amended, it do pass

MICHELE REAGAN
Chairman

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