

State of Arizona
House of Representatives
Fiftieth Legislature
Second Special Session
2011

HOUSE BILL 2001

AN ACT

AMENDING SECTIONS 5-504, 5-505, 5-522, 5-554, 5-555 AND 5-572, ARIZONA REVISED STATUTES; AMENDING SECTION 15-213.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2009, CHAPTER 101, SECTION 1; AMENDING SECTION 15-972, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, SEVENTH SPECIAL SESSION, CHAPTER 8, SECTION 5; AMENDING SECTION 15-1628.03, ARIZONA REVISED STATUTES; AMENDING TITLE 20, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-224.03; AMENDING SECTIONS 20-224.04, 28-2416, 28-7282, 28-7284, 28-7286, 34-451, 36-274 AND 40-360.01, ARIZONA REVISED STATUTES; TRANSFERRING AND RENUMBERING SECTIONS 41-1509, 41-1510 AND 41-1515.01, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 41, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, AS SECTIONS 41-110, 41-111 AND 41-112, ARIZONA REVISED STATUTES, RESPECTIVELY; AMENDING SECTIONS 41-110, 41-111 AND 41-112, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED BY THIS ACT; AMENDING SECTIONS 41-191.09, 41-192, 41-724, 41-803 AND 41-1005, ARIZONA REVISED STATUTES; CHANGING THE DESIGNATION OF TITLE 41, CHAPTER 10, ARIZONA REVISED STATUTES, TO "ARIZONA COMMERCE AUTHORITY"; REPEALING SECTIONS 41-1501, 41-1502, 41-1503, 41-1504, 41-1504.01, 41-1504.02, 41-1505.01, 41-1505.02, 41-1505.03, 41-1505.04, 41-1505.05, 41-1505.06, 41-1505.07, 41-1505.08, 41-1505.10 AND 41-1506, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING NEW SECTIONS 41-1501, 41-1502, 41-1503, 41-1504, 41-1505 AND 41-1506; RENUMBERING SECTION 41-1505.09, ARIZONA REVISED STATUTES, AS SECTION 41-1506.01; AMENDING SECTION 41-1506.01, ARIZONA REVISED STATUTES, AS RENUMBERED BY THIS ACT; AMENDING SECTIONS 41-1507, 41-1508, 41-1510.01 AND 41-1511, ARIZONA REVISED STATUTES; REPEALING SECTIONS 41-1513, 41-1514 AND 41-1514.01, ARIZONA REVISED STATUTES; AMENDING SECTION

41-1514.02, ARIZONA REVISED STATUTES; REPEALING SECTION 41-1515, ARIZONA REVISED STATUTES; AMENDING SECTIONS 41-1516, 41-1517, 41-1517.01 AND 41-1518, ARIZONA REVISED STATUTES; REPEALING SECTIONS 41-1518.01 AND 41-1519, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1525; AMENDING SECTIONS 41-1531, 41-1532, 41-1533, 41-1541, 41-1542, 41-1543 AND 41-1544, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 10, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 5; REPEALING TITLE 41, CHAPTER 10, ARTICLE 6, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 10, ARIZONA REVISED STATUTES, BY ADDING A NEW ARTICLE 6; TRANSFERRING AND RENUMBERING SECTIONS 41-1561, 41-1562, 41-1563 AND 41-1564, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 41, CHAPTER 10, ARTICLE 6, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT, AS SECTIONS 41-1552, 41-1552.01, 41-1552.02 AND 41-1552.03, RESPECTIVELY; REPEALING THE CHAPTER HEADING OF TITLE 41, CHAPTER 10.1, ARIZONA REVISED STATUTES; REPEALING THE ARTICLE HEADING OF TITLE 41, CHAPTER 10.1, ARTICLE 1, ARIZONA REVISED STATUTES; AMENDING SECTIONS 41-1552.01 AND 41-1552.02, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED BY THIS ACT; AMENDING TITLE 41, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 18; TRANSFERRING AND RENUMBERING SECTIONS 41-1554, 41-1554.01, 41-1554.02, 41-1554.03, 41-1554.04, 41-1554.05, 41-1554.06, 41-1554.07, 41-1554.08, 41-1554.09, 41-1554.10, 41-1554.11 AND 41-1554.12, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 41, CHAPTER 18, ARTICLE 1, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT, AS SECTIONS 41-2251, 41-2252, 41-2253, 41-2254, 41-2255, 41-2256, 41-2257, 41-2258, 41-2259, 41-2260, 41-2261, 41-2262 AND 41-2263, RESPECTIVELY; REPEALING THE ARTICLE HEADING OF TITLE 41, CHAPTER 10, ARTICLE 8, ARIZONA REVISED STATUTES; AMENDING SECTIONS 41-2251, 41-2252, 41-2254 AND 41-2256, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED BY THIS ACT; AMENDING SECTIONS 41-2501, 41-2706 AND 41-2752, ARIZONA REVISED STATUTES; REPEALING SECTIONS 41-3011.04 AND 41-3014.17, ARIZONA REVISED STATUTES; AMENDING SECTION 41-3015.01, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3016.29; AMENDING SECTIONS 42-2003, 42-5029, 42-5159, 42-11127, 42-12003, 42-12004, 42-12006, 42-12052, 42-12053, 42-12054, 42-13054, 42-15001, 42-15002, 42-15102, 42-15103, 42-16251 AND 43-206, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-409; AMENDING SECTIONS 43-1022, 43-1024, 43-1031 AND 43-1042, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1074; AMENDING SECTION 43-1074.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 289, SECTION 2 AND CHAPTER 312, SECTION 3; AMENDING SECTION 43-1074.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 289, SECTION 3 AND CHAPTER 312, SECTION 4; AMENDING SECTIONS 43-1074.02, 43-1076, 43-1077, 43-1078, 43-1079 AND 43-1083.01, ARIZONA REVISED STATUTES; REPEALING SECTION 43-1088.01, ARIZONA REVISED STATUTES; AMENDING SECTIONS 43-1111 AND 43-1139, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1161; AMENDING SECTIONS 43-1162, 43-1164.01, 43-1165, 43-1166 AND 43-1167, ARIZONA REVISED STATUTES; AMENDING SECTION 43-1168, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 289, SECTION 6 AND CHAPTER 312, SECTION 7; AMENDING SECTION 43-1168, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010,

CHAPTER 289, SECTION 7 AND CHAPTER 312, SECTION 8; REPEALING SECTION 43-1179, ARIZONA REVISED STATUTES; AMENDING SECTIONS 44-1375.02, 44-1375.03, 44-1843, 44-1861, 44-1892 AND 44-2053, ARIZONA REVISED STATUTES; REPEALING SECTION 44-2054, ARIZONA REVISED STATUTES; AMENDING SECTIONS 44-3324, 44-3325 AND 49-554, ARIZONA REVISED STATUTES; AMENDING LAWS 2000, CHAPTER 383, SECTION 10, AS AMENDED BY LAWS 2002, CHAPTER 264, SECTION 4 AND LAWS 2007, CHAPTER 293, SECTION 3; RELATING TO THE ARIZONA COMMERCE AUTHORITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 5-504, Arizona Revised Statutes, is amended to
3 read:

4 5-504. Commission; director; powers and duties; definitions

5 A. The commission shall meet with the director not less than once each
6 quarter to make recommendations and set policy, receive reports from the
7 director and transact other business properly brought before the commission.

8 B. The commission shall oversee a state lottery to produce the maximum
9 amount of net revenue consonant with the dignity of the state. To achieve
10 these ends, the commission shall authorize the director to adopt rules in
11 accordance with title 41, chapter 6. Rules adopted by the director may
12 include provisions relating to the following:

13 1. Subject to the approval of the commission, the types of lottery
14 games and the types of game play-styles to be conducted.

15 2. The method of selecting the winning tickets or shares for
16 noncomputerized online games, except that no method may be used that, in
17 whole or in part, depends on the results of a dog race, a horse race or any
18 sporting event.

19 3. The manner of payment of prizes to the holders of winning tickets
20 or shares, including providing for payment by the purchase of annuities in
21 the case of prizes payable in installments, except that the commission staff
22 shall examine claims and may not pay any prize based on altered, stolen or
23 counterfeit tickets or based on any tickets that fail to meet established
24 validation requirements, including rules stated on the ticket or in the
25 published game rules, and confidential validation tests applied consistently
26 by the commission staff. No particular prize in a lottery game may be paid
27 more than once, and in the event of a binding determination that more than
28 one person is entitled to a particular prize, the sole remedy of the
29 claimants is the award to each of them of an equal portion of the single
30 prize.

31 4. The method to be used in selling tickets or shares, except that no
32 elected official's name may be printed on such tickets or shares. The
33 overall estimated odds of winning some prize or some cash prize, as
34 appropriate, in a given game shall be printed on each ticket or share.

35 5. The licensing of agents to sell tickets or shares, except that a
36 person who is under eighteen years of age shall not be licensed as an agent.

37 6. The manner and amount of compensation to be paid licensed sales
38 agents necessary to provide for the adequate availability of tickets or
39 shares to prospective buyers and for the convenience of the public, including
40 provision for variable compensation based on sales volume.

41 7. Matters necessary or desirable for the efficient and economical
42 operation and administration of the lottery and for the convenience of the
43 purchasers of tickets or shares and the holders of winning tickets or shares.

1 C. The commission shall authorize the director to issue orders and
2 shall approve orders issued by the director for the necessary operation of
3 the lottery. Orders issued under this subsection may include provisions
4 relating to the following:

5 1. The prices of tickets or shares in lottery games.

6 2. The themes, game play-styles, and names of lottery games and
7 definitions of symbols and other characters used in lottery games, except
8 that each ticket or share in a lottery game shall bear a unique
9 distinguishable serial number.

10 3. The sale of tickets or shares at a discount for promotional
11 purposes.

12 4. The prize structure of lottery games, including the number and size
13 of prizes available. Available prizes may include free tickets in lottery
14 games and merchandise prizes.

15 5. The frequency of drawings, if any, or other selections of winning
16 tickets or shares, except that:

17 (a) All drawings shall be open to the public.

18 (b) The actual selection of winning tickets or shares may not be
19 performed by an employee or member of the commission.

20 (c) Noncomputerized online game drawings shall be witnessed by an
21 independent observer.

22 6. Requirements for eligibility for participation in grand drawings or
23 other runoff drawings, including requirements for the submission of evidence
24 of eligibility within a shorter period than that provided for claims by
25 section 5-518.

26 7. Incentive and bonus programs designed to increase sales of lottery
27 tickets or shares and to produce the maximum amount of net revenue for this
28 state.

29 D. Notwithstanding title 41, chapter 6 and subsection B of this
30 section, the director, subject to the approval of the commission, may
31 establish a policy, procedure or practice that relates to an existing online
32 game or a new online game that is the same type and has the same type of game
33 play-style as an online game currently being conducted by the lottery or may
34 modify an existing rule for an existing online game or a new online game that
35 is the same type and has the same type of game play-style as an online game
36 currently being conducted by the lottery, including establishing or modifying
37 the matrix for an online game by giving notice of the establishment or
38 modification at least thirty days before the effective date of the
39 establishment or modification.

40 E. The commission shall maintain and make the following information
41 available for public inspection at its offices during regular business hours:

42 1. A detailed listing of the estimated number of prizes of each
43 particular denomination expected to be awarded in any instant game currently
44 on sale.

1 2. After the end of the claim period prescribed by section 5-518, a
2 listing of the total number of tickets or shares sold and the number of
3 prizes of each particular denomination awarded in each lottery game.

4 3. Definitions of all play symbols and other characters used in each
5 lottery game and instructions on how to play and how to win each lottery
6 game.

7 F. Any information that is maintained by the commission and that would
8 assist a person in locating or identifying a winning ticket or share or that
9 would otherwise compromise the integrity of any lottery game is deemed
10 confidential and is not subject to public inspection.

11 G. The commission, in addition to other games authorized by this
12 article, shall establish two special games for each year to be conducted
13 concurrently with other lottery games authorized under subsection B of this
14 section. The monies for prizes, for operating expenses and for payment to
15 the ~~commerce and economic development commission~~ ARIZONA COMPETES fund, as
16 provided in section 5-522, subsection ~~A, paragraph 2~~ B, shall be accounted
17 for separately as nearly as practicable in the lottery commission's general
18 accounting system. The monies shall be derived from the revenues of the
19 special games, and monies for prizes do not become an expense to the lottery
20 commission's annual appropriation as provided in section 5-505, subsection D
21 and section 5-522, subsection ~~H~~ I. Monies saved from the revenues of the
22 special games, by reason of operating efficiencies, shall become other
23 revenue of the lottery commission and revert to the state general fund.

24 H. The commission, in addition to other games authorized by this
25 article, may establish multistate lottery games to be conducted concurrently
26 with other lottery games authorized under subsections B and G of this
27 section. The monies for prizes, for operating expenses and for payment to
28 the state general fund shall be accounted for separately as nearly as
29 practicable in the lottery commission's general accounting system. The
30 monies shall be derived from the revenues of multistate lottery games.

31 I. The commission, in addition to other games authorized by this
32 article, shall establish special instant ticket games with play areas
33 protected by paper tabs designated for use by charitable organizations. The
34 monies for prizes and for operating expenses shall be accounted for
35 separately as nearly as practicable in the lottery commission's general
36 accounting system. Monies saved from the revenues of the special games, by
37 reason of operating efficiencies, shall become other revenue of the lottery
38 commission and revert to the state general fund.

39 J. The commission or director shall not establish or operate any
40 online or electronic keno game or any game played on the internet.

41 K. The commission or director shall not establish or operate any
42 lottery game or any type of game play-style, either individually or in
43 combination, that uses gaming devices or video lottery terminals as those
44 terms are used in section 5-601.02, including monitor games that produce or
45 display outcomes or results more than once per hour.

1 L. The director shall print, in a prominent location on each lottery
2 ticket or share, a statement that help is available if a person has a problem
3 with gambling and a toll-free telephone number where problem gambling
4 assistance is available. The director shall require all licensed agents to
5 post a sign with the statement that help is available if a person has a
6 problem with gambling and the toll-free telephone number at the point of sale
7 as prescribed and supplied by the director. The requirements of this
8 subsection apply to tickets and shares printed after July 18, 2000.

9 M. For the purposes of this section:

10 1. "Charitable organization" means any nonprofit organization,
11 including not more than one auxiliary of that organization, that has operated
12 for charitable purposes in this state for at least two years before
13 submitting a license application under this article.

14 2. "Game play-style" means the process or procedure that a player must
15 follow to determine if a lottery ticket or share is a winning ticket or
16 share.

17 3. "Matrix" means the odds of winning a prize and the prize payout
18 amounts in a given game.

19 Sec. 2. Section 5-505, Arizona Revised Statutes, is amended to read:

20 5-505. Apportionment of revenue

21 A. Not more than eighteen and one-half per cent of the total annual
22 revenues accruing from the sale of lottery tickets or shares and from all
23 other sources and not more than fifteen per cent of the total annual revenues
24 from the sale of special instant games authorized under section 5-504,
25 subsection I shall be deposited in the state lottery fund established by
26 section 5-521 to be expended for the following:

27 1. The payment of costs incurred in the operation and administration
28 of the lottery, including the expenses of the commission and the costs
29 resulting from any contract or contracts entered into for consulting or
30 operational services.

31 2. Independent audits, which shall be performed annually in addition
32 to the audits required by section 5-524.

33 3. Incentive programs for lottery sales agents and lottery employees.

34 4. Payment of compensation to licensed sales agents necessary to
35 provide for the adequate availability of tickets or services to prospective
36 buyers and for the convenience of the public. Except as otherwise provided
37 in this paragraph, compensation of licensed sales agents shall be at least
38 five and one-half per cent but not more than eight per cent of the price of
39 each ticket or share that a retail sales agent sells in instant games and
40 online games, less the price of any tickets or shares that are voided.
41 Compensation of a licensed sales agent who is designated as a charitable
42 organization as defined in section 5-504 shall be twenty per cent of the
43 price of each special instant game authorized under section 5-504,
44 subsection I.

1 5. The payment of reasonable fees to redemption agents as authorized
2 by section 5-519.

3 6. The purchase or lease of lottery equipment, tickets and materials.

4 B. Not less than fifty per cent of the total annual revenues accruing
5 from the sale of lottery tickets or shares shall be deposited in the state
6 lottery prize fund established by section 5-523 for payment of prizes to the
7 holders of winning tickets or shares or for other purposes provided for in
8 section 5-518.

9 C. All other revenues accruing from the sale of lottery tickets or
10 shares in online games or instant games shall be deposited in the state
11 lottery fund established by section 5-521 to be used as prescribed by section
12 5-522.

13 D. Except for monies for prizes expended as provided in section 5-504,
14 subsection G and section ~~41-1505.10~~ 41-1545.01, monies expended under
15 subsection A of this section shall be subject to legislative appropriation.

16 Sec. 3. Section 5-522, Arizona Revised Statutes, is amended to read:
17 5-522. Use of monies in state lottery fund; report

18 A. The monies in the state lottery fund shall be expended ~~only for the~~
19 ~~following purposes and in the order provided:~~

20 ~~1. for the expenses of the commission incurred in carrying out its~~
21 ~~powers and duties and in the operation of the lottery.~~

22 ~~2. For payment to the commerce and economic development commission~~
23 ~~fund established by section 41-1505.10 of not less than twenty-one and~~
24 ~~one-half per cent of the revenues received from the sale of two special~~
25 ~~lottery games conducted for the benefit of economic development.~~

26 B. OF THE MONIES REMAINING IN THE STATE LOTTERY FUND EACH FISCAL YEAR
27 AFTER APPROPRIATIONS AND DEPOSITS AUTHORIZED IN SUBSECTION A OF THIS SECTION,
28 THREE MILLION FIVE HUNDRED THOUSAND DOLLARS SHALL BE DEPOSITED IN THE ARIZONA
29 COMPETES FUND ESTABLISHED BY SECTION 41-1545.01.

30 ~~B.~~ C. Of the monies remaining in the state lottery fund each fiscal
31 year after appropriations and deposits authorized in ~~subsection~~ SUBSECTIONS A
32 AND B of this section, ten million dollars shall be deposited in the Arizona
33 game and fish commission heritage fund established by section 17-297.

34 ~~C.~~ D. Of the monies remaining in the state lottery fund each fiscal
35 year after appropriations and deposits authorized in subsections A, ~~and~~ B AND
36 C of this section, five million dollars shall be allocated to the department
37 of economic security for the healthy families program established by section
38 8-701, four million dollars shall be allocated to the Arizona board of
39 regents for the Arizona area health education system established by section
40 15-1643, three million dollars shall be allocated to the department of health
41 services to fund the teenage pregnancy prevention programs established in
42 Laws 1995, chapter 190, sections 2 and 3, two million dollars shall be
43 allocated to the department of health services for the health start program
44 established by section 36-697, two million dollars shall be deposited in the
45 disease control research fund established by section 36-274 and one million

1 dollars shall be allocated to the department of health services for the
2 federal women, infants and children food program. The allocations in this
3 subsection shall be adjusted annually according to changes in the GDP price
4 deflator as defined in section 41-563 and the allocations are exempt from the
5 provisions of section 35-190, relating to lapsing of appropriations. If
6 there are not sufficient monies available pursuant to this subsection, the
7 allocation of monies for each program shall be reduced on a pro rata basis.

8 ~~D.~~ E. If the state lottery director determines that monies available
9 to the state general fund may not equal eighty million six hundred fifty
10 thousand dollars in a fiscal year, the director shall not authorize deposits
11 to the Arizona game and fish commission heritage fund pursuant to subsection
12 B of this section until the deposits to the state general fund equal eighty
13 million six hundred fifty thousand dollars in a fiscal year.

14 ~~E.~~ F. Of the monies remaining in the state lottery fund each fiscal
15 year after appropriations and deposits authorized in subsections A through ~~D~~
16 E of this section, one million dollars or the remaining balance in the fund,
17 whichever is less, is appropriated to the department of economic security for
18 grants to nonprofit organizations, including faith based organizations, for
19 homeless emergency and transitional shelters and related support services.
20 The department of economic security shall submit a report on the amounts,
21 recipients, purposes and results of each grant to the governor, the speaker
22 of the house of representatives and the president of the senate on or before
23 December 31 of each year for the prior fiscal year and shall provide a copy
24 of this report to the secretary of state.

25 ~~F.~~ G. Beginning in fiscal year 2010-2011, of the monies remaining in
26 the state lottery fund each fiscal year after appropriations and deposits
27 authorized in subsections A through ~~E~~ F of this section, and after a total
28 of at least ninety-six million one hundred forty thousand dollars has been
29 deposited in the state general fund, the remaining balance in the state
30 lottery fund shall be deposited in the university capital improvement
31 lease-to-own and bond fund established by section 15-1682.03, up to a maximum
32 of eighty per cent of the total annual payments of lease-to-own and bond
33 agreements entered into by the Arizona board of regents.

34 ~~G.~~ H. All monies remaining in the state lottery fund after the
35 appropriations and deposits authorized in this section shall be deposited in
36 the state general fund.

37 ~~H.~~ I. Except for monies expended for prizes as provided in section
38 5-504, subsection G and section ~~41-1505.10~~ 41-1545.01, monies expended under
39 subsection A of this section are subject to legislative appropriation.

40 Sec. 4. Section 5-554, Arizona Revised Statutes, is amended to read:

41 5-554. Commission; director; powers and duties; definitions

42 A. The commission shall meet with the director not less than once each
43 quarter to make recommendations and set policy, receive reports from the
44 director and transact other business properly brought before the commission.

1 B. The commission shall oversee a state lottery to produce the maximum
2 amount of net revenue consonant with the dignity of the state. To achieve
3 these ends, the commission shall authorize the director to adopt rules in
4 accordance with title 41, chapter 6. Rules adopted by the director may
5 include provisions relating to the following:

6 1. Subject to the approval of the commission, the types of lottery
7 games and the types of game play-styles to be conducted.

8 2. The method of selecting the winning tickets or shares for
9 noncomputerized online games, except that no method may be used that, in
10 whole or in part, depends on the results of a dog race, a horse race or any
11 sporting event.

12 3. The manner of payment of prizes to the holders of winning tickets
13 or shares, including providing for payment by the purchase of annuities in
14 the case of prizes payable in installments, except that the commission staff
15 shall examine claims and may not pay any prize based on altered, stolen or
16 counterfeit tickets or based on any tickets that fail to meet established
17 validation requirements, including rules stated on the ticket or in the
18 published game rules, and confidential validation tests applied consistently
19 by the commission staff. No particular prize in a lottery game may be paid
20 more than once, and in the event of a binding determination that more than
21 one person is entitled to a particular prize, the sole remedy of the
22 claimants is the award to each of them of an equal portion of the single
23 prize.

24 4. The method to be used in selling tickets or shares, except that no
25 elected official's name may be printed on such tickets or shares. The
26 overall estimated odds of winning some prize or some cash prize, as
27 appropriate, in a given game shall be printed on each ticket or share.

28 5. The licensing of agents to sell tickets or shares, except that a
29 person who is under eighteen years of age shall not be licensed as an agent.

30 6. The manner and amount of compensation to be paid licensed sales
31 agents necessary to provide for the adequate availability of tickets or
32 shares to prospective buyers and for the convenience of the public, including
33 provision for variable compensation based on sales volume.

34 7. Matters necessary or desirable for the efficient and economical
35 operation and administration of the lottery and for the convenience of the
36 purchasers of tickets or shares and the holders of winning tickets or shares.

37 C. The commission shall authorize the director to issue orders and
38 shall approve orders issued by the director for the necessary operation of
39 the lottery. Orders issued under this subsection may include provisions
40 relating to the following:

41 1. The prices of tickets or shares in lottery games.

42 2. The themes, game play-styles, and names of lottery games and
43 definitions of symbols and other characters used in lottery games, except
44 that each ticket or share in a lottery game shall bear a unique
45 distinguishable serial number.

1 3. The sale of tickets or shares at a discount for promotional
2 purposes.

3 4. The prize structure of lottery games, including the number and size
4 of prizes available. Available prizes may include free tickets in lottery
5 games and merchandise prizes.

6 5. The frequency of drawings, if any, or other selections of winning
7 tickets or shares, except that:

8 (a) All drawings shall be open to the public.

9 (b) The actual selection of winning tickets or shares may not be
10 performed by an employee or member of the commission.

11 (c) Noncomputerized online game drawings shall be witnessed by an
12 independent observer.

13 6. Requirements for eligibility for participation in grand drawings or
14 other runoff drawings, including requirements for the submission of evidence
15 of eligibility within a shorter period than that provided for claims by
16 section 5-568.

17 7. Incentive and bonus programs designed to increase sales of lottery
18 tickets or shares and to produce the maximum amount of net revenue for this
19 state.

20 D. Notwithstanding title 41, chapter 6 and subsection B of this
21 section, the director, subject to the approval of the commission, may
22 establish a policy, procedure or practice that relates to an existing online
23 game or a new online game that is the same type and has the same type of game
24 play-style as an online game currently being conducted by the lottery or may
25 modify an existing rule for an existing online game or a new online game that
26 is the same type and has the same type of game play-style as an online game
27 currently being conducted by the lottery, including establishing or modifying
28 the matrix for an online game by giving notice of the establishment or
29 modification at least thirty days before the effective date of the
30 establishment or modification.

31 E. The commission shall maintain and make the following information
32 available for public inspection at its offices during regular business hours:

33 1. A detailed listing of the estimated number of prizes of each
34 particular denomination expected to be awarded in any instant game currently
35 on sale.

36 2. After the end of the claim period prescribed by section 5-568, a
37 listing of the total number of tickets or shares sold and the number of
38 prizes of each particular denomination awarded in each lottery game.

39 3. Definitions of all play symbols and other characters used in each
40 lottery game and instructions on how to play and how to win each lottery
41 game.

42 F. Any information that is maintained by the commission and that would
43 assist a person in locating or identifying a winning ticket or share or that
44 would otherwise compromise the integrity of any lottery game is deemed
45 confidential and is not subject to public inspection.

1 G. The commission, in addition to other games authorized by this
2 article, shall establish two special games for each year to be conducted
3 concurrently with other lottery games authorized under subsection B of this
4 section. The monies for prizes, for operating expenses and for payment to
5 the ~~commerce and economic development commission~~ ARIZONA COMPETES fund, as
6 provided in section 5-572, subsection ~~A, paragraph 2~~ B, shall be accounted
7 for separately as nearly as practicable in the lottery commission's general
8 accounting system. The monies shall be derived from the revenues of the
9 special games, and monies for prizes do not become an expense to the lottery
10 commission's annual appropriation as provided in section 5-555, subsection D
11 and section 5-572, subsection ~~J~~ I. Monies saved from the revenues of the
12 special games, by reason of operating efficiencies, shall become other
13 revenue of the lottery commission and revert to the state general fund.

14 H. The commission, in addition to other games authorized by this
15 article, may establish multistate lottery games to be conducted concurrently
16 with other lottery games authorized under subsections B and G of this
17 section. The monies for prizes, for operating expenses and for payment to
18 the state general fund shall be accounted for separately as nearly as
19 practicable in the lottery commission's general accounting system. The
20 monies shall be derived from the revenues of multistate lottery games.

21 I. The commission, in addition to other games authorized by this
22 article, shall establish special instant ticket games with play areas
23 protected by paper tabs designated for use by charitable organizations. The
24 monies for prizes and for operating expenses shall be accounted for
25 separately as nearly as practicable in the lottery commission's general
26 accounting system. Monies saved from the revenues of the special games, by
27 reason of operating efficiencies, shall become other revenue of the lottery
28 commission and revert to the state general fund.

29 J. The commission or director shall not establish or operate any
30 online or electronic keno game or any game played on the internet.

31 K. The commission or director shall not establish or operate any
32 lottery game or any type of game play-style, either individually or in
33 combination, that uses gaming devices or video lottery terminals as those
34 terms are used in section 5-601.02, including monitor games that produce or
35 display outcomes or results more than once per hour.

36 L. The director shall print, in a prominent location on each lottery
37 ticket or share, a statement that help is available if a person has a problem
38 with gambling and a toll-free telephone number where problem gambling
39 assistance is available. The director shall require all licensed agents to
40 post a sign with the statement that help is available if a person has a
41 problem with gambling and the toll-free telephone number at the point of sale
42 as prescribed and supplied by the director. The requirements of this
43 subsection apply to tickets and shares printed after July 18, 2000.

1 M. For the purposes of this section:

2 1. "Charitable organization" means any nonprofit organization,
3 including not more than one auxiliary of that organization, that has operated
4 for charitable purposes in this state for at least two years before
5 submitting a license application under this article.

6 2. "Game play-style" means the process or procedure that a player must
7 follow to determine if a lottery ticket or share is a winning ticket or
8 share.

9 3. "Matrix" means the odds of winning a prize and the prize payout
10 amounts in a given game.

11 Sec. 5. Section 5-555, Arizona Revised Statutes, is amended to read:
12 5-555. Apportionment of revenue

13 A. Not more than eighteen and one-half per cent of the total annual
14 revenues accruing from the sale of lottery tickets or shares and from all
15 other sources and not more than fifteen per cent of the total annual revenues
16 from the sale of special instant games authorized under section 5-554,
17 subsection I shall be deposited in the state lottery fund established by
18 section 5-571 to be expended for the following:

19 1. The payment of costs incurred in the operation and administration
20 of the lottery, including the expenses of the commission and the costs
21 resulting from any contract or contracts entered into for consulting or
22 operational services.

23 2. Independent audits, which shall be performed annually in addition
24 to the audits required by section 5-574.

25 3. Incentive programs for lottery sales agents and lottery employees.

26 4. Payment of compensation to licensed sales agents necessary to
27 provide for the adequate availability of tickets or services to prospective
28 buyers and for the convenience of the public. Except as otherwise provided
29 in this paragraph, compensation of licensed sales agents shall be at least
30 five and one-half per cent but not more than eight per cent of the price of
31 each ticket or share that a retail sales agent sells in instant games and
32 online games, less the price of any tickets or shares that are voided.
33 Compensation of a licensed sales agent who is designated as a charitable
34 organization as defined in section 5-554 shall be twenty per cent of the
35 price of each special instant game authorized under section 5-554,
36 subsection I.

37 5. The payment of reasonable fees to redemption agents as authorized
38 by section 5-569.

39 6. The purchase or lease of lottery equipment, tickets and materials.

40 B. Not less than fifty per cent of the total annual revenues accruing
41 from the sale of lottery tickets or shares shall be deposited in the state
42 lottery prize fund established by section 5-573 for payment of prizes to the
43 holders of winning tickets or shares or for other purposes provided for in
44 section 5-568.

1 C. All other revenues accruing from the sale of lottery tickets or
2 shares in online games or instant games shall be deposited in the state
3 lottery fund established by section 5-571 to be used as prescribed by section
4 5-572.

5 D. Except for monies for prizes expended as provided in section 5-554,
6 subsection G and section ~~41-1505.10~~ 41-1545.01, monies expended under
7 subsection A of this section shall be subject to legislative appropriation.

8 Sec. 6. Section 5-572, Arizona Revised Statutes, is amended to read:
9 5-572. Use of monies in state lottery fund; report

10 A. If there are any bonds or bond related obligations payable from the
11 state lottery revenue bond debt service fund, the state lottery revenue bond
12 debt service fund shall be secured by a first lien on the monies in the state
13 lottery fund after the payment of operating costs of the lottery, as
14 prescribed in section 5-555, subsection A, paragraph 1, until the state
15 lottery bond debt service fund contains sufficient monies to meet all the
16 requirements for the current period as required by the bond documents. Debt
17 service for revenue bonds issued pursuant to this chapter shall be paid first
18 from monies that would have otherwise been deposited pursuant to this section
19 in the state general fund. After the requirements for the current period
20 have been satisfied as required by the bond documents, the monies in the
21 state lottery fund shall be expended ~~only for the following purposes and in~~
22 ~~the order provided:~~

23 ~~1.~~ for the expenses of the commission incurred in carrying out its
24 powers and duties and in the operation of the lottery.

25 ~~2. For payment to the commerce and economic development commission~~
26 ~~fund established by section 41-1505.10 of not less than twenty one and~~
27 ~~one half per cent of the revenues received from the sale of two special~~
28 ~~lottery games conducted for the benefit of economic development.~~

29 B. OF THE MONIES REMAINING IN THE STATE LOTTERY FUND EACH FISCAL YEAR
30 AFTER APPROPRIATIONS AND DEPOSITS AUTHORIZED IN SUBSECTION A OF THIS SECTION,
31 THREE MILLION FIVE HUNDRED THOUSAND DOLLARS SHALL BE DEPOSITED IN THE ARIZONA
32 COMPETES FUND ESTABLISHED BY SECTION 41-1545.01.

33 ~~B.~~ C. Of the monies remaining in the state lottery fund each fiscal
34 year after appropriations and deposits authorized in ~~subsection~~ SUBSECTIONS A
35 AND B of this section, ten million dollars shall be deposited in the Arizona
36 game and fish commission heritage fund established by section 17-297.

37 ~~C.~~ D. Of the monies remaining in the state lottery fund each fiscal
38 year after appropriations and deposits authorized in subsections A, ~~and~~ B AND
39 C of this section, five million dollars shall be allocated to the department
40 of economic security for the healthy families program established by section
41 8-701, four million dollars shall be allocated to the Arizona board of
42 regents for the Arizona area health education system established by section
43 15-1643, three million dollars shall be allocated to the department of health
44 services to fund the teenage pregnancy prevention programs established in
45 Laws 1995, chapter 190, sections 2 and 3, two million dollars shall be

1 allocated to the department of health services for the health start program
2 established by section 36-697, two million dollars shall be deposited in the
3 disease control research fund established by section 36-274 and one million
4 dollars shall be allocated to the department of health services for the
5 federal women, infants and children food program. The allocations in this
6 subsection shall be adjusted annually according to changes in the GDP price
7 deflator as defined in section 41-563 and the allocations are exempt from the
8 provisions of section 35-190 relating to lapsing of appropriations. If there
9 are not sufficient monies available pursuant to this subsection, the
10 allocation of monies for each program shall be reduced on a pro rata basis.

11 ~~D.~~ E. If the state lottery director determines that monies available
12 to the state general fund may not equal eighty million six hundred fifty
13 thousand dollars in a fiscal year, the director shall not authorize deposits
14 to the Arizona game and fish commission heritage fund pursuant to subsection
15 B of this section until the deposits to the state general fund equal eighty
16 million six hundred fifty thousand dollars in a fiscal year.

17 ~~E.~~ F. Of the monies remaining in the state lottery fund each fiscal
18 year after appropriations and deposits authorized in subsections A through ~~D~~
19 E of this section, one million dollars or the remaining balance in the fund,
20 whichever is less, is appropriated to the department of economic security for
21 grants to nonprofit organizations, including faith based organizations, for
22 homeless emergency and transitional shelters and related support
23 services. The department of economic security shall submit a report on the
24 amounts, recipients, purposes and results of each grant to the governor, the
25 speaker of the house of representatives and the president of the senate on or
26 before December 31 of each year for the prior fiscal year and shall provide a
27 copy of this report to the secretary of state.

28 ~~F.~~ G. Of the monies remaining in the state lottery fund each fiscal
29 year after appropriations and deposits authorized in subsections A through ~~E~~
30 F of this section, and after a total of at least ninety-six million one
31 hundred forty thousand dollars has been deposited in the state general fund,
32 the remaining balance in the state lottery fund shall be deposited in the
33 university capital improvement lease-to-own and bond fund established by
34 section 15-1682.03, up to a maximum of eighty per cent of the total annual
35 payments of lease-to-own and bond agreements entered into by the Arizona
36 board of regents.

37 ~~G.~~ H. All monies remaining in the state lottery fund after the
38 appropriations and deposits authorized in this section shall be deposited in
39 the state general fund.

40 ~~H.~~ I. Except for monies expended for prizes as provided in section
41 5-554, subsection G and section ~~41-1505.10~~ 41-1545.01 and for debt service of
42 revenue bonds as provided in subsection A of this section, monies expended
43 under subsection A of this section are subject to legislative appropriation.

1 Sec. 7. Section 15-213.01, Arizona Revised Statutes, as amended by
2 Laws 2009, chapter 101, section 1, is amended to read:

3 15-213.01. Procurement practices: guaranteed energy cost
4 savings contracts: definitions

5 A. Notwithstanding section 15-213, subsection A, a school district may
6 contract for the procurement of a guaranteed energy cost savings contract
7 with a qualified provider through a competitive sealed proposal process as
8 provided by the procurement practices adopted by the state board of
9 education.

10 B. A school district may enter into a guaranteed energy cost savings
11 contract with a qualified provider if it determines that the amount it would
12 spend on the energy cost savings measures recommended in the proposal would
13 not exceed the amount to be saved in energy and operational costs over the
14 expected life of the energy cost savings measures implemented or within
15 twenty-five years, whichever is shorter, after the date installation or
16 implementation is complete, if the recommendations in the proposal are
17 followed. The school district shall retain the cost savings achieved by a
18 guaranteed energy cost saving contract, and these cost savings may be used to
19 pay for the contract and project implementation. A school district shall not
20 use excess utilities monies for the contract or for project implementation.

21 C. The school district shall use objective criteria in selecting the
22 qualified provider, including the cost of the contract, the energy and
23 operational cost savings, the net projected energy savings, the quality of
24 the technical approach, the quality of the project management plan, the
25 financial solvency of the qualified provider and the experience of the
26 qualified provider with projects of similar size and scope. The school
27 district shall set forth each criterion with its respective numerical
28 weighting in the request for proposal.

29 D. In selecting a contractor to perform any construction work related
30 to performing the guaranteed energy cost savings contract, the qualified
31 provider may develop and use a prequalification process for contractors.
32 These prequalifications may require the contractor to demonstrate that the
33 contractor is adequately bonded to perform the work and that the contractor
34 has not failed to perform on a prior job.

35 E. A study shall be performed by the selected qualified provider in
36 order to establish the exact scope of the guaranteed energy cost savings
37 contract, the fixed cost savings guarantee amount and the methodology for
38 determining actual savings. This report shall be reviewed and approved by
39 the school district before the actual installation of any equipment. The
40 qualified provider shall transmit a copy of the approved study to the school
41 facilities board and the ~~department of commerce~~ GOVERNOR'S energy office.

42 F. The guaranteed energy cost savings contract shall require that, in
43 determining whether the projected energy savings calculations have been met,
44 the energy or operational cost savings shall be computed by comparing the
45 energy baseline before installation or implementation of the energy cost

1 savings measures with the energy consumed and operational costs avoided after
2 installation or implementation of the energy cost savings measures. The
3 qualified provider and the school district may agree to make modifications to
4 the energy baseline only for any of the following:

- 5 1. Changes in utility rates.
- 6 2. Changes in the number of days in the utility billing cycle.
- 7 3. Changes in the square footage of the facility.
- 8 4. Changes in the operational schedule of the facility.
- 9 5. Changes in facility temperature.
- 10 6. Significant changes in the weather.
- 11 7. Significant changes in the amount of equipment or lighting utilized
12 in the facility.

13 8. Significant changes in the nature or intensity of energy use such
14 as the change of classroom space to laboratory space.

15 G. The information to develop the energy baseline shall be derived
16 from actual energy measurements or shall be calculated from energy
17 measurements at the facility where energy cost savings measures are to be
18 installed or implemented. The measurements shall be taken in the year
19 preceding the installation or implementation of energy cost savings measures.

20 H. When submitting a proposal for the installation of equipment, the
21 qualified provider shall include information on the projected energy savings
22 associated with each proposed energy cost savings measure.

23 I. A school district, or two or more school districts, may enter into
24 an installment payment contract or lease-purchase agreement with a qualified
25 provider for the purchase and installation or implementation of energy cost
26 savings measures. The guaranteed energy cost savings contract may provide
27 for payments over a period of not more than the expected life of the energy
28 cost savings measures implemented or twenty-five years, whichever is shorter.
29 The contract shall provide that all payments, except obligations on
30 termination of the contract before its expiration, shall be made over time.

31 J. The guaranteed energy cost savings contract shall include a written
32 guarantee of the qualified provider that either the energy or operational
33 costs savings, or both, will meet or exceed the costs of the energy cost
34 savings measures over the expected life of the energy cost savings measures
35 implemented or within twenty-five years, whichever is shorter. The qualified
36 provider shall:

37 1. For the first three years of savings, prepare a measurement and
38 verification report on an annual basis in addition to an annual
39 reconciliation of savings.

40 2. Reimburse the school district for any shortfall of guaranteed
41 energy cost savings on an annual basis.

42 K. The school district may obtain any required financing as part of
43 the original competitive sealed proposal process from the qualified provider
44 or a third-party financing institution.

1 L. A qualified provider that is awarded the contract shall give a
2 sufficient bond to the school district for its faithful performance of the
3 equipment installment.

4 M. The qualified provider is required to make public information in
5 the subcontractor's bids only if the qualified provider is awarded the
6 guaranteed energy cost savings contract by the school district.

7 N. For all projects carried out under this section, the district shall
8 report to the ~~department of commerce~~ GOVERNOR'S energy office and the school
9 facilities board:

- 10 1. The name of the project.
- 11 2. The qualified provider.
- 12 3. The total cost of the project.
- 13 4. The expected energy and cost savings.

14 O. For all projects carried out under this section, the district shall
15 report to the school facilities board, by October 15 each year, the actual
16 energy and cost savings.

17 P. This section does not apply to the construction of new buildings.

18 Q. A school district may utilize a simplified energy performance
19 contract for projects less than five hundred thousand dollars. Simplified
20 energy performance contracts are not required to include an energy savings
21 guarantee and shall comply with all requirements in this section except for
22 the requirements that are specifically related to the energy savings
23 guarantee and the measurement and verification of the guaranteed savings.

24 R. For the purposes of this section:

25 1. "Construction" means the process of building, altering, repairing,
26 improving or demolishing any school district structure or building, or other
27 public improvements of any kind to any school district real property.
28 Construction does not include the routine operation, routine repair or
29 routine maintenance of existing structures, buildings or real property.

30 2. "Energy baseline" means a calculation of the amount of energy used
31 in an existing facility before the installation or implementation of the
32 energy cost savings measures.

33 3. "Energy cost savings measure" means a training program or facility
34 alteration designed to reduce energy consumption or operating costs and may
35 include one or more of the following, and any related meters or other
36 measuring devices:

37 (a) Insulating the building structure or systems in the building.

38 (b) Storm windows or doors, caulking or weather stripping, multiglazed
39 windows or door systems, additional glazing, reductions in glass area, or
40 other window and door system modifications that reduce energy consumption.

41 (c) Automated or computerized energy control systems.

42 (d) Heating, ventilating or air conditioning system modifications or
43 replacements.

- 1 (e) Replacing or modifying lighting fixtures to increase the energy
2 efficiency of the lighting system without increasing the overall illumination
3 of a facility unless an increase in illumination is necessary to conform to
4 the applicable state or local building code for the lighting system after the
5 proposed modifications are made.
- 6 (f) Indoor air quality improvements to increase air quality that
7 conform to the applicable state or local building code requirements.
- 8 (g) Energy recovery systems.
- 9 (h) Installing a new or retrofitting an existing day lighting system.
- 10 (i) Any life safety measures that provide long-term operating cost
11 reductions and that comply with state and local codes.
- 12 (j) Implementing operation programs through education, training and
13 software that reduce the operating costs.
- 14 (k) Procurement of low-cost utility supplies of all types, including
15 electricity, natural gas, propane and water.
- 16 (l) Devices that reduce water consumption and water costs or that
17 reduce sewer charges.
- 18 (m) Rainwater harvesting systems.
- 19 (n) Combined heat and power systems.
- 20 (o) Renewable and alternative energy projects and renewable energy
21 power service agreements.
- 22 (p) Self-generation systems.
- 23 (q) Any additional building systems and infrastructure that produce
24 energy, or that provide utility or operational cost savings not specifically
25 mentioned in this paragraph, if the improvements meet the life cycle cost
26 requirement and enhance building system performance or occupant comfort and
27 safety.
- 28 4. "Guaranteed energy cost savings contract" means a contract for
29 implementing one or more energy cost savings measures.
- 30 5. "Life cycle cost" means the sum of present values of investment
31 costs, capital costs, installation costs, energy costs, operating costs,
32 maintenance costs and disposal costs over the life of the project, product or
33 measure as provided by federal life cycle cost rules, regulations and
34 criteria contained in the United States department of energy federal energy
35 management program "guidance on life-cycle cost analysis" required by
36 executive order 13423, January 2007.
- 37 6. "Operational savings" means reductions in actual budget line items
38 currently being expended or savings realized from the implementation or
39 installation of energy cost savings measures.
- 40 7. "Qualified provider" means a person or a business experienced in
41 designing, implementing or installing energy cost savings measures.

1 Sec. 8. Section 15-972, Arizona Revised Statutes, as amended by Laws
2 2010, Seventh Special Session, chapter 8, section 5, is amended to read:

3 15-972. State limitation on homeowner property taxes:
4 additional state aid to school districts: definitions

5 A. Notwithstanding section 15-971, there shall be additional state aid
6 for education computed for school districts as provided in subsection B of
7 this section.

8 B. The clerk of the board of supervisors shall compute such additional
9 state aid for education as follows:

10 1. For a high school district or for a common school district within a
11 high school district which does not offer instruction in high school subjects
12 as provided in section 15-447:

13 (a) Determine the qualifying tax rate pursuant to section 41-1276 for
14 the school district.

15 (b) Determine the following percentage of the qualifying tax rate
16 determined in subdivision (a) of this paragraph:

17 (i) Thirty-five per cent through December 31, 2005.

18 (ii) Thirty-six per cent beginning from and after December 31, 2005
19 through December 31, 2006.

20 (iii) Thirty-seven per cent beginning from and after December 31, 2006
21 through December 31, 2007.

22 (iv) Thirty-eight per cent beginning from and after December 31, 2007
23 through December 31, 2008.

24 (v) Thirty-nine per cent beginning from and after December 31, 2008
25 through December 31, 2009.

26 (vi) Forty per cent beginning from and after December 31, 2009.

27 (vii) **SUCH FURTHER ADJUSTMENTS OF THE PERCENTAGE BEGINNING FROM AND**
28 **AFTER DECEMBER 31, 2012 AS PROVIDED BY LAW.**

29 (c) Select the lesser of the amount determined in subdivision (b) of
30 this paragraph or forty per cent of the primary property tax rate that would
31 be levied in lieu of the provisions of this section for the district.

32 (d) Multiply the rate selected in subdivision (c) of this paragraph as
33 a rate per one hundred dollars assessed valuation by the assessed valuation
34 used for primary property taxes of the residential property in the school
35 district.

36 2. For a unified school district, for a common school district not
37 within a high school district or for a common school district which offers
38 instruction in high school subjects as provided in section 15-447:

39 (a) Determine the qualifying tax rate pursuant to section 41-1276 for
40 the school district.

41 (b) Determine the following percentage of the tax rate determined in
42 subdivision (a) of this paragraph:

43 (i) Thirty-five per cent through December 31, 2005.

44 (ii) Thirty-six per cent beginning from and after December 31, 2005
45 through December 31, 2006.

1 (iii) Thirty-seven per cent beginning from and after December 31, 2006
2 through December 31, 2007.

3 (iv) Thirty-eight per cent beginning from and after December 31, 2007
4 through December 31, 2008.

5 (v) Thirty-nine per cent beginning from and after December 31, 2008
6 through December 31, 2009.

7 (vi) Forty per cent beginning from and after December 31, 2009.

8 (vii) SUCH FURTHER ADJUSTMENTS OF THE PERCENTAGE BEGINNING FROM AND
9 AFTER DECEMBER 31, 2012 AS PROVIDED BY LAW.

10 (c) Select the lesser of the amount determined in subdivision (b) of
11 this paragraph or forty per cent of the primary property tax rate that would
12 be levied in lieu of the provisions of this section for the district.

13 (d) Multiply the rate selected in subdivision (c) of this paragraph as
14 a rate per one hundred dollars assessed valuation by the assessed valuation
15 used for primary property taxes of the residential property in the district.

16 C. The clerk of the board of supervisors shall report to the
17 department of revenue not later than the Friday following the third Monday in
18 August of each year the amount by school district of additional state aid for
19 education and the data used for computing the amount as provided in
20 subsection B of this section. The department of revenue shall verify all of
21 the amounts and report to the county board of supervisors not later than
22 August 30 of each year the property tax rate or rates which shall be used for
23 property tax reduction as provided in subsection E of this section.

24 D. The board of supervisors shall reduce the property tax rate or
25 rates that would be levied in lieu of the provisions of this section by the
26 school district or districts on the assessed valuation used for primary
27 property taxes of the residential property in the school district or
28 districts by the rate or rates selected in subsection B, paragraph 1,
29 subdivision (c) and paragraph 2, subdivision (c) of this section. The excess
30 of the reduction in property taxes for a parcel of property resulting from
31 the reduction in the property tax rate pursuant to this subsection over the
32 amounts listed in this subsection shall be deducted from the amount of
33 additional state aid for education. The reduction in property taxes on a
34 parcel of property resulting from the reduction in the property tax rate
35 pursuant to this subsection shall not exceed the following amounts except as
36 provided in subsection I of this section:

37 1. Five hundred dollars through December 31, 2005.

38 2. Five hundred twenty dollars beginning from and after December 31,
39 2005 through December 31, 2006.

40 3. Five hundred forty dollars beginning from and after December 31,
41 2006 through December 31, 2007.

42 4. Five hundred sixty dollars beginning from and after December 31,
43 2007 through December 31, 2008.

44 5. Five hundred eighty dollars beginning from and after December 31,
45 2008 through December 31, 2009.

1 6. Six hundred dollars beginning from and after December 31, 2009.

2 E. Prior to the levying of taxes for school purposes the board of
3 supervisors shall determine whether the total primary property taxes to be
4 levied for all taxing jurisdictions on each parcel of residential property,
5 in lieu of the provisions of this subsection, violate article IX, section 18,
6 Constitution of Arizona. For those properties that qualify for property tax
7 exemptions pursuant to article IX, sections 2, 2.1 and 2.2, Constitution of
8 Arizona, eligibility for the credit is determined on the basis of the limited
9 property value that corresponds to the taxable assessed value after reduction
10 for the applicable exemption. If the board of supervisors determines that
11 such a situation exists, the board shall apply a credit against the primary
12 property taxes due from each such parcel in the amount in excess of article
13 IX, section 18, Constitution of Arizona. Such excess amounts shall also be
14 additional state aid for education for the school district or districts in
15 which such parcel of property is located.

16 F. The clerk of the board of supervisors shall report to the
17 department of revenue not later than September 5 of each year the amount by
18 school district of additional state aid for education and the data used for
19 computing the amount as provided in subsection B of this section. The
20 department of revenue shall verify all of the amounts and report to the board
21 of supervisors not later than September 10 of each year the property tax rate
22 which shall be used for property tax reduction as provided in subsection E of
23 this section.

24 G. The clerk of the board of supervisors shall report to the
25 department of revenue not later than September 30 of each year in writing the
26 following:

27 1. The data processing specifications used in the calculations
28 provided for in subsections B and E of this section.

29 2. At a minimum, copies of two actual tax bills for residential
30 property for each distinct tax area.

31 H. The department of revenue shall report to the state board of
32 education not later than October 12 of each year the amount by school
33 district of additional state aid for education as provided in this section.
34 The additional state aid for education provided in this section shall be
35 apportioned as provided in section 15-973.

36 I. If a parcel of property is owned by a cooperative apartment
37 corporation or is owned by the tenants of a cooperative apartment corporation
38 as tenants in common, the reduction in the property taxes prescribed in
39 subsection D of this section shall not exceed the amounts listed in
40 subsection D of this section for each owner occupied housing unit on the
41 property. The assessed value used for determining the reduction in taxes for
42 the property is equal to the total assessed value of the property times the
43 ratio of the number of owner occupied housing units to the total number of
44 housing units on the property. For the purposes of this subsection,
45 "cooperative apartment corporation" means a corporation:

1 1. Having only one class of outstanding stock.

2 2. All of the stockholders of which are entitled, solely by reason of
3 their ownership of stock in the corporation, to occupy for dwelling purposes
4 apartments in a building owned or leased by such corporation and who are not
5 entitled, either conditionally or unconditionally, except upon a complete or
6 partial liquidation of the corporation, to receive any distribution not out
7 of earnings and profits of the corporation.

8 3. Eighty per cent or more of the gross income of which is derived
9 from tenant-stockholders. For the purposes of this paragraph, "gross income"
10 means gross income as defined by the United States internal revenue code, as
11 defined in section 43-105.

12 J. The total amount of state monies that may be spent in any fiscal
13 year for state aid for education in this section shall not exceed the amount
14 appropriated or authorized by section 35-173 for that purpose. This section
15 shall not be construed to impose a duty on an officer, agent or employee of
16 this state to discharge a responsibility or to create any right in a person
17 or group if the discharge or right would require an expenditure of state
18 monies in excess of the expenditure authorized by legislative appropriation
19 for that specific purpose.

20 K. For the purposes of this section:

21 1. "Owner" includes any purchaser under a contract of sale or under a
22 deed of trust.

23 2. "Residential property" includes ~~all~~ owner occupied real property
24 and improvements to the property and ~~all~~ owner occupied mobile homes that are
25 used ~~for residential purposes~~ AS THE OWNER'S PRIMARY RESIDENCE AND CLASSIFIED
26 AS CLASS THREE PROPERTY PURSUANT TO SECTION 42-12003.

27 Sec. 9. Section 15-1682.03, Arizona Revised Statutes, is amended to
28 read:

29 15-1682.03. University capital improvement lease-to-own and
30 bond fund; lease-to-own and bond capital
31 improvement agreements

32 A. The university capital improvement lease-to-own and bond fund is
33 established consisting of the monies provided by the Arizona board of regents
34 pursuant to this section, monies deposited pursuant to section 5-522 and
35 monies appropriated by the legislature. The board shall administer the fund.
36 On notice from the board, the state treasurer shall invest and divest monies
37 in the fund as provided by section 35-313, and monies earned from investment
38 shall be credited to the fund. Monies in the fund are exempt from the
39 provisions of section 35-190 relating to lapsing of appropriations.

40 B. Through revenues of the state university system, the board shall
41 annually provide monies to the fund of at least twenty per cent of the
42 aggregate annual payments of lease-to-own and bond agreements entered into by
43 the board pursuant to this section.

44 C. The board shall distribute monies in the fund to make payments
45 pursuant to lease-to-own and bond agreements entered into by the board

1 pursuant to this section. The board may enter into lease-to-own and bond
2 agreements for the purposes of building renewal projects and new facilities.
3 New lease-to-own and bond agreements entered into pursuant to this section
4 shall not exceed one hundred sixty-seven million six hundred seventy-one
5 thousand two hundred dollars in fiscal year 2008-2009 and four hundred
6 million dollars in fiscal year 2009-2010. The board may enter into
7 lease-to-own and bond transactions up to a maximum of eight hundred million
8 dollars.

9 D. Notwithstanding section 5-522, subsection ~~F~~ G, the amount of state
10 lottery revenues distributed to the university capital improvement
11 lease-to-own and bond fund in fiscal year 2009-2010 and fiscal year 2010-2011
12 shall not exceed an amount sufficient for up to eighty per cent of the annual
13 payments of the first one hundred sixty-seven million six hundred seventy-one
14 thousand two hundred dollars of new lease-to-own and bond agreements entered
15 into pursuant to this section. The full amount of state lottery revenues
16 distributed to the university capital improvement lease-to-own and bond fund
17 pursuant to section 5-522, subsection ~~F~~ G shall be made available to the
18 board for the remaining new lease-to-own and bond agreements up to eight
19 hundred million dollars beginning in fiscal year 2011-2012.

20 E. In entering into lease-to-own and bond agreements pursuant to this
21 section, the board shall not obligate this state to provide any additional
22 monies from the state lottery fund above the amounts authorized in this
23 section and section 5-522, subsection ~~F~~ G. In entering into lease-to-own
24 and bond agreements pursuant to this section, the board shall not obligate
25 any state general fund monies.

26 Sec. 10. Title 20, chapter 2, article 1, Arizona Revised Statutes, is
27 amended by adding section 20-224.03, to read:

28 20-224.03. Premium tax credit for new employment

29 A. A CREDIT IS ALLOWED AGAINST THE PREMIUM TAX LIABILITY IMPOSED
30 PURSUANT TO SECTION 20-224, 20-837, 20-1010, 20-1060 OR 20-1097.07 FOR NET
31 INCREASES IN FULL-TIME EMPLOYEES HIRED IN QUALIFIED EMPLOYMENT POSITIONS AS
32 CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1525. A
33 TAX CREDIT IS NOT ALLOWED AGAINST THE PORTION OF THE TAX PAYABLE TO THE FIRE
34 FIGHTERS' RELIEF AND PENSION FUND PURSUANT TO SECTION 20-224 OR THE PORTION
35 OF THE TAX PAYABLE TO THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM PURSUANT
36 TO SECTION 20-224.01.

37 B. SUBJECT TO SUBSECTION E OF THIS SECTION, THE AMOUNT OF THE TAX
38 CREDIT IS EQUAL TO THREE THOUSAND DOLLARS FOR EACH FULL-TIME EMPLOYEE HIRED
39 FOR THE FULL TAXABLE YEAR IN A QUALIFIED EMPLOYMENT POSITION IN EACH OF THE
40 FIRST THREE YEARS OF EMPLOYMENT, BUT NOT MORE THAN FOUR HUNDRED EMPLOYEES IN
41 ANY TAXABLE YEAR.

42 C. TO QUALIFY FOR A CREDIT UNDER THIS SECTION, THE INSURER AND THE
43 EMPLOYMENT POSITIONS MUST MEET THE REQUIREMENTS PRESCRIBED BY SECTION
44 41-1525.

1 D. A CREDIT IS ALLOWED FOR EMPLOYMENT IN THE SECOND AND THIRD YEAR
2 ONLY FOR QUALIFIED EMPLOYMENT POSITIONS FOR WHICH A CREDIT WAS CLAIMED AND
3 ALLOWED IN THE FIRST YEAR.

4 E. THE NET INCREASE IN THE NUMBER OF QUALIFIED EMPLOYMENT POSITIONS IS
5 THE LESSER OF THE TOTAL NUMBER OF FILLED QUALIFIED EMPLOYMENT POSITIONS
6 CREATED DURING THE TAXABLE YEAR OR THE DIFFERENCE BETWEEN THE AVERAGE NUMBER
7 OF FULL-TIME EMPLOYEES IN THE CURRENT TAX YEAR AND THE AVERAGE NUMBER OF
8 FULL-TIME EMPLOYEES DURING THE IMMEDIATELY PRECEDING TAXABLE YEAR. THE NET
9 INCREASE IN THE NUMBER OF QUALIFIED EMPLOYMENT POSITIONS COMPUTED UNDER THIS
10 SUBSECTION MAY NOT EXCEED FOUR HUNDRED QUALIFIED EMPLOYMENT POSITIONS PER
11 TAXPAYER EACH YEAR.

12 F. A TAXPAYER WHO CLAIMS A CREDIT UNDER SECTION 20-224.04 SHALL NOT
13 CLAIM A CREDIT UNDER THIS SECTION WITH RESPECT TO THE SAME EMPLOYMENT
14 POSITIONS.

15 G. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE STATE PREMIUM TAX
16 LIABILITY, THE AMOUNT OF THE CLAIM NOT USED AS AN OFFSET AGAINST THE STATE
17 PREMIUM TAX LIABILITY MAY BE CARRIED FORWARD AS A TAX CREDIT AGAINST
18 SUBSEQUENT YEARS' STATE PREMIUM TAX LIABILITY FOR A PERIOD NOT EXCEEDING FIVE
19 TAXABLE YEARS.

20 H. IF THE BUSINESS IS SOLD OR CHANGES OWNERSHIP THROUGH
21 REORGANIZATION, STOCK PURCHASE OR MERGER, THE NEW TAXPAYER MAY CLAIM FIRST
22 YEAR CREDITS ONLY FOR THE QUALIFIED EMPLOYMENT POSITIONS THAT IT CREATED AND
23 FILLED WITH AN ELIGIBLE EMPLOYEE AFTER THE PURCHASE OR REORGANIZATION WAS
24 COMPLETE. IF A PERSON PURCHASES A TAXPAYER THAT HAD QUALIFIED FOR FIRST OR
25 SECOND YEAR CREDITS OR IF AN INSURANCE BUSINESS CHANGES OWNERSHIP THROUGH
26 REORGANIZATION, STOCK PURCHASE OR MERGER, THE NEW TAXPAYER MAY CLAIM THE
27 SECOND OR THIRD YEAR CREDITS IF IT MEETS OTHER ELIGIBILITY REQUIREMENTS OF
28 THIS SECTION. CREDITS FOR WHICH A TAXPAYER QUALIFIED BEFORE THE CHANGES
29 DESCRIBED IN THIS SUBSECTION ARE TERMINATED AND LOST AT THE TIME THE CHANGES
30 ARE IMPLEMENTED.

31 I. AN INSURER THAT CLAIMS A TAX CREDIT AGAINST STATE PREMIUM TAX
32 LIABILITY IS NOT REQUIRED TO PAY ANY ADDITIONAL RETALIATORY TAX IMPOSED
33 PURSUANT TO SECTION 20-230 AS A RESULT OF CLAIMING THAT TAX CREDIT.

34 J. A FAILURE TO TIMELY REPORT AND CERTIFY TO THE ARIZONA COMMERCE
35 AUTHORITY THE INFORMATION PRESCRIBED BY SECTION 41-1525, SUBSECTION D AND IN
36 THE MANNER PRESCRIBED BY SECTION 41-1525, SUBSECTION E DISQUALIFIES THE
37 INSURER FROM THE CREDIT UNDER THIS SECTION. THE DEPARTMENT OF INSURANCE
38 SHALL REQUIRE WRITTEN EVIDENCE OF THE TIMELY REPORT TO THE ARIZONA COMMERCE
39 AUTHORITY.

40 K. A TAX CREDIT UNDER THIS SECTION IS SUBJECT TO RECOVERY FOR A
41 VIOLATION DESCRIBED IN SECTION 41-1525, SUBSECTION G.

42 L. THE DEPARTMENT MAY ADOPT RULES NECESSARY FOR THE ADMINISTRATION OF
43 THIS SECTION.

44 Sec. 11. Section 20-224.04, Arizona Revised Statutes, is amended to
45 read:

1 20-224.04. Premium tax credit for increased employment in
2 military reuse zones; definitions

3 A. A tax credit is allowed against the premium tax liability incurred
4 by an insurer pursuant to section 20-224, 20-837, 20-1010, 20-1060 or
5 20-1097.07 for net increases in employment positions of residents of this
6 state by an insurer that is located in a military reuse zone established
7 under title 41, chapter 10, article 3. A tax credit is not allowed for the
8 portion of the tax payable to the fire fighters' relief and pension fund
9 pursuant to section 20-224 or the portion of the tax payable to the public
10 safety personnel retirement system pursuant to section 20-224.01. The amount
11 of the tax credit is a dollar amount allowed for each new employee,
12 determined as follows:

13 1. With respect to each employee other than a dislocated military base
14 employee:

15 1st year of employment	\$ 500
16 2nd year of employment	\$1,000
17 3rd year of employment	\$1,500
18 4th year of employment	\$2,000
19 5th year of employment	\$2,500

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

21 1st year of employment	\$1,000
22 2nd year of employment	\$1,500
23 3rd year of employment	\$2,000
24 4th year of employment	\$2,500
25 5th year of employment	\$3,000

26 B. Pursuant to subsection A of this section, if the allowable tax
27 credit exceeds the state premium tax liability, the amount of the claim not
28 used as an offset against the state premium tax liability may be carried
29 forward as a tax credit against subsequent years' state premium tax liability
30 for the period, not to exceed five taxable years, if the insurer remains in
31 the military reuse zone.

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

38 D. A credit is not allowed under this section with respect to an
39 employee whose place of employment is relocated by the insurer from a
40 location in this state to the military reuse zone unless the insurer
41 maintains at least the same number of employees in this state but outside the
42 zone.

43 E. A taxpayer who claims a credit under section 20-224.03 shall not
44 claim a credit under this section with respect to the same employees.

45 F. For the purposes of this section:

1 1. "Dislocated military base employee" means a civilian who previously
2 had permanent full-time civilian employment on the military facility as of
3 the date the closure of the facility was finally determined under federal
4 law, as certified by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY.

5 2. "Insurer" means any entity that is subject to premium tax liability
6 pursuant to section 20-224, 20-837, 20-1010, 20-1060 or 20-1097.07.

7 Sec. 12. Section 28-2416, Arizona Revised Statutes, is amended to
8 read:

9 28-2416. Alternative fuel vehicle special plates; stickers; use
10 of high occupancy vehicle lanes; definition

11 A. A person who owns a motor vehicle that has either been converted or
12 manufactured to use an alternative fuel as the vehicle's exclusive fuel
13 source and that is incapable of operating on any other type of fuel and the
14 alternative fuel was subject to the use fuel tax imposed pursuant to chapter
15 16 of this title before April 1, 1997 shall apply for alternative fuel
16 vehicle special plates pursuant to this section.

17 B. The department shall issue alternative fuel vehicle special plates,
18 or an alternative fuel vehicle sticker as provided in subsection D of this
19 section, to a person who satisfies all of the following:

20 1. Owns a motor vehicle that is exclusively powered by an alternative
21 fuel and that is incapable of operating on any other type of fuel.

22 2. Provides proof as follows:

23 (a) For an original equipment manufactured alternative fuel vehicle,
24 the dealer who sells the motor vehicle shall provide to the department of
25 transportation and the owner of the motor vehicle a certificate indicating:

26 (i) That the motor vehicle is exclusively powered by an alternative
27 fuel and is incapable of operating on any other type of fuel.

28 (ii) The emission classification of the motor vehicle as low,
29 inherently low, ultralow or zero.

30 (b) For a converted motor vehicle or a motor vehicle that is assembled
31 by the owner, the department of environmental quality or an agent of the
32 department of environmental quality shall provide a certificate to the
33 department of transportation and the owner of the motor vehicle indicating
34 that the motor vehicle is exclusively powered by an alternative fuel and is
35 incapable of operating on any other type of fuel.

36 3. Pays an eight dollar special plate administration fee, except that
37 vehicles that are registered pursuant to section 28-2511 are exempt from that
38 fee. The department shall deposit, pursuant to sections 35-146 and 35-147,
39 all special plate administration fees in the state highway fund established
40 by section 28-6991.

41 C. The color and design of the alternative fuel vehicle special plates
42 are subject to the approval of the ~~department of commerce~~ GOVERNOR'S energy
43 office. The director may allow a request for alternative fuel vehicle
44 special plates to be combined with a request for personalized special
45 plates. If the director allows such a combination, the request shall be in a

1 form prescribed by the director and is subject to the fees for the
2 personalized special plates in addition to the fees required for alternative
3 fuel vehicle special plates. Alternative fuel vehicle special plates are not
4 transferable, except that if the director allows alternative fuel vehicle
5 special plates to be personalized a person who is issued personalized
6 alternative fuel vehicle special plates may transfer those plates to another
7 alternative fuel vehicle for which the person is the registered owner or
8 lessee.

9 D. If a motor vehicle qualifies pursuant to this section and any other
10 special plates are issued pursuant to article 7, 8 or 13 of this chapter or
11 section 28-2514 for the motor vehicle, the department may issue an
12 alternative fuel vehicle sticker to the person who owns the motor vehicle.
13 The alternative fuel vehicle sticker shall be diamond-shaped, shall indicate
14 the type of alternative fuel used by the vehicle and shall be placed on the
15 motor vehicle as prescribed by the department.

16 E. Except as provided in section 28-337, a person may drive a motor
17 vehicle with alternative fuel vehicle special plates or an alternative fuel
18 vehicle sticker in high occupancy vehicle lanes at any time, regardless of
19 occupancy level, without penalty.

20 F. A person shall not drive a motor vehicle in a high occupancy
21 vehicle lane with an alternative fuel vehicle sticker if the motor vehicle is
22 not an alternative fuel vehicle for which an alternative fuel vehicle sticker
23 has been issued pursuant to this section. A person who violates this
24 subsection is subject to a civil penalty of three hundred fifty
25 dollars. Notwithstanding section 28-1554, the civil penalty collected
26 pursuant to this subsection shall be deposited in the state general fund.

27 G. For the purposes of section 28-337, the department shall:

28 1. Limit or suspend the issuance of alternative fuel vehicle special
29 plates.

30 2. Remove the privilege of operating in the high occupancy vehicle
31 lane with a single occupant, including the driver.

32 H. If the department publishes maps of the state highway system that
33 are distributed to the general public, the department shall indicate on those
34 maps the approximate location of alternative fuel delivery facilities that
35 are open to the public.

36 I. For the purposes of this section, "alternative fuel" has the same
37 meaning prescribed in section 1-215.

38 Sec. 13. Section 28-7282, Arizona Revised Statutes, is amended to
39 read:

40 28-7282. Economic strength project fund

41 A. An economic strength project fund is established consisting of the
42 monies allocated for projects listed by the ~~department of commerce pursuant~~
43 ~~to section 41-1513~~ ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1505,
44 SUBSECTION E.

1 B. Monies in the economic strength project fund shall be used to fund
2 projects that are recommended by the ~~commerce and economic development~~
3 ~~commission~~ ARIZONA COMMERCE AUTHORITY and that are approved by the
4 transportation board.

5 C. Monies remaining in the economic strength project fund at the end
6 of a fiscal year do not revert to the state general fund.

7 D. On notice from the board, the state treasurer shall invest and
8 divest monies in the economic strength project fund as provided by section
9 35-313, and monies earned from investment shall be credited to the fund.

10 Sec. 14. Section 28-7284, Arizona Revised Statutes, is amended to
11 read:

12 28-7284. Agreements

13 The director may enter into agreements on behalf of this state with a
14 local authority in regard to the financing, construction or maintenance of an
15 economic strength project recommended by the ~~commerce and economic~~
16 ~~development commission~~ ARIZONA COMMERCE AUTHORITY and approved by the board.

17 Sec. 15. Section 28-7286, Arizona Revised Statutes, is amended to
18 read:

19 28-7286. Board authority; construction standards; priority list
20 date

21 A. The board has final authority to approve an economic strength
22 project recommended by the ~~commerce and economic development commission~~
23 ARIZONA COMMERCE AUTHORITY. The board shall fund an approved economic
24 strength project from the economic strength project fund.

25 B. Before approving an economic strength project, the board shall
26 ensure that the project is compatible with other transportation facilities
27 and conforms to applicable construction and engineering standards of the
28 department of transportation or the appropriate local authority.

29 C. With the advice of the ~~commerce and economic development commission~~
30 ARIZONA COMMERCE AUTHORITY, the board may set an official date each year on
31 which the economic strength priority list is due to the board. The ~~commerce~~
32 ~~and economic development commission~~ ARIZONA COMMERCE AUTHORITY may provide an
33 updated priority list to the board at any time.

34 Sec. 16. Section 34-451, Arizona Revised Statutes, is amended to read:

35 34-451. Energy conservation standards for public buildings

36 A. The ~~department of commerce~~ GOVERNOR'S ENERGY OFFICE in consultation
37 with persons responsible for building systems shall adopt and publish energy
38 conservation standards for construction of all new capital projects as
39 defined in section 41-790, including buildings designed and constructed by
40 school districts, community college districts and universities. These
41 standards shall be consistent with the recommended energy conservation
42 standards of the American society of heating, refrigerating and air
43 conditioning engineers and the international energy conservation code.

44 B. The standards shall be adopted to achieve energy conservation and
45 shall allow for design flexibility.

1 C. The following state agencies shall reduce energy use in public
2 buildings that they administer by ten per cent per square foot of floor area
3 on or before July 1, 2008 and by fifteen per cent per square foot of floor
4 area on or before July 1, 2011, using July 1, 2001 through June 30, 2002 as
5 the baseline year:

- 6 1. The department of administration for its building systems.
- 7 2. The Arizona board of regents for its building systems.
- 8 3. The department of transportation for its building systems.

9 D. The ~~state~~ GOVERNOR'S energy office shall provide technical
10 assistance to the state agencies prescribed in subsection C of this
11 section. On or before July 1 of each year, the ~~state~~ energy office shall
12 measure compliance with subsection C of this section, compile the results of
13 that monitoring and report to the speaker of the house of representatives and
14 the president of the senate as to the progress of attaining the goals
15 prescribed in subsection C of this section. The ~~state~~ energy office shall
16 include in its report an explanation of the reasons for any failure to
17 achieve energy reductions in specific building systems as prescribed in
18 subsection C of this section.

19 E. All state agencies shall procure energy efficient products that are
20 certified by the United States department of energy or the United States
21 environmental protection agency as energy star or that are certified under
22 the federal energy management program in all categories that are available
23 unless the products are shown not to be cost-effective on a life cycle cost
24 basis.

25 Sec. 17. Section 36-274, Arizona Revised Statutes, is amended to read:
26 36-274. Disease control research fund; lapsing; investment

27 A. The disease control research fund is established consisting of
28 monies received from the state lottery fund pursuant to section 5-522,
29 subsection ~~E~~ D, monies appropriated by the legislature and any gifts,
30 contributions or other monies received by the commission from any source,
31 except monies from the health research fund established by section 36-275.
32 The commission shall administer the disease control research fund.

33 B. The commission may expend monies in the disease control research
34 fund for projects or services pursuant to section 36-273 and for expenses
35 incurred by the commission in carrying out the purposes of this article,
36 including filing applications and maintaining patents.

37 C. As a condition of each contract for cancer research projects or
38 services, the commission shall require that the recipient shall not use fund
39 monies for any purpose, including any administrative or building purposes,
40 other than the specific cancer research grant project contract.

41 D. Monies in the disease control research fund are exempt from the
42 provisions of section 35-190 relating to lapsing of appropriations.

43 E. On notice from the commission, the state treasurer shall invest and
44 divest monies in the disease control research fund as provided by section
45 35-313, and monies earned from investment shall be credited to the fund.

1 Sec. 18. Section 40-360.01, Arizona Revised Statutes, is amended to
2 read:

3 40-360.01. Organization and membership of the committee

4 A. The commission shall establish a power plant and transmission line
5 siting committee of Arizona.

6 B. The committee shall consist of the following members:

7 1. State attorney general or the attorney general's designee.

8 2. Director of environmental quality or the director's designee.

9 3. Director of water resources or the director's designee.

10 4. Director of the GOVERNOR'S energy office ~~of the department of~~
11 ~~commerce~~ or the director's designee.

12 5. Chairman of the Arizona corporation commission or the chairman's
13 designee.

14 6. Six members appointed by the commission to serve for a term of two
15 years of which three members shall represent the public, one member shall
16 represent incorporated cities and towns, one member shall represent counties
17 and one member shall be actively engaged in agriculture.

18 C. The attorney general or the attorney general's designee shall be
19 chairman of the committee.

20 D. The commission shall establish such procedures as provide for
21 expeditious review of the proposed siting plans and necessary consultation
22 with the person proposing the facilities, for noticing and conducting the
23 hearing provided by section 40-360.04, and for a timely decision regarding
24 the issuance of a certificate of environmental compatibility of the proposed
25 site.

26 E. Committee members appointed by the commission are eligible to
27 receive compensation of two hundred dollars for each meeting attended,
28 prorated for partial days for each meeting attended, payable from the filing
29 fee required by section 40-360.09. Committee members employed by government
30 entities are not eligible to receive compensation for their services. All
31 committee members shall be reimbursed from the filing fee required by section
32 40-360.09 for their actual and necessary expenses incurred in connection with
33 their participation in committee meetings.

34 F. The committee may utilize the staff resources of its constituent
35 agencies as well as necessary consultants. All studies required by the
36 committee shall be conducted as specified by the committee and under its
37 general direction.

38 Sec. 19. Transfer and renumber

39 Sections 41-1509, 41-1510 and 41-1515.01, Arizona Revised Statutes, are
40 transferred and renumbered for placement in title 41, chapter 1, article 1,
41 Arizona Revised Statutes, as sections 41-110, 41-111 and 41-112, Arizona
42 Revised Statutes, respectively.

1 Sec. 20. Section 41-110, Arizona Revised Statutes, as transferred and
2 renumbered by this act, is amended to read:

3 41-110. Oil overcharge fund; source of monies; uses; approval;
4 energy project loans; conditions

5 A. An oil overcharge fund is established. Monies received by the
6 state as a result of oil overcharge settlements shall be deposited, pursuant
7 to sections 35-146 and 35-147, in the fund. At least fifteen per cent of all
8 monies received shall be allocated in accordance with subsections B and C of
9 this section for loans, grants and other purposes which benefit the low
10 income population.

11 B. The ~~director~~ GOVERNOR'S ENERGY OFFICE may grant loans from the
12 principal balance of the oil overcharge fund to assist political subdivisions
13 and nonprofit organizations of this state in funding energy projects. Loans
14 may be granted in accordance with the following provisions in a manner and on
15 terms and conditions prescribed by the ~~director~~ ENERGY OFFICE:

16 1. Loans shall be made only for projects which meet legal requirements
17 imposed on the uses of oil overcharge monies.

18 2. The ~~director~~ GOVERNOR'S ENERGY OFFICE shall assess an
19 administrative fee on each loan to cover the annual cost to this state of
20 administering the loan program. Fees collected shall be deposited in the oil
21 overcharge fund. Subject to legislative appropriation and in accordance with
22 legal requirements, monies in the fund may be expended for the reasonable and
23 necessary costs of administering the fund.

24 3. Each loan shall be evidenced by a contract between the political
25 subdivision or nonprofit organization and the ~~director~~ GOVERNOR'S ENERGY
26 OFFICE, acting on behalf of this state. The contract shall provide a payment
27 schedule including principal, interest and administrative fees for the term
28 of the loan.

29 4. Each contract shall provide that the attorney general may commence
30 actions that are necessary to enforce contracts and achieve repayments of
31 loans made pursuant to this section.

32 C. Monies in the oil overcharge fund may be expended for grants and
33 other purposes which meet the applicable legal requirements imposed on their
34 use upon approval of the joint legislative budget committee.

35 D. The ~~director~~ GOVERNOR'S ENERGY OFFICE shall report annually to the
36 legislature on the status of the oil overcharge fund. The report shall
37 include a financial summary of the oil overcharge fund for the preceding
38 fiscal year with a description of the outstanding loans issued. It shall
39 also include a summary of programs and projects for which grants were awarded
40 and monies were expended. It shall include specific information regarding
41 the program's starting and completion dates, the process by which the program
42 was authorized and whether the program was authorized by the legislature or
43 the executive branch, the current status of the program and the amount
44 expended to date and whether the program is funded as a grant or a loan. The

1 report shall be submitted to the president of the senate and the speaker of
2 the house of representatives no later than December 31 of each year.

3 E. Investment earnings on the unexpended balance of the oil overcharge
4 fund shall be credited to the oil overcharge fund.

5 F. The oil overcharge fund is exempt from the requirements of section
6 35-190 relating to lapsing of appropriations.

7 Sec. 21. Section 41-111, Arizona Revised Statutes, as transferred and
8 renumbered by this act, is amended to read:

9 41-111. Solar energy advisory council; definition

10 A. There is established a solar energy advisory council consisting of
11 the following members:

12 1. The chairman of the Arizona power authority.

13 2. A member of the faculty at Arizona state university, who shall be
14 appointed by the governor.

15 3. A member of the faculty at the university of Arizona, who shall be
16 appointed by the governor.

17 4. A member of the faculty at northern Arizona university, who shall
18 be appointed by the governor.

19 5. Eleven additional persons who are appointed by the governor and who
20 shall either be knowledgeable of specific solar energy technologies or
21 representatives of private industry involved in the application of solar
22 energy to commercial, industrial or residential use.

23 6. The president of the senate and the speaker of the house of
24 representatives or their representatives shall be advisory members.

25 B. Appointments shall be made for terms of three years. Members
26 appointed pursuant to subsection A, paragraphs 2 through 5 of this section
27 shall serve at the pleasure of the governor.

28 C. Members of the council serving by virtue of their office shall
29 serve without compensation. Appointed members are eligible to receive
30 compensation as determined pursuant to section 38-611 for each day of
31 attendance at meetings.

32 D. The chairman of the council shall be selected by the governor from
33 among the members.

34 E. The council shall meet upon call of the chairman.

35 F. The council shall:

36 1. Assist and advise the ~~director~~ GOVERNOR'S ENERGY OFFICE on matters
37 relating to the development and use of solar energy and other renewable
38 energy resources including recommendations for the utilization or
39 ~~disbursements~~ DISBURSEMENT of federal and state funds for solar purposes.

40 2. Encourage efforts by research institutions, local government
41 institutions and home builders in obtaining technical and financial support
42 from the federal government for their activities in solar and advanced
43 alternate energy systems.

1 3. Identify and describe the solar energy technologies that are
2 feasible and practical in terms of short-term application of retrofit, new
3 construction and conservation projects within five years.

4 4. Identify and describe long-range programs that are feasible and
5 require significant technological development. Programs having similar
6 technological gradients shall be formulated to encompass the period of time
7 ~~from the present~~ through the year 2020.

8 5. Encourage the cooperation and direct involvement of academic,
9 business, professional and industrial sectors that are determined to have
10 special expertise or knowledge of solar energy technology.

11 6. Make recommendations to the ~~director~~ GOVERNOR'S ENERGY OFFICE on
12 standards, codes, certifications and other programs necessary for the orderly
13 and rapid commercialization and growth of solar energy use in this state for
14 consideration by the appropriate jurisdictional bodies.

15 ~~H.~~ G. No member of the ~~commission~~ COUNCIL shall obtain any pecuniary
16 or proprietary interest from any decision of the ~~commission~~ COUNCIL, either
17 direct or indirect, except a remote interest as defined in section 38-502,
18 paragraph 10.

19 ~~G.~~ H. For the purposes of this section, "advisory member" means a
20 member who gives advice to the other members of the council at meetings of
21 the council but who is not eligible to vote and is not a member for purposes
22 of determining whether a quorum is present.

23 Sec. 22. Section 41-112, Arizona Revised Statutes, as transferred and
24 renumbered by this act, is amended to read:

25 41-112. Arizona biofuels conversion program; fund; program
26 termination; definitions

27 A. The Arizona biofuels conversion program is established in the
28 ~~department~~ GOVERNOR'S ENERGY OFFICE to encourage the use of biofuels.

29 B. The Arizona biofuels conversion program fund is established
30 consisting of monies received through gifts, grants, donations, other state
31 and United States government funds or private sources.

32 C. The ~~director~~ ENERGY OFFICE shall develop a procedure for awarding
33 grants from the fund to provide for conversion of existing and installation
34 of new storage and dispensing equipment for biofuels as follows:

35 1. For commercial motor fuel dispensing sites, the procedure for
36 awarding grants shall include consideration of traffic patterns, the
37 proximity to other biofuel dispensing sites, fleet involvement, the
38 population of vehicles that uses biofuels and the costs of the project.

39 2. For county, city, town and school district motor fuel dispensing
40 sites, the procedure for awarding grants shall include consideration of the
41 project plan, the expected usage of biofuels per year for each site, the
42 number of vehicles in the fleet capable of using biofuels and the costs of
43 the project.

44 3. For wholesale manufacturing and distribution facility sites, the
45 procedure for awarding grants shall include consideration of the project

1 plan, the type of biofuel to be manufactured or distributed, an assessment of
2 potential customers for the biofuel to be manufactured or distributed, how
3 the project furthers the use of biofuels and the costs of the project.

4 D. The ~~director~~ ENERGY OFFICE shall administer the program and the
5 fund.

6 E. Subject to the availability of monies in the fund, the ~~director~~
7 ENERGY OFFICE shall award grants equal to the lesser of seventy-five thousand
8 dollars or the conversion cost per site to applicants who provide an
9 acceptable project plan that includes a detailed cost schedule and timeline
10 for the completion of the project.

11 F. Monies in the fund:

12 1. Shall be spent only for the purposes prescribed in this section,
13 except that the ~~department~~ ENERGY OFFICE may use up to five per cent of the
14 monies in the fund each year to administer the program.

15 2. Are continuously appropriated.

16 3. Are exempt from the provisions of section 35-190 relating to
17 lapsing of appropriations.

18 G. The program established by this section ends on July 1, 2015
19 pursuant to section 41-3102.

20 H. For the purposes of this section, "biofuel" and "biomass" have the
21 same meanings prescribed in section 41-2051.

22 Sec. 23. Section 41-191.09, Arizona Revised Statutes, is amended to
23 read:

24 41-191.09. Attorney general legal services cost allocation
25 fund; contributions; exemptions

26 A. The attorney general legal services cost allocation fund is
27 established for the purpose of reimbursing the department of law for general
28 agency counsel. Monies in the fund are subject to legislative appropriation.
29 The attorney general shall administer the fund.

30 B. ~~Beginning July 1, 2006,~~ All state agency appropriated and
31 nonappropriated funds shall contribute a pro rata share of general agency
32 counsel services provided by the department of law. The pro rata share is
33 payable by payroll fund source, and the resultant amount shall be deposited
34 in the attorney general legal services cost allocation fund. ~~Beginning~~
35 ~~July 1, 2007,~~ The pro rata share for each fund shall be 0.675 per cent of the
36 total payroll. For the purposes of this subsection, "total payroll" includes
37 federal monies, state general fund monies, special revenue funds,
38 intergovernmental revenue monies, trust funds and other payroll fund sources.

39 C. A claim for the pro rata share percentage payment shall be
40 submitted according to the fund source, with the accompanying payroll, to the
41 department of administration for deposit in the attorney general legal
42 services cost allocation fund.

43 D. The following agencies are exempt from this section:

44 1. The department of water resources.

45 2. The residential utility consumer office.

- 1 3. The industrial commission.
- 2 4. The universities and the Arizona board of regents.
- 3 5. The auditor general.
- 4 6. The corporation commission.
- 5 7. The office of the governor.
- 6 8. The department of law.
- 7 9. The house of representatives.
- 8 10. The senate.
- 9 11. The joint legislative budget committee.
- 10 12. The Arizona state library, archives and public records.
- 11 13. The legislative council.
- 12 14. The department of administration risk management fund.
- 13 15. The department of transportation.
- 14 16. The Arizona game and fish department.
- 15 17. The department of economic security.
- 16 18. The Arizona health care cost containment system.
- 17 19. The superior court.
- 18 20. The court of appeals.
- 19 21. The supreme court.
- 20 22. The Arizona department of agriculture and councils that receive
21 administrative and budgetary services from the Arizona department of
22 agriculture.
- 23 23. All self-supporting regulatory agencies as determined pursuant to
24 section 35-143.01.
- 25 24. **THE ARIZONA COMMERCE AUTHORITY.**
- 26 E. Monies in the attorney general legal services cost allocation fund
27 are exempt from lapsing to the state general fund at the end of each fiscal
28 year.
- 29 Sec. 24. Section 41-192, Arizona Revised Statutes, is amended to read:
30 41-192. Powers and duties of attorney general; restrictions on
31 state agencies as to legal counsel; exceptions
- 32 A. The attorney general shall have charge of and direct the department
33 of law and shall serve as chief legal officer of the state. The attorney
34 general shall:
 - 35 1. Be the legal advisor of the departments of this state and render
36 such legal services as the departments require.
 - 37 2. Establish administrative and operational policies and procedures
38 within his department.
 - 39 3. Approve long-range plans for developing departmental programs
40 therein, and coordinate the legal services required by other departments of
41 this state or other state agencies.
 - 42 4. Represent school districts and governing boards of school districts
43 in any lawsuit involving a conflict of interest with other county offices.
 - 44 5. Represent political subdivisions, school districts and
45 municipalities in suits to enforce state or federal statutes pertaining to

1 antitrust, restraint of trade or price-fixing activities or conspiracies, if
2 the attorney general notifies in writing the political subdivisions, school
3 districts and municipalities of the attorney general's intention to bring any
4 such action on its behalf. At any time within thirty days after the
5 notification, the political subdivisions, school districts and
6 municipalities, by formal resolution of its governing body, may withdraw the
7 authority of the attorney general to bring the intended action on its behalf.

8 6. In any action brought by the attorney general pursuant to state or
9 federal statutes pertaining to antitrust, restraint of trade, or price-fixing
10 activities or conspiracies for the recovery of damages by this state or any
11 of its political subdivisions, school districts or municipalities, in
12 addition to the attorney general's other powers and authority, the attorney
13 general on behalf of this state may enter into contracts relating to the
14 investigation and prosecution of such action with any other party plaintiff
15 who has brought a similar action for the recovery of damages and with whom
16 the attorney general finds it advantageous to act jointly or to share common
17 expenses or to cooperate in any manner relative to such action. In any such
18 action, notwithstanding any other laws to the contrary, the attorney general
19 may undertake, among other things, to render legal services as special
20 counsel or to obtain the legal services of special counsel from any
21 department or agency of the United States, of this state or any other state
22 or any department or agency thereof or any county, city, public corporation
23 or public district in this state or in any other state that has brought or
24 intends to bring a similar action for the recovery of damages or their duly
25 authorized legal representatives in such action.

26 7. Organize the civil rights division within the department of law and
27 administer such division pursuant to the powers and duties provided in
28 chapter 9 of this title.

29 8. Compile, publish and distribute to all state agencies, departments,
30 boards, commissions and councils, and to other persons and government
31 entities on request, at least every ten years, the Arizona agency handbook
32 that sets forth and explains the major state laws that govern state agencies,
33 including information on the laws relating to bribery, conflicts of interest,
34 contracting with the government, disclosure of public information,
35 discrimination, nepotism, financial disclosure, gifts and extra compensation,
36 incompatible employment, political activity by employees, public access and
37 misuse of public resources for personal gain. A supplement to the handbook
38 reflecting revisions to the information contained in the handbook shall be
39 compiled and distributed by the attorney general as deemed necessary.

40 B. Except as otherwise provided by law, the attorney general may:

41 1. Organize the department into such bureaus, subdivisions or units as
42 he deems most efficient and economical, and consolidate or abolish them.

43 2. Adopt rules for the orderly conduct of the business of the
44 department.

1 3. Employ and assign assistant attorneys general and other employees
2 necessary to perform the functions of the department.

3 4. Compromise or settle any action or claim by or against this state
4 or any department, board or agency of this state. If the compromise or
5 settlement involves a particular department, board or agency of this state,
6 the compromise or settlement shall be first approved by the department, board
7 or agency. If no department or agency is named or otherwise materially
8 involved, the approval of the governor shall be first obtained.

9 5. Charge reasonable fees for distributing official publications,
10 including attorney general legal opinions and the Arizona agency handbook.
11 The fees received shall be transmitted to the state treasurer for deposit in
12 the state general fund.

13 C. Assistants and employees in any legal division subject to a merit
14 system prior to March 6, 1953 shall remain subject thereto.

15 D. The powers and duties of a bureau, subdivision or unit shall be
16 limited to those assigned by law to the department.

17 E. Notwithstanding any law to the contrary, except as provided in
18 subsections F and G of this section, no state agency other than the attorney
19 general shall employ legal counsel or make an expenditure or incur an
20 indebtedness for legal services, but the following are exempt from this
21 section:

- 22 1. The director of water resources.
- 23 2. The residential utility consumer office.
- 24 3. The industrial commission.
- 25 4. The Arizona board of regents.
- 26 5. The auditor general.
- 27 6. The corporation commissioners and the corporation commission other
28 than the securities division.
- 29 7. The office of the governor.
- 30 8. The constitutional defense council.
- 31 9. The office of the state treasurer.
- 32 10. THE ARIZONA COMMERCE AUTHORITY.

33 F. If the attorney general determines that he is disqualified from
34 providing judicial or quasi-judicial legal representation or legal services
35 on behalf of any state agency in relation to any matter, the attorney general
36 shall give written notification to the state agency affected. If the agency
37 has received written notification from the attorney general that the attorney
38 general is disqualified from providing judicial or quasi-judicial legal
39 representation or legal services in relation to any particular matter, the
40 state agency is authorized to make expenditures and incur indebtedness to
41 employ attorneys to provide the representation or services.

42 G. If the attorney general and the director of the department of
43 agriculture cannot agree on the final disposition of a pesticide complaint
44 under section 3-368, if the attorney general and the director determine that
45 a conflict of interest exists as to any matter or if the attorney general and

1 the director determine that the attorney general does not have the expertise
2 or attorneys available to handle a matter, the director is authorized to make
3 expenditures and incur indebtedness to employ attorneys to provide
4 representation or services to the department with regard to that matter.

5 H. Any department or agency of this state authorized by law to
6 maintain a legal division or incur expenses for legal services from funds
7 derived from sources other than the general revenue of the state, or from any
8 special or trust fund, shall pay from such source of revenue or special or
9 trust fund into the general fund of the state, to the extent such funds are
10 available and upon a reimbursable basis for warrants drawn, the amount
11 actually expended by the department of law within legislative appropriations
12 for such legal division or legal services.

13 I. Appropriations made pursuant to subsection H of this section shall
14 not be subject to lapsing provisions otherwise provided by law. Services for
15 departments or agencies to which this subsection and subsection G of this
16 section are applicable shall be performed by special or regular assistants to
17 the attorney general.

18 J. Notwithstanding section 35-148, monies received by the attorney
19 general from charges to state agencies and political subdivisions for legal
20 services relating to interagency service agreements shall be deposited,
21 pursuant to sections 35-146 and 35-147, in an attorney general agency
22 services fund. Monies in the fund are subject to legislative appropriation
23 and are exempt from the provisions of section 35-190 relating to lapsing of
24 appropriations.

25 Sec. 25. Section 41-724, Arizona Revised Statutes, is amended to read:
26 41-724. Exemptions

27 A. The Arizona board of regents, THE ARIZONA COMMERCE AUTHORITY and
28 THE legislative and judicial branches of state government shall not be
29 subject to the provisions of this article except as prescribed by law.

30 B. The Arizona board of regents and the judicial branch of state
31 government shall be subject to the provisions of sections 35-112 and 35-113.

32 Sec. 26. Section 41-803, Arizona Revised Statutes, is amended to read:
33 41-803. Operation of state motor vehicle fleet; public service

34 announcements; energy conservation; alternative and
35 clean burning fuels; definitions

36 A. The director shall operate a motor vehicle fleet for all state
37 owned motor vehicles for the purpose of providing transportation for state
38 officers and employees, except those officers and employees of any agency or
39 department excluded by subsection E of this section. The director shall make
40 fleet motor vehicles available to state agencies and departments on the
41 request of the chosen representative for that agency or department.

42 B. The director may adopt rules necessary for the administration of
43 the motor vehicle fleet. State agencies and departments, including agencies
44 and departments listed in subsection E of this section, may accept
45 compensation for placing public service announcements on state owned motor

1 vehicles, and monies received shall be deposited, pursuant to sections 35-146
2 and 35-147, in the state general fund. The agency or department director
3 shall determine the appropriateness of the announcements, may exempt any
4 vehicles that are not suitable for advertising and may contract with private
5 parties for design and placement of the announcements.

6 C. The director shall provide for detailed cost, operation,
7 maintenance, mileage and custody records for each state owned vehicle. On or
8 before August 1 of each year, all state agencies and departments, including
9 those listed in subsection E of this section, shall make information
10 available to the director regarding vehicle cost, operation, maintenance and
11 mileage and other information as established by the director in policies and
12 procedures for the purposes of the report prescribed in subsection R of this
13 section.

14 D. Each state department and agency shall pay from available monies
15 the cost of motor vehicle services received from the state motor vehicle
16 fleet at a rate determined by the director.

17 E. The following departments and agencies are excluded from
18 participation in the state motor vehicle fleet:

- 19 1. Department of public safety.
- 20 2. Department of transportation.
- 21 3. Department of economic security.
- 22 4. State department of corrections.
- 23 5. Universities and community colleges.
- 24 6. Arizona state schools for the deaf and the blind.
- 25 7. Cotton research and protection council.
- 26 8. ARIZONA COMMERCE AUTHORITY.

27 F. The director shall appoint a person in the office of the director
28 who is the state motor vehicle fleet alternative fuel and clean burning fuel
29 coordinator. The coordinator shall develop, implement, document, monitor and
30 modify as necessary a statewide alternative fuels plan in consultation with
31 all state agencies and departments that are subject to the alternative fuel
32 and clean burning fuel requirements prescribed in this section or any other
33 law. The approval of the coordinator is required for all acquisitions of
34 vehicles pursuant to this section, except for acquisitions by community
35 college districts.

36 G. Purchases of all new motor vehicles that primarily operate in
37 counties with a population of more than two hundred fifty thousand persons
38 and that have a gross vehicle weight of eight thousand five hundred pounds or
39 less, including those agency motor vehicle fleets listed in subsection E of
40 this section, shall meet the following minimum requirements for vehicles:

- 41 1. For model year 1997, ten per cent of new motor vehicles purchased
42 shall be capable of operating on alternative fuels.
- 43 2. For model year 1998, fifteen per cent of new motor vehicles
44 purchased shall be capable of operating on alternative fuels.

1 3. For model year 1999, twenty-five per cent of new motor vehicles
2 purchased shall be capable of operating on alternative fuels.

3 4. For model year 2000, fifty per cent of new motor vehicles purchased
4 shall be capable of operating on alternative fuels.

5 5. For model year 2001 and all subsequent model years, seventy-five
6 per cent of new motor vehicles purchased shall be capable of operating on
7 alternative fuels or clean burning fuels.

8 H. Purchases of new alternative fuel and clean burning fuel vehicles
9 that have a gross vehicle weight of eight thousand five hundred pounds or
10 less shall meet the following minimum requirements for vehicles that
11 primarily operate in counties with a population of more than one million two
12 hundred thousand persons:

13 1. For model year 2000, forty per cent of new alternative fuel and
14 clean burning fuel vehicles purchased shall comply with the United States
15 environmental protection agency standards for low emission vehicles pursuant
16 to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.

17 2. For model year 2001, fifty per cent of new alternative fuel and
18 clean burning fuel vehicles purchased shall comply with the United States
19 environmental protection agency standards for low emission vehicles pursuant
20 to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.

21 3. For model year 2002, sixty per cent of new alternative fuel and
22 clean burning fuel vehicles purchased shall comply with the United States
23 environmental protection agency standards for low emission vehicles pursuant
24 to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.

25 4. For model year 2003, seventy per cent of new alternative fuel and
26 clean burning fuel vehicles purchased shall comply with the United States
27 environmental protection agency standards for low emission vehicles pursuant
28 to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.

29 I. The coordinator may waive the requirements of subsection G of this
30 section for any state agency on receipt of certification supported by
31 evidence acceptable to the coordinator that:

32 1. The agency's vehicles will be operating primarily in an area in
33 which neither the agency nor a supplier has established or can reasonably be
34 expected to establish a central refueling station for alternative fuels or
35 clean burning fuels.

36 2. The agency is unable to acquire or be provided equipment or
37 refueling facilities necessary to operate vehicles using alternative fuels or
38 clean burning fuels at a projected cost that is reasonably expected to result
39 in net costs of no greater than thirty per cent more than the net costs
40 associated with the continued use of traditional gasoline or diesel fuels
41 measured over the expected useful life of the equipment or facilities
42 supplied. Applications for waivers shall be filed with the department of
43 environmental quality pursuant to section 49-412. An entity that receives a
44 waiver pursuant to this section shall retrofit fleet heavy-duty diesel
45 vehicles with a gross vehicle weight of eight thousand five hundred pounds or

1 more that were manufactured in or before model year 1993 and that are the
2 subject of the waiver with a technology that is effective at reducing
3 particulate emissions at least twenty-five per cent or more and that has been
4 approved by the United States environmental protection agency pursuant to the
5 urban bus engine retrofit/rebuild program. The entity shall comply with the
6 implementation schedule pursuant to section 49-555.

7 J. The department of administration, through the coordinator, may
8 acquire or be provided equipment or refueling facilities necessary to operate
9 such vehicles using alternative fuels or clean burning fuels:

10 1. By purchase or lease as authorized by law.

11 2. By gift or loan of the equipment or facilities.

12 3. By gift or loan of the equipment or facilities or any other
13 arrangement pursuant to a service contract for the supply of alternative
14 fuels or clean burning fuels.

15 K. The coordinator and the ~~department of commerce~~ GOVERNOR'S energy
16 office shall develop and implement a vehicle fleet energy conservation plan
17 for the purposes of reducing vehicle fuel consumption and to encourage and
18 progressively increase the use of alternative fuels and clean burning fuels
19 in state owned vehicles. The plans shall include:

20 1. A timetable by which fleet vehicles shall be replaced with vehicles
21 that have demonstrated high fuel economy estimates within their vehicle
22 class.

23 2. A timetable for increasing the use of alternative fuels and clean
24 burning fuels in fleet vehicles either through purchase or conversion. The
25 timetable shall reflect the following schedule and percentage of vehicles
26 which operate on alternative fuels or clean burning fuels:

27 (a) Not less than forty per cent of the total fleet by December 31,
28 1995, except for community college districts. Community college districts
29 shall comply by December 31, 2002.

30 (b) Not less than ninety per cent of the total fleet operating
31 primarily in counties with populations exceeding one million two hundred
32 thousand persons according to the most recent federal decennial census by
33 December 31, 1997, except for community college districts. Community college
34 districts shall comply by December 31, 2004.

35 3. Options for increasing, whenever possible, the use of vehicles that
36 have the capability to use available alternative fuels or clean burning
37 fuels, or vehicles that may be economically converted, if needed, for the use
38 of alternative fuels or clean burning fuels.

39 4. Options for the use of demonstrated innovative technologies that
40 promote energy conservation and reduced fuel consumption.

41 5. Methods that promote efficient trip planning and state vehicle use.

42 6. Car pooling and van pooling for agency employees for commuting and
43 job related travel.

44 L. The coordinator shall identify specific vehicle models within each
45 vehicle class that would meet the demands of each state agency and that

1 demonstrate a high degree of fuel economy. Vehicle classes and fuel economy
2 comparisons shall be based on United States department of energy and United
3 States environmental protection agency data pursuant to title 15 United
4 States Code sections 2003 through 2006. For the use of an alcohol fueled
5 vehicle, the state agency shall demonstrate to the director that the fuel for
6 the vehicle is available within a ten mile radius of the primary home base of
7 that vehicle.

8 M. Subsections G, H, I, J, K, L, N, O and P of this section do not
9 apply to the purchase or lease of the following:

- 10 1. A vehicle to be used primarily for criminal law enforcement.
- 11 2. A motorcycle.
- 12 3. An all-terrain vehicle.
- 13 4. An ambulance.
- 14 5. A fire truck, a fire engine or any other fire suppression
15 apparatus.

16 N. Any contract for conversion of vehicles to alternative fuels
17 pursuant to this section shall be entered into by competitive sealed
18 proposals pursuant to section 41-2534.

19 O. If everything else is equal, when contracting for vehicles to
20 satisfy the requirements prescribed in this section, preference shall be
21 given to vehicles with the lowest emissions levels.

22 P. The departments and agencies excluded from participation in the
23 state motor vehicle fleet pursuant to subsection E of this section shall
24 develop and implement a program for alternative fuels and clean burning fuels
25 and fuel economy for their motor vehicle fleets substantially similar to the
26 standards set forth in this section, and the program shall be submitted to
27 the coordinator for review.

28 Q. All agencies, including those listed in subsection E of this
29 section, shall comply with the plan developed and implemented by the
30 coordinator pursuant to subsection F of this section.

31 R. On or before November 1 of each year, the director shall submit a
32 report to the governor, the speaker of the house of representatives, the
33 president of the senate, the governor's office of strategic planning and
34 budgeting and the joint legislative budget committee concerning the use of
35 alternative fuels and clean burning fuels in the state motor vehicle
36 fleet. The report shall include at least the following:

- 37 1. The number of state fleet vehicles.
- 38 2. The number of state fleet vehicles used primarily in Maricopa
39 county.
- 40 3. The number of state fleet vehicles capable of using alternative
41 fuels or clean burning fuels.
- 42 4. Progress on compliance with federal and state guidelines mandating
43 the conversion of state fleet vehicles to alternatively fueled vehicles.
- 44 5. Alternative fuels and clean burning fuels usage data.

1 6. Information received from state agencies pursuant to subsection C
2 of this section.

3 7. Information gathered from local offices of federal agencies
4 regarding progress made toward implementing the federal mandates relating to
5 the conversion of motor vehicle fleets to alternative fuels or clean burning
6 fuels pursuant to subsection G of this section.

7 S. If the requirements of subsections G, H and K of this section are
8 met by the use of clean burning fuel, vehicle equivalents under those
9 requirements shall be calculated as follows:

10 1. One vehicle equivalent for every four hundred fifty gallons of neat
11 biodiesel or two thousand two hundred fifty gallons of a diesel fuel
12 substitute prescribed in section 1-215, paragraph 7, subdivision (b) in
13 vehicles with a gross vehicle weight rating of at least eighty-five hundred
14 pounds.

15 2. One vehicle equivalent for every five hundred thirty gallons of the
16 fuel prescribed in section 1-215, paragraph 7, subdivision (d).

17 T. For the purposes of this section:

18 1. "Alternative fuels" has the same meaning prescribed in section
19 1-215.

20 2. "Clean burning fuels" has the same meaning prescribed in section
21 1-215.

22 3. "New motor vehicle" means an original equipment manufactured
23 vehicle, a converted original equipment manufactured vehicle or an original
24 equipment manufactured vehicle that will be converted.

25 Sec. 27. Section 41-1005, Arizona Revised Statutes, is amended to
26 read:

27 41-1005. Exemptions

28 A. This chapter does not apply to any:

29 1. Rule that relates to the use of public works, including streets and
30 highways, under the jurisdiction of an agency if the effect of the order is
31 indicated to the public by means of signs or signals.

32 2. Order of the Arizona game and fish commission that opens, closes or
33 alters seasons or establishes bag or possession limits for wildlife.

34 3. Rule relating to section 28-641 or to any rule regulating motor
35 vehicle operation that relates to speed, parking, standing, stopping or
36 passing enacted pursuant to title 28, chapter 3.

37 4. Rule concerning only the internal management of an agency that does
38 not directly and substantially affect the procedural or substantive rights or
39 duties of any segment of the public.

40 5. Rule that only establishes specific prices to be charged for
41 particular goods or services sold by an agency.

42 6. Rule concerning only the physical servicing, maintenance or care of
43 agency owned or operated facilities or property.

44 7. Rule or substantive policy statement concerning inmates or
45 committed ~~youth~~ YOUTHS of a correctional or detention facility in secure

- 1 custody or patients admitted to a hospital, if made by the state department
2 of corrections, the department of juvenile corrections, the board of
3 executive clemency or the department of health services or a facility or
4 hospital under the jurisdiction of the state department of corrections, the
5 department of juvenile corrections or the department of health services.
- 6 8. Form whose contents or substantive requirements are prescribed by
7 rule or statute, and instructions for the execution or use of the form.
- 8 9. Capped fee-for-service schedule adopted by the Arizona health care
9 cost containment system administration pursuant to title 36, chapter 29.
- 10 10. Fees prescribed by section 6-125.
- 11 11. Order of the director of water resources adopting or modifying a
12 management plan pursuant to title 45, chapter 2, article 9.
- 13 12. Fees established under section 3-1086.
- 14 13. Fee-for-service schedule adopted by the department of economic
15 security pursuant to section 8-512.
- 16 14. Fees established under sections 41-2144 and 41-2189.
- 17 15. Rule or other matter relating to agency contracts.
- 18 16. Fees established under section 32-2067 or 32-2132.
- 19 17. Rules made pursuant to section 5-111, subsection A.
- 20 18. Rules made by the Arizona state parks board concerning the
21 operation of the Tonto natural bridge state park, the facilities located in
22 the Tonto natural bridge state park and the entrance fees to the Tonto
23 natural bridge state park.
- 24 19. Fees or charges established under section 41-511.05.
- 25 20. Emergency medical services protocols except as provided in section
26 36-2205, subsection C.
- 27 21. Fee schedules established pursuant to section 36-3409.
- 28 22. Procedures of the state transportation board as prescribed in
29 section 28-7048.
- 30 23. Rules made by the state department of corrections.
- 31 24. Fees prescribed pursuant to section 32-1527.
- 32 25. Rules made by the department of economic security pursuant to
33 section 46-805.
- 34 26. Schedule of fees prescribed by section 23-908.
- 35 27. Procedure that is established pursuant to title 23, chapter 6,
36 article 5 or 6.
- 37 28. RULES, ADMINISTRATIVE POLICIES, PROCEDURES AND GUIDELINES ADOPTED
38 FOR ANY PURPOSE BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO CHAPTER 10 OF
39 THIS TITLE IF THE AUTHORITY PROVIDES, AS APPROPRIATE UNDER THE CIRCUMSTANCES,
40 FOR NOTICE OF AN OPPORTUNITY FOR COMMENT ON THE PROPOSED RULES,
41 ADMINISTRATIVE POLICIES, PROCEDURES AND GUIDELINES.
- 42 B. Notwithstanding subsection A, paragraph ~~23~~ 22 of this section, at
43 such time as the federal highway administration authorizes the privatization
44 of rest areas, the state transportation board shall make rules governing the

1 lease or license by the department of transportation to a private entity for
2 the purposes of privatization of a rest area.

3 C. Coincident with the making of a rule pursuant to an exemption under
4 this section, the agency shall file a copy of the rule with the secretary of
5 state for publication pursuant to section 41-1012.

6 D. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
7 chapter do not apply to the Arizona board of regents and the institutions
8 under its jurisdiction, except that the Arizona board of regents shall make
9 policies or rules for the board and the institutions under its jurisdiction
10 that provide, as appropriate under the circumstances, for notice of and
11 opportunity for comment on the policies or rules proposed.

12 E. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
13 chapter do not apply to the Arizona state schools for the deaf and the blind,
14 except that the board of directors of all the state schools for the deaf and
15 the blind shall adopt policies for the board and the schools under its
16 jurisdiction that provide, as appropriate under the circumstances, for notice
17 of and opportunity for comment on the policies proposed for adoption.

18 F. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
19 chapter do not apply to the state board of education, except that the state
20 board of education shall adopt policies or rules for the board and the
21 institutions under its jurisdiction that provide, as appropriate under the
22 circumstances, for notice of and opportunity for comment on the policies or
23 rules proposed for adoption. In order to implement or change any rule, the
24 state board of education shall provide at least two opportunities for public
25 comment.

26 Sec. 28. Heading change

27 The chapter heading of title 41, chapter 10, Arizona Revised Statutes,
28 is changed from "DEPARTMENT OF COMMERCE" to "ARIZONA COMMERCE AUTHORITY".

29 Sec. 29. Repeal

30 Sections 41-1501, 41-1502, 41-1503, 41-1504, 41-1504.01, 41-1504.02,
31 41-1505.01, 41-1505.02, 41-1505.03, 41-1505.04, 41-1505.05, 41-1505.06,
32 41-1505.07, 41-1505.08, 41-1505.10 and 41-1506, Arizona Revised Statutes, are
33 repealed.

34 Sec. 30. Title 41, chapter 10, article 1, Arizona Revised Statutes, is
35 amended by adding new sections 41-1501, 41-1502, 41-1503, 41-1504, 41-1505
36 and 41-1506, to read:

37 41-1501. Definitions

38 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- 39 1. "AUTHORITY" MEANS THE ARIZONA COMMERCE AUTHORITY.
- 40 2. "BOARD" MEANS THE BOARD OF DIRECTORS OF THE AUTHORITY.
- 41 3. "CHIEF EXECUTIVE OFFICER" MEANS THE CHIEF EXECUTIVE OFFICER OF THE
42 AUTHORITY.

43 41-1502. Arizona commerce authority; board of directors;
44 conduct of office; audit

- 1 A. THE ARIZONA COMMERCE AUTHORITY IS ESTABLISHED. THE MISSION OF THE
2 AUTHORITY IS TO PROVIDE PRIVATE SECTOR LEADERSHIP IN GROWING AND DIVERSIFYING
3 THE ECONOMY OF THIS STATE, CREATING HIGH QUALITY EMPLOYMENT IN THIS STATE
4 THROUGH EXPANSION, ATTRACTION AND RETENTION OF BUSINESSES AND MARKETING THIS
5 STATE FOR THE PURPOSE OF EXPANSION, ATTRACTION AND RETENTION OF BUSINESSES.
6 B. THE AUTHORITY SHALL BE GOVERNED BY A BOARD OF DIRECTORS CONSISTING
7 OF:
8 1. THE GOVERNOR, WHO SERVES AS CHAIRPERSON.
9 2. THE CHIEF EXECUTIVE OFFICER.
10 3. SEVENTEEN PRIVATE SECTOR BUSINESS LEADERS WHO ARE CHIEF EXECUTIVE
11 OFFICERS OF PRIVATE, FOR PROFIT ENTERPRISES. NONE OF THESE MEMBERS MAY BE AN
12 ELECTED OFFICIAL OF ANY GOVERNMENT ENTITY. THESE MEMBERS MUST BE APPOINTED
13 FROM GEOGRAPHICALLY DIVERSE AREAS OF THIS STATE AND NOT ALL FROM THE SAME
14 COUNTY. THESE MEMBERS SHALL SERVE STAGGERED THREE-YEAR TERMS OF OFFICE
15 BEGINNING AND ENDING ON THE THIRD MONDAY IN JANUARY. THESE MEMBERS SHALL BE
16 APPOINTED AS FOLLOWS:
17 (a) NINE MEMBERS WHO ARE APPOINTED BY THE GOVERNOR.
18 (b) FOUR MEMBERS WHO ARE APPOINTED BY THE PRESIDENT OF THE SENATE.
19 (c) FOUR MEMBERS WHO ARE APPOINTED BY THE SPEAKER OF THE HOUSE OF
20 REPRESENTATIVES.
21 4. THE FOLLOWING AS EX OFFICIO MEMBERS WITHOUT THE POWER TO VOTE:
22 (a) THE PRESIDENT OF THE SENATE.
23 (b) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.
24 (c) THE PRESIDENT OF THE ARIZONA BOARD OF REGENTS.
25 (d) THE PRESIDENT OF EACH STATE UNIVERSITY UNDER THE JURISDICTION OF
26 THE ARIZONA BOARD OF REGENTS.
27 (e) ONE PRESIDENT OF A COMMUNITY COLLEGE WHO IS APPOINTED BY A
28 STATEWIDE ORGANIZATION OF COMMUNITY COLLEGE PRESIDENTS.
29 (f) THE CHAIRPERSON OF THE ARIZONA AEROSPACE AND DEFENSE COMMISSION
30 ESTABLISHED BY ARTICLE 6 OF THIS CHAPTER.
31 (g) THE CHAIRPERSON OF THE GOVERNOR'S COUNCIL ON SMALL BUSINESS, OR
32 ITS SUCCESSOR.
33 (h) THE CHAIRPERSON OF THE GOVERNOR'S COUNCIL ON WORKFORCE POLICY, IF
34 ESTABLISHED BY EXECUTIVE ORDER PURSUANT TO SECTION 41-1542.
35 (i) ONE MEMBER OF THE RURAL BUSINESS DEVELOPMENT ADVISORY COUNCIL
36 ESTABLISHED BY SECTION 41-1505 WHO IS APPOINTED BY THE GOVERNOR.
37 (j) THE PRESIDENT OF A STATEWIDE ORGANIZATION OF INCORPORATED CITIES
38 AND TOWNS WHO IS APPOINTED BY THE GOVERNOR.
39 (k) THE PRESIDENT OF A STATEWIDE ORGANIZATION OF COUNTY BOARDS OF
40 SUPERVISORS WHO IS APPOINTED BY THE GOVERNOR.
41 C. THE FOLLOWING SHALL SERVE AS TECHNICAL ADVISORS TO THE BOARD TO
42 ENHANCE COLLABORATION AMONG STATE AGENCIES TO MEET INFRASTRUCTURE NEEDS AND
43 FACILITATE GROWTH OPPORTUNITIES THROUGHOUT THIS STATE:
44 1. THE DIRECTOR OF ENVIRONMENTAL QUALITY.
45 2. THE STATE LAND COMMISSIONER.

- 1 3. THE DIRECTOR OF THE DEPARTMENT OF REVENUE.
- 2 4. THE DIRECTOR OF THE OFFICE OF TOURISM.
- 3 5. THE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION.
- 4 6. THE DIRECTOR OF WATER RESOURCES.
- 5 7. THE DIRECTOR OF THE DEPARTMENT OF FINANCIAL INSTITUTIONS.
- 6 8. THE DIRECTOR OF THE ARIZONA-MEXICO COMMISSION IN THE GOVERNOR'S
- 7 OFFICE.

8 D. THE GOVERNOR SHALL APPOINT A COCHAIRPERSON OF THE BOARD OF
9 DIRECTORS FROM AMONG THE VOTING MEMBERS. THE BOARD MAY ESTABLISH AN
10 EXECUTIVE COMMITTEE CONSISTING OF THE CHAIRPERSON, COCHAIRPERSON, THE CHIEF
11 EXECUTIVE OFFICER, AND ADDITIONAL VOTING MEMBERS OF THE BOARD ELECTED BY THE
12 BOARD. THE CHAIRPERSON MAY APPOINT SUBCOMMITTEES AS NECESSARY.

13 E. THE BOARD MAY REQUEST ASSISTANCE FROM REPRESENTATIVES OF OTHER
14 STATE AGENCIES TO MAXIMIZE ECONOMIC DEVELOPMENT OPPORTUNITIES BY LEVERAGING
15 THEIR ACCESS TO STRATEGIC ASSETS AND PLANNING PROCESSES.

16 F. BOARD MEMBERS SERVE WITHOUT COMPENSATION BUT ARE ELIGIBLE FOR
17 REIMBURSEMENT OF EXPENSES PURSUANT TO SECTION 41-1504, SUBSECTION E,
18 PARAGRAPH 1.

19 G. A MAJORITY OF THE VOTING MEMBERS, WHICH MUST INCLUDE THE
20 CHAIRPERSON AND THE CHIEF EXECUTIVE OFFICER, CONSTITUTE A QUORUM FOR THE
21 PURPOSE OF AN OFFICIAL MEETING FOR CONDUCTING BUSINESS. AN AFFIRMATIVE VOTE
22 OF A MAJORITY OF THE MEMBERS PRESENT AT AN OFFICIAL MEETING IS SUFFICIENT FOR
23 ANY ACTION TO BE TAKEN.

24 H. THE BOARD OF DIRECTORS SHALL KEEP AND MAINTAIN A COMPLETE AND
25 ACCURATE RECORD OF ALL OF ITS PROCEEDINGS. PUBLIC ACCESS TO THE BOARD'S
26 RECORDS IS SUBJECT TO SECTION 41-1504, SUBSECTION L.

27 I. THE BOARD OF DIRECTORS, EXECUTIVE COMMITTEE, SUBCOMMITTEES AND
28 ADVISORY COUNCILS ARE SUBJECT TO TITLE 38, CHAPTER 3, ARTICLE 3.1, RELATING
29 TO PUBLIC MEETINGS. EXCEPT AS FOLLOWS:

30 1. IN ADDITION TO THE PROVISIONS OF SECTION 38-431.03, THE BOARD OF
31 DIRECTORS, EXECUTIVE COMMITTEE AND SUBCOMMITTEES MAY MEET IN EXECUTIVE
32 SESSION FOR DISCUSSION ABOUT POTENTIAL BUSINESS DEVELOPMENT OPPORTUNITIES AND
33 STRATEGIES, WHICH, IF MADE PUBLIC, COULD POTENTIALLY HARM THE APPLICANT'S,
34 POTENTIAL APPLICANT'S OR THIS STATE'S COMPETITIVE POSITION.

35 2. SOCIAL AND TRAVEL EVENTS RELATED TO THE EXPANSION, ATTRACTION AND
36 RETENTION OF BUSINESSES ARE NOT PUBLIC MEETINGS IF NO LEGAL ACTION INVOLVING
37 A FINAL VOTE OR DECISION IS TAKEN.

38 3. ACTIVITIES AND EVENTS HELD IN PUBLIC FOR THE PURPOSE OF ANNOUNCING
39 THE EXPANSION, ATTRACTION AND RETENTION OF PROJECTS ARE NOT PUBLIC MEETINGS.

40 J. THE BOARD OF DIRECTORS AND THE OFFICERS AND EMPLOYEES OF THE
41 AUTHORITY ARE SUBJECT TO TITLE 38, CHAPTER 3, ARTICLE 8, RELATING TO
42 CONFLICTS OF INTEREST.

43 K. THE BOARD OF DIRECTORS SHALL ADOPT WRITTEN POLICIES, PROCEDURES AND
44 GUIDELINES FOR STANDARDS OF CONDUCT, INCLUDING A GIFT POLICY, FOR MEMBERS OF
45 THE BOARD AND FOR OFFICERS AND EMPLOYEES OF THE AUTHORITY.

1 L. THE AUTHORITY SHALL OPERATE ON THE STATE FISCAL YEAR. THE BOARD OF
2 DIRECTORS SHALL CAUSE AN ANNUAL AUDIT TO BE CONDUCTED ON OR BEFORE OCTOBER 31
3 OF EACH OF THE AUTHORITY'S PUBLIC FUNDS ESTABLISHED BY THIS CHAPTER BY AN
4 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT. THE BOARD SHALL IMMEDIATELY FILE A
5 CERTIFIED COPY OF THE AUDIT WITH THE AUDITOR GENERAL. THE AUDITOR GENERAL
6 MAY MAKE SUCH FURTHER AUDITS AND EXAMINATIONS AS NECESSARY AND MAY TAKE
7 APPROPRIATE ACTION RELATING TO THE AUDIT OR EXAMINATION PURSUANT TO CHAPTER
8 7, ARTICLE 10.1 OF THIS TITLE. IF THE AUDITOR GENERAL TAKES NO FURTHER
9 ACTION WITHIN THIRTY DAYS AFTER THE AUDIT IS FILED, THE AUDIT IS CONSIDERED
10 TO BE SUFFICIENT.

11 M. ALL STATE AGENCIES SHALL COOPERATE WITH THE AUTHORITY AND MAKE
12 AVAILABLE DATA PERTAINING TO THE FUNCTIONS OF THE AUTHORITY AS REQUESTED BY
13 THE AUTHORITY.

14 41-1503. Chief executive officer

15 A. THE BOARD OF DIRECTORS SHALL EMPLOY A CHIEF EXECUTIVE OFFICER AND
16 PRESCRIBE THE TERMS AND CONDITIONS OF THE CHIEF EXECUTIVE OFFICER'S
17 EMPLOYMENT. THE CHIEF EXECUTIVE OFFICER SERVES AT THE PLEASURE OF THE BOARD
18 UNDER THE TERMS OF A PERFORMANCE BASED CONTRACT.

19 B. THE CHIEF EXECUTIVE OFFICER IS RESPONSIBLE FOR MANAGING,
20 ADMINISTERING AND SUPERVISING THE ACTIVITIES OF THE AUTHORITY.

21 C. THE CHIEF EXECUTIVE OFFICER SHALL NEGOTIATE, MAKE, EXECUTE,
22 ACKNOWLEDGE AND PERFORM CONTRACTS AND OTHER AGREEMENTS IN THE INTEREST OF THE
23 AUTHORITY OR TO CARRY OUT OR ACCOMPLISH THE PURPOSES OF THIS CHAPTER.

24 41-1504. Powers and duties

25 A. THE BOARD OF DIRECTORS, ON BEHALF OF THE AUTHORITY, MAY:

26 1. ADOPT AND USE A CORPORATE SEAL.

27 2. SUE AND BE SUED.

28 3. ENTER INTO CONTRACTS AS NECESSARY TO CARRY OUT THE PURPOSES AND
29 REQUIREMENTS OF THIS CHAPTER, INCLUDING INTERGOVERNMENTAL AGREEMENTS PURSUANT
30 TO TITLE 11, CHAPTER 7, ARTICLE 3 AND INTERAGENCY SERVICE AGREEMENTS AS
31 PROVIDED BY SECTION 35-148.

32 4. LEASE REAL PROPERTY AND IMPROVEMENTS TO REAL PROPERTY FOR THE
33 PURPOSES OF THE AUTHORITY. LEASES BY THE AUTHORITY ARE EXEMPT FROM CHAPTER
34 4, ARTICLE 7 OF THIS TITLE, RELATING TO MANAGEMENT OF STATE PROPERTIES.

35 5. EMPLOY OR RETAIN LEGAL COUNSEL AND OTHER CONSULTANTS AS NECESSARY
36 TO CARRY OUT THE PURPOSES OF THE AUTHORITY.

37 6. DEVELOP AND USE WRITTEN POLICIES, PROCEDURES AND GUIDELINES FOR THE
38 TERMS AND CONDITIONS OF EMPLOYING OFFICERS AND EMPLOYEES OF THE AUTHORITY AND
39 MAY INCLUDE BACKGROUND CHECKS OF APPROPRIATE PERSONNEL.

40 B. THE BOARD OF DIRECTORS, ON BEHALF OF THE AUTHORITY, SHALL:

41 1. DEVELOP COMPREHENSIVE LONG-RANGE STRATEGIC ECONOMIC PLANS FOR THIS
42 STATE AND SUBMIT THE PLANS TO THE GOVERNOR.

43 2. ANNUALLY UPDATE A STRATEGIC ECONOMIC PLAN FOR SUBMISSION TO THE
44 GOVERNOR.

1 3. ACCEPT GIFTS, GRANTS AND LOANS AND ENTER INTO CONTRACTS AND OTHER
2 TRANSACTIONS WITH ANY FEDERAL OR STATE AGENCY, MUNICIPALITY, PRIVATE
3 ORGANIZATION OR OTHER SOURCE.

4 C. THE AUTHORITY SHALL:

5 1. ASSESS AND COLLECT FEES FOR PROCESSING APPLICATIONS AND
6 ADMINISTERING INCENTIVES. THE BOARD SHALL ADOPT THE MANNER OF COMPUTING THE
7 AMOUNT OF EACH FEE TO BE ASSESSED. WITHIN THIRTY DAYS AFTER PROPOSING FEES
8 FOR ADOPTION, THE CHIEF EXECUTIVE OFFICER SHALL SUBMIT A SCHEDULE OF THE FEES
9 FOR REVIEW BY THE JOINT LEGISLATIVE BUDGET COMMITTEE. IT IS THE INTENT OF
10 THE LEGISLATURE THAT A FEE SHALL NOT EXCEED ONE PER CENT OF THE AMOUNT OF THE
11 INCENTIVE.

12 2. DETERMINE AND COLLECT REGISTRY FEES FOR THE ADMINISTRATION OF THE
13 ALLOCATION OF FEDERAL TAX EXEMPT INDUSTRIAL DEVELOPMENT BONDS AND STUDENT
14 LOAN BONDS AUTHORIZED BY THE AUTHORITY. SUCH MONIES COLLECTED BY THE
15 AUTHORITY SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN AN
16 AUTHORITY BOND FUND. MONIES IN THE FUND SHALL BE USED, SUBJECT TO ANNUAL
17 APPROPRIATION BY THE LEGISLATURE, BY THE AUTHORITY TO ADMINISTER THE
18 ALLOCATIONS PROVIDED IN THIS PARAGRAPH AND ARE EXEMPT FROM THE PROVISIONS OF
19 SECTION 35-190 RELATING TO THE LAPSING OF APPROPRIATIONS.

20 3. DETERMINE AND COLLECT SECURITY DEPOSITS FOR THE ALLOCATION, FOR THE
21 EXTENSION OF ALLOCATIONS AND FOR THE DIFFERENCE BETWEEN ALLOCATIONS AND
22 PRINCIPAL AMOUNTS OF FEDERAL TAX EXEMPT INDUSTRIAL DEVELOPMENT BONDS AND
23 STUDENT LOAN BONDS AUTHORIZED BY THE AUTHORITY. SECURITY DEPOSITS FORFEITED
24 TO THE AUTHORITY SHALL BE DEPOSITED IN THE STATE GENERAL FUND.

25 4. AT THE DIRECTION OF THE BOARD, ESTABLISH AND SUPERVISE THE
26 OPERATIONS OF FULL-TIME OR PART-TIME OFFICES IN OTHER STATES AND FOREIGN
27 COUNTRIES FOR THE PURPOSE OF EXPANDING DIRECT INVESTMENT AND EXPORT TRADE
28 OPPORTUNITIES FOR BUSINESSES AND INDUSTRIES IN THIS STATE IF, BASED ON
29 OBJECTIVE RESEARCH, THE AUTHORITY DETERMINES THAT THE EFFORT WOULD BE
30 BENEFICIAL TO THE ECONOMY OF THIS STATE.

31 5. ESTABLISH A PROGRAM BY WHICH ENTREPRENEURS BECOME AWARE OF PERMITS,
32 LICENSES OR OTHER AUTHORIZATIONS NEEDED TO ESTABLISH, EXPAND OR OPERATE IN
33 THIS STATE.

34 6. BE THE STATE REGISTRATION AGENCY FOR APPRENTICESHIP FUNCTIONS
35 PRESCRIBED BY THE FEDERAL GOVERNMENT.

36 D. THE AUTHORITY, THROUGH THE CHIEF EXECUTIVE OFFICER, MAY:

37 1. CONTRACT AND INCUR OBLIGATIONS REASONABLY NECESSARY OR DESIRABLE
38 WITHIN THE GENERAL SCOPE OF THE AUTHORITY'S ACTIVITIES AND OPERATIONS TO
39 ENABLE THE AUTHORITY TO ADEQUATELY PERFORM ITS DUTIES.

40 2. USE MONIES, FACILITIES OR SERVICES TO PROVIDE MATCHING
41 CONTRIBUTIONS UNDER FEDERAL OR OTHER PROGRAMS THAT FURTHER THE OBJECTIVES AND
42 PROGRAMS OF THE AUTHORITY.

43 3. ACCEPT GIFTS, GRANTS, MATCHING MONIES OR DIRECT PAYMENTS FROM
44 PUBLIC OR PRIVATE AGENCIES OR PRIVATE PERSONS AND ENTERPRISES FOR THE CONDUCT

1 OF PROGRAMS THAT ARE CONSISTENT WITH THE GENERAL PURPOSES AND OBJECTIVES OF
2 THIS CHAPTER.

3 4. ASSESS BUSINESS FEES FOR PROMOTIONAL SERVICES PROVIDED TO
4 BUSINESSES THAT EXPORT PRODUCTS AND SERVICES FROM THIS STATE. THE FEES SHALL
5 NOT EXCEED THE ACTUAL COSTS OF THE SERVICES PROVIDED.

6 5. ESTABLISH AND MAINTAIN ONE OR MORE ACCOUNTS IN BANKS OR OTHER
7 DEPOSITORIES, FOR PUBLIC OR PRIVATE MONIES OF THE AUTHORITY, FROM WHICH
8 OPERATIONAL ACTIVITIES, INCLUDING PAYROLL, VENDOR AND GRANT PAYMENTS, MAY BE
9 CONDUCTED. INDIVIDUAL FUNDS THAT ARE ESTABLISHED BY LAW UNDER THE
10 JURISDICTION OF THE AUTHORITY MAY BE MAINTAINED IN SEPARATE ACCOUNTS IN BANKS
11 OR OTHER DEPOSITORIES, BUT SHALL NOT BE COMMINGLED WITH ANY OTHER MONIES OR
12 FUNDS OF THE AUTHORITY.

13 E. THE CHIEF EXECUTIVE OFFICER SHALL:

14 1. HIRE EMPLOYEES AND PRESCRIBE THE TERMS AND CONDITIONS OF THEIR
15 EMPLOYMENT AS NECESSARY TO CARRY OUT THE PURPOSES OF THE AUTHORITY. THE
16 BOARD OF DIRECTORS SHALL ADOPT WRITTEN POLICIES, PROCEDURES AND GUIDELINES,
17 SIMILAR TO THOSE ADOPTED BY THE DEPARTMENT OF ADMINISTRATION, REGARDING
18 OFFICER AND EMPLOYEE COMPENSATION, OBSERVED HOLIDAYS, LEAVE AND REIMBURSEMENT
19 OF TRAVEL EXPENSES AND HEALTH AND ACCIDENT INSURANCE. THE OFFICERS AND
20 EMPLOYEES OF THE AUTHORITY ARE EXEMPT FROM ANY LAWS REGULATING STATE
21 EMPLOYMENT, INCLUDING:

22 (a) CHAPTER 4, ARTICLES 5 AND 6 OF THIS TITLE, RELATING TO STATE
23 SERVICE.

24 (b) TITLE 38, CHAPTER 4, ARTICLE 1 AND CHAPTER 5, ARTICLE 2, RELATING
25 TO STATE PERSONNEL COMPENSATION, LEAVE AND RETIREMENT.

26 (c) TITLE 38, CHAPTER 4, ARTICLE 2, RELATING TO REIMBURSEMENT OF STATE
27 EMPLOYEE EXPENSES.

28 (d) TITLE 38, CHAPTER 4, ARTICLE 4, RELATING TO HEALTH AND ACCIDENT
29 INSURANCE.

30 2. ON A QUARTERLY BASIS, PROVIDE PUBLIC RECORD DATA IN A MANNER
31 PRESCRIBED BY THE DEPARTMENT OF ADMINISTRATION RELATED TO THE AUTHORITY'S
32 REVENUES AND EXPENDITURES FOR INCLUSION IN THE COMPREHENSIVE DATABASE OF
33 RECEIPTS AND EXPENDITURES OF STATE MONIES PURSUANT TO SECTION 41-725.

34 F. IN ADDITION TO ANY OTHER REQUIREMENT, IN ORDER TO QUALIFY FOR ANY
35 GRANT, LOAN, REIMBURSEMENT, TAX INCENTIVE OR OTHER ECONOMIC DEVELOPMENT
36 INCENTIVE PURSUANT TO THIS CHAPTER, AN APPLICANT THAT IS AN EMPLOYER MUST
37 REGISTER WITH AND PARTICIPATE IN THE E-VERIFY PROGRAM IN COMPLIANCE WITH
38 SECTION 23-214. THE AUTHORITY SHALL REQUIRE VERIFICATION OF COMPLIANCE WITH
39 THIS SUBSECTION AS PART OF ANY APPLICATION PROCESS.

40 G. NOTWITHSTANDING ANY OTHER LAW, THE AUTHORITY IS SUBJECT TO CHAPTER
41 3.1, ARTICLE 1 OF THIS TITLE, RELATING TO RISK MANAGEMENT.

42 H. THE AUTHORITY IS EXEMPT FROM CHAPTER 32, ARTICLES 1 AND 2 OF THIS
43 TITLE, RELATING TO STATEWIDE INFORMATION TECHNOLOGY. THE AUTHORITY SHALL
44 ADOPT POLICIES, PROCEDURES AND GUIDELINES REGARDING INFORMATION TECHNOLOGY.

1 I. THE AUTHORITY IS EXEMPT FROM STATE GENERAL ACCOUNTING AND FINANCE
2 PRACTICES AND RULES ADOPTED PURSUANT TO CHAPTER 4, ARTICLE 3 OF THIS TITLE,
3 BUT THE BOARD SHALL ADOPT WRITTEN ACCOUNTING PRACTICES, SYSTEMS AND
4 PROCEDURES FOR THE ECONOMIC AND EFFICIENT OPERATION OF THE AUTHORITY.

5 J. THE AUTHORITY IS EXEMPT FROM SECTION 41-712, RELATING TO THE
6 INSTALLATION AND MAINTENANCE OF TELECOMMUNICATIONS SYSTEMS.

7 K. THE AUTHORITY MAY LEASE OR PURCHASE MOTOR VEHICLES FOR USE BY
8 EMPLOYEES TO CONDUCT BUSINESS ACTIVITIES. THE AUTHORITY IS EXEMPT FROM
9 SECTION 41-803, RELATING TO THE STATE MOTOR VEHICLE FLEET, AND TITLE 38,
10 CHAPTER 3, ARTICLE 10, RELATING TO VEHICLE USAGE AND MARKINGS.

11 L. ANY TANGIBLE OR INTANGIBLE RECORD SUBMITTED TO OR COMPILED BY THE
12 BOARD OR THE AUTHORITY IN CONNECTION WITH ITS WORK, INCLUDING THE AWARD OF
13 MONIES, IS SUBJECT TO TITLE 39, CHAPTER 1, UNLESS AN APPLICANT SHOWS, OR THE
14 BOARD OR AUTHORITY DETERMINES, THAT SPECIFIC INFORMATION MEETS EITHER OF THE
15 FOLLOWING:

16 1. IF MADE PUBLIC, THE INFORMATION WOULD DIVULGE THE APPLICANT'S OR
17 POTENTIAL APPLICANT'S TRADE SECRETS, AS DEFINED IN SECTION 44-401.

18 2. IF MADE PUBLIC, THE INFORMATION COULD POTENTIALLY HARM THE
19 APPLICANT'S, POTENTIAL APPLICANT'S OR THIS STATE'S COMPETITIVE POSITION
20 RELATING TO POTENTIAL BUSINESS DEVELOPMENT OPPORTUNITIES AND STRATEGIES.

21 M. THE AUTHORITY IS EXEMPT FROM CHAPTER 25, ARTICLE 1 OF THIS TITLE,
22 RELATING TO GOVERNMENT COMPETITION WITH PRIVATE ENTERPRISE.

23 41-1505. Rural business development advisory council

24 A. THE RURAL BUSINESS DEVELOPMENT ADVISORY COUNCIL IS
25 ESTABLISHED. THE MISSION OF THE COUNCIL IS TO ADVISE THE BOARD OF DIRECTORS
26 REGARDING RURAL BUSINESS DEVELOPMENT STRATEGIES, INCLUDING CREATING JOBS,
27 DIVERSIFYING ECONOMIES AND ATTRACTING NEW INVESTMENT.

28 B. THE COUNCIL CONSISTS OF THE FOLLOWING MEMBERS:

29 1. ONE REPRESENTATIVE FROM EACH COUNTY, SEVEN OF WHOM ARE APPOINTED BY
30 THE GOVERNOR AND FOUR EACH OF WHOM ARE APPOINTED BY THE PRESIDENT OF THE
31 SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

32 2. ONE REPRESENTATIVE OF A RURAL DEVELOPMENT ORGANIZATION THAT
33 REPRESENTS STATEWIDE INTERESTS WHO IS APPOINTED BY THE GOVERNOR.

34 3. ONE MEMBER REPRESENTING ALL INDIAN TRIBES, NATIONS, BANDS AND
35 COMMUNITIES IN THIS STATE WHO IS APPOINTED BY THE GOVERNOR.

36 4. THE CHIEF EXECUTIVE OFFICER OR THE CHIEF EXECUTIVE OFFICER'S
37 DESIGNEE.

38 C. EACH YEAR THE GOVERNOR SHALL APPOINT A MEMBER TO SERVE AS
39 CHAIRPERSON. THE CHAIRPERSON MAY BE REAPPOINTED. COUNCIL MEMBERS SHALL
40 SERVE STAGGERED THREE-YEAR TERMS BEGINNING AND ENDING ON THE THIRD MONDAY IN
41 JANUARY. THE MEMBERS OF THE COUNCIL SERVE WITHOUT COMPENSATION AND ARE
42 SUBJECT TO TITLE 38, CHAPTER 3, ARTICLE 8, RELATING TO CONFLICTS OF INTEREST.

43 D. THE COUNCIL SHALL:

- 1 1. RECOMMEND TO THE BOARD OF DIRECTORS POLICY DEVELOPMENT AND FUNDING
2 ALLOCATIONS TO COMPLEMENT REGIONAL AND LOCAL ECONOMIC DEVELOPMENT STRATEGIES
3 THAT FOCUS ON AND ASSIST RURAL COMMUNITIES.
- 4 2. LEVERAGE LOCAL, STATE AND FEDERAL RESOURCES TO ADVANCE BUSINESS IN
5 RURAL AREAS OF THIS STATE.
- 6 3. DEVELOP SELECTION CRITERIA AND AN APPLICATION FORMAT FOR RURAL
7 COMMUNITIES OR AREAS TO USE IN APPLYING FOR MATCHING MONIES.
- 8 4. MAKE RECOMMENDATIONS FOR COORDINATING PERSONNEL ACTIVITIES OF THE
9 AUTHORITY TO ENSURE THAT COMMUNITIES RECEIVE APPROPRIATE TECHNICAL ASSISTANCE
10 TO IMPLEMENT ECONOMIC DEVELOPMENT EFFORTS.
- 11 5. ASSIST LOCAL RURAL ECONOMIC DEVELOPMENT PROFESSIONALS, MAIN STREET
12 PROJECT MANAGERS AND OTHERS INVOLVED IN ECONOMIC DEVELOPMENT.
- 13 6. MAKE RECOMMENDATIONS REGARDING:
 - 14 (a) STATE RESPONSIBILITIES UNDER ANY NECESSARY CONTRACTS WITH
15 CONSULTANTS, INCLUDING THE NATIONAL MAIN STREET CENTER OF THE NATIONAL TRUST
16 FOR HISTORIC PRESERVATION.
 - 17 (b) COORDINATION OF THE ACTIVITIES OF OTHER STATE AGENCY PERSONNEL
18 ASSISTING WITH RURAL ECONOMIC DEVELOPMENT PROGRAMS.
- 19 7. MONITOR THE PROGRESS OF MAIN STREET COMMUNITIES AND OTHER ASPECTS
20 OF THE PROGRAM.
- 21 8. COORDINATE THE EXPENDITURE OF AVAILABLE FEDERAL MONIES TO SUPPORT
22 RURAL BUSINESS AND ECONOMIC DEVELOPMENT PROGRAMS.
- 23 E. EACH YEAR THE COUNCIL SHALL DEVELOP A PRIORITY LIST OF ECONOMIC
24 STRENGTH PROJECTS THAT MEET THE CRITERIA ESTABLISHED BY SECTION 28-7281 AND
25 SUBMIT THE LIST TO THE CHIEF EXECUTIVE OFFICER. THE COUNCIL SHALL CONFER
26 WITH REGIONAL PLANNING AGENCIES AND LOCAL AUTHORITIES THAT WOULD BE AFFECTED
27 BY A SPECIFIC ECONOMIC STRENGTH PROJECT AND SHALL SUBMIT THEIR COMMENTS TO
28 THE CHIEF EXECUTIVE OFFICER. AFTER REVIEW BY THE BOARD, THE CHIEF EXECUTIVE
29 OFFICER SHALL TRANSMIT THE PRIORITY LIST AND COMMENTS TO THE STATE
30 TRANSPORTATION BOARD. THE COUNCIL SHALL SET PRIORITIES FOR INDIVIDUAL
31 PROJECTS BASED ON THE FOLLOWING:
 - 32 1. THE COST OF THE PROJECT.
 - 33 2. THE NUMBER OF JOBS THAT THE PROJECT WILL CAUSE TO BE CREATED,
34 RETAINED OR INCREASED.
 - 35 3. THE NATURE AND AMOUNT OF CAPITAL INVESTMENT OR OTHER CONTRIBUTION
36 TO THE ECONOMY OF THIS STATE OR A LOCAL AUTHORITY AS A RESULT OF THE PROJECT.
 - 37 4. THE LIKELIHOOD THAT BENEFITS RESULTING FROM THE PROJECT WILL EXCEED
38 THE COSTS OF THE PROJECT.
 - 39 5. THE AMOUNT OF CONTRIBUTIONS TO THE PROJECT PROVIDED FROM OTHER THAN
40 THE ECONOMIC STRENGTH PROJECT FUND IS AT LEAST TEN PER CENT OF THE COST OF
41 THE PROJECT.
 - 42 6. THE AMOUNT AND PERCENTAGE OF FUNDING FOR THE PROJECT THAT WILL COME
43 FROM A SOURCE OTHER THAN THE ECONOMIC STRENGTH PROJECT FUND AS COMPARED TO
44 OTHER PROPOSED PROJECTS.

1 7. THE AMOUNT OF EXPENDITURES REQUIRED FOR LOCAL INFRASTRUCTURE
2 RELATING TO THE PROJECT.

3 8. THE MAGNITUDE OF THE PROJECT AND ITS RELATIVE VALUE TO THIS STATE
4 OR A LOCAL AUTHORITY AS COMPARED TO OTHER PROPOSED PROJECTS.

5 9. THE EXTENT TO WHICH THE PROJECT WOULD CONTRIBUTE TO ACHIEVING AN
6 EQUITABLE DISTRIBUTION OF MONIES AND PROJECTS AMONG THE VARIOUS REGIONS OF
7 THIS STATE AND THROUGHOUT THIS STATE AS A WHOLE.

8 10. THE SPECIFIC TIME SCHEDULE FOR COMPLETION OF THE PROJECT.

9 41-1506. Arizona commerce authority fund

10 A. THE ARIZONA COMMERCE AUTHORITY FUND IS ESTABLISHED CONSISTING OF
11 WITHHOLDING TAX REVENUES ALLOCATED TO THE FUND FROM THE JOB CREATION
12 WITHHOLDINGS CLEARING ACCOUNT PURSUANT TO SECTION 43-409, SUBSECTION B,
13 PARAGRAPH 1. MONIES CREDITED TO THE FUND MAY BE DEPOSITED IN THE STATE
14 TREASURY OR IN A BANK OR OTHER DEPOSITORY APPROVED BY THE BOARD OF DIRECTORS
15 PURSUANT TO SECTION 41-1504, SUBSECTION D, PARAGRAPH 5.

16 B. THE CHIEF EXECUTIVE OFFICER SHALL ADMINISTER THE FUND. ON NOTICE
17 FROM THE CHIEF EXECUTIVE OFFICER, THE STATE TREASURER SHALL INVEST AND DIVEST
18 ANY MONIES IN THE FUND DEPOSITED IN THE STATE TREASURY AS PROVIDED BY SECTION
19 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND.
20 MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING
21 TO LAPSING OF APPROPRIATIONS.

22 C. THE CHIEF EXECUTIVE OFFICER SHALL USE THE MONIES IN THE FUND
23 EXCLUSIVELY FOR THE PURPOSES OF THIS CHAPTER WITHOUT FURTHER LEGISLATIVE
24 AUTHORIZATION.

25 Sec. 31. Renumber

26 Section 41-1505.09, Arizona Revised Statutes, is renumbered as section
27 41-1506.01.

28 Sec. 32. Section 41-1506.01, Arizona Revised Statutes, as renumbered
29 by this act, is amended to read:

30 41-1506.01. Arizona twenty-first century competitive initiative
31 fund

32 A. The Arizona twenty-first century competitive initiative fund is
33 established to be administered by the ~~commerce and economic development~~
34 ~~commission~~ AUTHORITY. The fund consists of monies appropriated by the
35 legislature, earnings from the fund and gifts or grants donated or given to
36 the fund. Monies in the fund are subject to legislative appropriation and
37 shall be used as prescribed by this section. ~~The Arizona twenty-first~~
38 ~~century competitive initiative fund is exempt from section 41-1505.06,~~
39 ~~subsection A, paragraph 5, section 41-1505.06, subsection G and section~~
40 ~~41-1505.07.~~

41 B. On notice from the ~~commission~~ CHIEF EXECUTIVE OFFICER, the state
42 treasurer may invest and divest monies in the fund as provided by section
43 35-313. The state treasurer shall credit monies earned from investments to
44 the fund.

1 C. The ~~commission~~ CHIEF EXECUTIVE OFFICER shall enter into a
2 memorandum of understanding with a nonprofit corporation to use monies in the
3 fund in order to:

4 1. Build and strengthen medical, scientific and engineering research
5 programs and infrastructure in areas of greatest strategic value to this
6 state's competitiveness in the global economy with an emphasis in bioscience.

7 2. Actively engage scientific research, academic and medical
8 institutions that represent both the public and private sectors on a
9 worldwide basis.

10 D. In order to enter into a memorandum of understanding ~~with the~~
11 ~~commission~~ pursuant to subsection C of this section, a nonprofit corporation
12 shall:

13 1. Be a statewide nonprofit corporation that is incorporated in this
14 state and that is qualified under section 501(c)(3) of the United States
15 internal revenue code.

16 2. Agree on a quarterly basis to report on investments made and agree
17 on an annual basis to report on measurable objectives and other funds
18 leveraged with state investments.

19 3. Identify and document private or philanthropic investments that are
20 equivalent to fifty million dollars or more in fiscal year 2005-2006. For
21 fiscal year 2006-2007, the nonprofit corporation shall provide funding to
22 achieve the goals prescribed in subsection C of this section in an amount
23 equal to or greater than the financial assistance provided by this state.

24 E. The ~~commission~~ CHIEF EXECUTIVE OFFICER shall submit the memorandum
25 of understanding with the nonprofit corporation to the joint legislative
26 budget committee for review before expending any appropriated state
27 monies. The initial submission shall include provisions that address how the
28 nonprofit corporation accounts for the application and investment of monies
29 pursuant to subsection C of this section, the documentation of investments
30 made in whole or in part through funding pursuant to this section and the
31 preparation and filing of annual audits of the fund with the auditor
32 general. The initial submission shall also include performance measures to
33 evaluate the effectiveness of the program and recommendations pertaining to
34 prospective repayment to the fund by scientific, research, academic and
35 medical institutions of a portion of the income derived from technology or
36 intellectual property created or developed in whole or in part through
37 funding pursuant to this section. The joint legislative budget committee
38 shall review expenditures from the fund at least quarterly, including any
39 changes to the memorandum of understanding, but may choose less frequent
40 reviews.

1 Sec. 33. Section 41-1507, Arizona Revised Statutes, is amended to
2 read:

3 41-1507. Tax credit for increased research activity:
4 qualification for refund

5 A. The ~~department of commerce~~ AUTHORITY shall receive applications and
6 evaluate and certify taxpayers who otherwise qualify for income tax credits
7 for increased research activities to further qualify for income tax refunds.

8 B. An application for a refund of the taxpayer's credit must include:

9 1. The taxpayer's name, address and taxpayer identification number and
10 a telephone number and e-mail address of a person responsible for the
11 application.

12 2. A general description of the taxpayer's business and the research
13 activities conducted by the taxpayer.

14 3. The number of full-time employees on the taxpayer's payroll on
15 December 31 of the taxable year. Only taxpayers employing fewer than one
16 hundred fifty full-time employees qualify for a refund of the taxpayer's
17 income tax credit.

18 4. The amount of the taxpayer's income tax credit for the taxable
19 year.

20 5. Any other information required by the ~~department~~ AUTHORITY.

21 C. Each application shall include a processing fee equal to one per
22 cent of the taxpayer's tax credit being refunded.

23 D. The ~~department~~ AUTHORITY shall process and evaluate each
24 application and within thirty days after receiving the application either:

25 1. Issue to the applicant a certificate of qualification for the
26 refund.

27 2. Notify the applicant of denial of the application with specific
28 reasons for the denial. A denial of the application does not preclude a
29 subsequent application if the applicant is able to correct any error or
30 deficiency.

31 E. The ~~department~~ AUTHORITY shall not approve refunds exceeding a
32 total of five million dollars in any calendar year. Refunds are allowed on a
33 first come, first served basis, according to the date of application. An
34 approved amount applies against the dollar limit for the year in which the
35 application was submitted. If, at the end of any year, an unused balance
36 occurs under the dollar limit prescribed by this subsection, the balance
37 shall be reallocated for the purposes of this section in the following year.

38 F. The ~~department of commerce~~ AUTHORITY, with the cooperation of the
39 department of revenue, shall adopt rules and publish and prescribe forms and
40 procedures as necessary to effectuate the purposes of this section.

1 Sec. 34. Section 41-1508, Arizona Revised Statutes, is amended to
2 read:

3 41-1508. Defense contractor restructuring assistance:
4 definitions

5 A. ON JULY 1, 2011, THE ARIZONA COMMERCE AUTHORITY SUCCEEDS TO THE
6 REMAINING FUNCTIONS AND RESPONSIBILITIES FORMERLY PERFORMED BY THE DEPARTMENT
7 OF COMMERCE UNDER THIS SECTION. ANY REFERENCE TO DEPARTMENT IN THIS SECTION
8 IS CONSIDERED TO REFER TO THE ARIZONA COMMERCE AUTHORITY.

9 ~~A.~~ B. The department shall establish and conduct a defense contractor
10 restructuring assistance program to:

11 1. Assist qualified defense contractors in this state to maintain and
12 attract the maximum share of available contracts with the United States
13 department of defense.

14 2. Encourage qualified defense contractors in this state to diversify
15 into commercial markets and consolidate facilities into this state.

16 3. Encourage qualified defense contractors in this state to adopt new
17 manufacturing processes and technologies.

18 ~~B.~~ C. The department shall coordinate a coalition of qualified
19 defense contractors in this state to identify and address relevant issues and
20 opportunities and to increase communication and the capacity to solve common
21 problems.

22 ~~C.~~ D. Until June 30, 2001, the department of commerce shall identify
23 and certify to the department of revenue the names and relevant information
24 relating to qualified defense contractors for purposes of available tax
25 incentives. The department of commerce shall determine the effective date of
26 certification, which in all events shall begin on the first day of a taxable
27 year of a taxpayer, and the certification is valid only for five full
28 consecutive calendar or fiscal years, as determined by the department of
29 commerce. The department of commerce may revoke the certification for
30 failure to qualify and comply with the terms and conditions prescribed by
31 this section and shall immediately notify the department of revenue of a
32 revocation. The department of revenue may also revoke the certification if
33 it obtains information indicating a failure to qualify and comply. The
34 department shall not certify any new qualified defense contractor after June
35 30, 2001. To obtain and maintain certification, a defense contractor must:

36 1. Apply to the department of commerce.

37 2. Submit and retain copies of all required information including
38 information relating to the amount of tax benefits the defense contractor
39 receives.

40 3. Allow such inspections and audits as are necessary to verify the
41 accuracy of the submitted information.

42 4. Agree in writing with the department of commerce to furnish
43 information relating to the amount of tax benefits the taxpayer receives each
44 year for disclosure in composite form in an annual report by the department
45 of commerce.

1 ~~D.~~ E. For purposes of this section, "qualified defense contractor" or
2 "contractor" means a business entity that on initial qualification meets all
3 of the following requirements:

4 1. Has one or more current manufacturing, assembling, fabricating,
5 research, development or design contracts directly with the United States
6 department of defense that:

7 (a) Total at least five million dollars in sales of tangible personal
8 property manufactured, assembled, fabricated, researched, developed or
9 designed in this state.

10 (b) Do not require providing products or services directly to a
11 particular military base or bases or installations.

12 2. Employs at least two hundred full-time equivalent employee
13 positions in this state solely with respect to department of defense
14 contracts.

15 Sec. 35. Section 41-1510.01, Arizona Revised Statutes, is amended to
16 read:

17 41-1510.01. Solar energy tax incentives; qualification

18 A. The ~~department~~ AUTHORITY shall establish a procedure for
19 identifying commercial solar energy projects that qualify for the purposes of
20 the commercial solar energy income tax credits under sections 43-1085 and
21 43-1164.

22 B. To qualify for the tax credits, a business must apply in a form
23 prescribed by the ~~department~~ AUTHORITY, including:

24 1. The name, address and telephone number of the business purchasing
25 the solar energy device or system.

26 2. The name, address and telephone number of a contact person with the
27 business.

28 3. The projected date that the installation of the solar energy device
29 or system will begin and the projected finish date.

30 4. The location where the solar energy device or system will be
31 installed.

32 5. The type of solar energy device or system, its total cost,
33 excluding financing costs, and the estimated annual performance level.

34 6. The projected amount of the credit against state income taxes.

35 C. Applications ~~to the department~~ under this section are confidential
36 and are not subject to disclosure under title 39 for eighteen months after
37 the date of application.

38 D. The ~~department~~ AUTHORITY shall:

39 1. Review and evaluate each submitted application.

40 2. Determine within thirty days after receiving the application
41 whether the application meets the criteria for the purposes of the commercial
42 solar energy income tax credits.

43 3. Provide its initial certification of a project to the applicant and
44 to the department of revenue. The initial certification shall include a
45 unique identifying number for each certified installation.

1 E. On the completion of each certified installation:
2 1. The business must:
3 (a) Certify that the installed solar energy device or system is
4 operational.
5 (b) Provide the total amount of income tax credits to be claimed.
6 2. The ~~department~~ AUTHORITY shall review the installation expenses and
7 issue a credit certificate to the business. The credit certificate shall
8 include the assigned identifying number.
9 3. The ~~department of commerce~~ AUTHORITY shall transmit the credit
10 information and certificate number to the department of revenue.
11 F. The ~~department of commerce~~ AUTHORITY shall not certify tax credits
12 under this section in any calendar year that exceed a total of one million
13 dollars.
14 G. The ~~department of commerce~~ AUTHORITY and the department of revenue
15 shall collaborate in adopting rules that are necessary to accomplish the
16 intent and purpose of this section.
17 Sec. 36. Section 41-1511, Arizona Revised Statutes, is amended to
18 read:
19 41-1511. Renewable energy tax incentives; qualification;
20 definitions
21 A. Tax incentives are allowed for expanding or locating qualified
22 renewable energy operations in this state, including income tax credits
23 pursuant to sections 43-1083.01 and 43-1164.01 and property tax
24 classification pursuant to section 42-12006, paragraph ~~9~~ 8.
25 B. To be eligible for the tax incentives, a renewable energy business
26 must apply to the ~~department of commerce~~ AUTHORITY, on a form prescribed by
27 the ~~department~~ AUTHORITY, for preapproval of the business as qualifying for
28 the incentives. The application must include:
29 1. The applicant's name, address, telephone number and federal
30 taxpayer identification number or numbers.
31 2. The name, address, telephone number and e-mail address of a contact
32 person for the applicant.
33 3. The address of the site where the qualifying renewable energy
34 operation will be located.
35 4. A detailed description of the qualifying renewable energy operation
36 and fixed capital assets.
37 5. An estimate of the capital investment and number of employment
38 positions at the qualifying renewable energy operation, including:
39 (a) A schedule of qualifying investments.
40 (b) A list of full-time employment positions, the estimated number of
41 employees to be hired for the positions each year during the first five years
42 of operation and the annual wages for each position, calculated without
43 employee-related benefits.
44 6. A nonrefundable processing fee in an amount determined by the
45 ~~department~~ AUTHORITY.

1 7. Other information as required by the ~~department~~ AUTHORITY to
2 determine eligibility for the tax incentives, and the amount of income tax
3 credits, as prescribed by this section.

4 8. An affirmation, signed by an authorized executive representing the
5 business, that the applicant:

6 (a) Agrees to furnish records of expenditures for qualifying
7 investments to the ~~department of commerce~~ AUTHORITY on request.

8 (b) Will continue in business at the qualifying renewable energy
9 operation for five full calendar years after postapproval for a tax
10 incentive, other than for reasons beyond the control of the applicant.

11 (c) Agrees to furnish to the ~~department of commerce~~ AUTHORITY
12 information regarding the amount of tax benefits claimed each year.

13 (d) Authorizes the department of revenue to provide tax information to
14 the ~~department of commerce~~ AUTHORITY pursuant to section 42-2003 for the
15 purpose of determining any inconsistency in information furnished by the
16 applicant.

17 (e) Agrees to allow site visits and audits to verify the applicant's
18 continuing qualification and the accuracy of information submitted to the
19 ~~department of commerce~~ AUTHORITY.

20 (f) Consents to the adjustment or recapture of any amount of income
21 tax credit or property tax incentive due to noncompliance with this section.

22 9. Letters of good standing from the department of revenue and the
23 county treasurer of the county in which the project is located stating that
24 the applicant is in good standing and is not delinquent in the payment of
25 taxes.

26 C. To be eligible for the tax incentives, the applicant must make new
27 capital investment in this state after September 30, 2009 in a manufacturing
28 facility or headquarters facility or any combination of qualifying
29 facilities, as follows:

30 1. The applicant may qualify for income tax credits pursuant to
31 section 43-1083.01 or 43-1164.01, as applicable, if:

32 (a) At least fifty-one per cent of the net new full-time employment
33 positions at the renewable energy operation pay a wage that equals or exceeds
34 one hundred twenty-five per cent of the median annual wage in this state, as
35 determined by the most recent annual ~~department of commerce~~ ARIZONA COMMERCE
36 AUTHORITY occupational wage and employment estimates.

37 (b) All net new full-time employment positions include health
38 insurance coverage for the employees for which the applicant pays at least
39 eighty per cent of the premium or membership cost.

40 2. The fixed capital assets shall be classified as class six for the
41 purposes of property taxation pursuant to section 42-12006, paragraph ~~9-8~~ if
42 the qualifying investment amounts to at least twenty-five million dollars, if
43 the applicant pays at least eighty per cent of the health insurance costs or
44 membership costs for all net new employees and if at least fifty-one per cent

1 of the net new full-time employment positions at the qualifying renewable
2 energy operation pay a wage that equals:

3 (a) At least one hundred twenty-five, but less than two hundred, per
4 cent of the median annual wage in this state, as determined by the most
5 recent annual ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY occupational
6 wage and employment estimates, the property may be classified as class six
7 for ten tax years.

8 (b) At least two hundred per cent of the median annual wage in this
9 state, as determined by the most recent annual ~~department of commerce~~ ARIZONA
10 COMMERCE AUTHORITY occupational wage and employment estimates, the property
11 may be classified as class six for fifteen tax years.

12 D. Final eligibility for the tax incentives is subject to any
13 additional requirements prescribed by sections 42-12006, 43-1083.01 and
14 43-1164.01, as applicable.

15 E. An applicant may separately apply and qualify with respect to
16 investments for:

- 17 1. Renewable energy operations in separate locations.
- 18 2. Separate expansions of a renewable energy operation.

19 F. To determine the amount of income tax credit to be preapproved to a
20 qualifying applicant, the ~~department~~ AUTHORITY shall use one of the following
21 computations:

22 1. Ten per cent of the amount the applicant has projected in total
23 qualifying investment in renewable energy ~~operation~~ OPERATIONS meeting the
24 following minimum employment requirements:

25 (a) For renewable energy manufacturing operations, at least one and
26 one-half new full-time employment positions projected by the applicant for
27 each five hundred thousand dollar increment of capital investment.

28 (b) For renewable energy business headquarters, at least one new
29 full-time employment position projected by the applicant for each two hundred
30 thousand dollar increment of capital investment.

31 2. For other qualifying renewable energy investment, ten per cent of
32 the amount computed as follows:

33 (a) Five hundred thousand dollars for each one and one-half new
34 full-time employment positions projected by the applicant in new renewable
35 energy manufacturing operations.

36 (b) Two hundred thousand dollars for each new full-time employment
37 position projected by the applicant at a new renewable energy business
38 headquarters.

39 G. Beginning with income tax credits allocated for 2010, an approved
40 income tax credit:

41 1. Must be claimed on a timely filed original income tax return,
42 including extensions.

43 2. Must be claimed in five equal installments as provided in section
44 43-1083.01 or 43-1164.01.

1 H. The ~~department~~ AUTHORITY shall establish a process for qualifying
2 and preapproving applicants for the tax incentives. The ~~department~~ AUTHORITY
3 shall not preapprove an applicant as qualifying for tax incentives under this
4 section after December 31, 2014. Preapproval is based on:

5 1. Priority placement established by the date that the applicant files
6 its initial application with the department.

7 2. The availability of income tax credit capacity under the dollar
8 limit prescribed by subsection J of this section.

9 I. Within thirty days after receiving a complete and correct
10 application, the ~~department~~ AUTHORITY shall review the application to
11 determine whether the applicant satisfies all of the criteria prescribed by
12 this section and either preapprove the project as qualifying for the purposes
13 of the tax incentives or provide reasons for its denial. The ~~department of~~
14 ~~commerce~~ AUTHORITY shall send copies of the preapproval to the department of
15 revenue and the applicable county assessor.

16 J. The ~~department~~ AUTHORITY shall not preapprove income tax credits
17 exceeding seventy million dollars in any calendar year, except as provided by
18 this subsection and subsection K of this section. A preapproved amount
19 applies against the dollar limit for the year in which the application was
20 submitted regardless of whether the initial preapproval period extends into
21 the following year or years. If, at the end of any year, an unused balance
22 occurs under the dollar limit prescribed by this subsection:

23 1. The balance shall be allocated to renewable energy businesses that
24 successfully appeal the denial of approval under this section. Any amount of
25 income tax credits due to successful appeals that are not paid from an unused
26 balance at the end of any year shall be paid against the dollar limit in the
27 following year.

28 2. Any remaining unused balance shall be reallocated for the purposes
29 of this section in the following year.

30 K. The ~~department~~ AUTHORITY shall reallocate the amount of income tax
31 credits that are voluntarily relinquished under subsection L of this section,
32 that lapse under subsection M of this section or that lapse under subsection
33 P of this section. The reallocation shall be to other renewable energy
34 businesses that applied in the original credit year based on priority
35 placement. Once reallocated, the amount of the credit applies against the
36 dollar limit of the original credit year regardless of the year in which the
37 reallocation occurs.

38 L. A taxpayer may voluntarily relinquish unused credit amounts.

39 M. Preapproval under this section lapses, the application is void and
40 the amount of the preapproved income tax credits does not apply against the
41 dollar limit prescribed by subsection J of this section if, within twelve
42 months after preapproval, the renewable energy business fails to provide to
43 the ~~department~~ AUTHORITY documentation of its expenditure of two hundred
44 fifty thousand dollars in qualifying investment or, if the period over which
45 the qualifying investment will be made exceeds twelve months, documentation

1 of additional expenditures as required in this subsection for each twelve
2 month period.

3 N. Beginning in 2010, after October 31 of each year, if the ~~department~~
4 ~~AUTHORITY~~ has preapproved the maximum calendar year income tax credit amount
5 pursuant to subsection J of this section, the ~~department~~ ~~AUTHORITY~~ may accept
6 initial applications for the next calendar year, but the preapproval of any
7 application pursuant to this subsection shall not be effective before the
8 first business day of the following calendar year.

9 O. Before an applicant applies for postapproval under subsection P of
10 this section, the applicant must enter into a written managed review
11 agreement with the ~~director~~ ~~CHIEF EXECUTIVE OFFICER OF THE AUTHORITY~~ that
12 establishes the requirements of a managed review to be conducted under this
13 subsection at the applicant's expense. The managed review must be conducted
14 by a certified public accountant who is selected by the applicant, who is
15 licensed in this state and who is approved by the ~~director~~ ~~CHIEF EXECUTIVE~~
16 ~~OFFICER~~. The certified public accountant and the firm the certified public
17 accountant is affiliated with shall not regularly perform services for the
18 applicant or its affiliates. The managed review shall include an analysis of
19 the applicant's invoices, checks, accounting records and other documents and
20 information to verify its base investment and other requirements prescribed
21 by section 42-12006, 43-1083.01 or 43-1164.01 to confirm the amount of credit
22 or property tax incentive. The certified public accountant shall furnish
23 written findings of the managed review to the ~~director~~ ~~CHIEF EXECUTIVE~~
24 ~~OFFICER~~. The ~~director~~ ~~CHIEF EXECUTIVE OFFICER~~ shall review the findings and
25 may examine records and perform other reviews that the ~~director~~ ~~CHIEF~~
26 ~~EXECUTIVE OFFICER~~ considers necessary to verify that the managed review
27 substantially conforms to the terms of the managed review agreement. The
28 ~~director~~ ~~CHIEF EXECUTIVE OFFICER~~ shall accept or reject the findings of the
29 managed review. If the ~~director~~ ~~CHIEF EXECUTIVE OFFICER~~ rejects all or part
30 of the managed review, the ~~director~~ ~~CHIEF EXECUTIVE OFFICER~~ shall provide
31 written reasons for the rejection.

32 P. When the renewable energy operation begins operations, a renewable
33 energy business that was preapproved for income tax credits under this
34 section shall apply to the ~~department~~ ~~AUTHORITY~~ in writing for postapproval
35 of the credits and submit documentation certifying the total amount and dates
36 of the qualifying investments and identifying the fixed capital assets
37 associated with the renewable energy operation incurred from and after
38 September 30, 2009 through the date of application for postapproval. From
39 and after December 31, 2009, the ~~department~~ ~~AUTHORITY~~ shall provide
40 postapproval to a renewable energy business that it has met the eligibility
41 requirements of this section and shall notify the department of revenue that
42 the renewable energy business may claim the tax credits pursuant to section
43 43-1083.01 or 43-1164.01. If the amount of qualifying investment actually
44 spent is less than the amount preapproved for income tax credits, the
45 preapproved amount not incurred lapses and does not apply against the dollar

1 limit prescribed by subsection J of this section for that year. The
2 ~~department~~ AUTHORITY shall not allow a credit under section 43-1083.01 or
3 43-1164.01 that exceeds the amount of the postapproval for the project under
4 this subsection. For the purposes of this subsection, "begins operations"
5 means:

6 1. A headquarters facility opens for public business.

7 2. A manufacturing facility begins producing commercial quantities of
8 usable products.

9 Q. The ~~department of commerce~~ AUTHORITY may rescind the business'
10 postapproval if the business no longer meets the terms and conditions
11 required for qualifying for the tax incentives. The ~~department~~ AUTHORITY may
12 give special consideration, or allow temporary exemption from recapture of
13 tax benefits, in the case of extraordinary hardship due to factors beyond the
14 control of the qualifying business.

15 R. If the ~~department of commerce~~ AUTHORITY rescinds an applicant's
16 preapproval or postapproval under subsection Q of this section, it shall
17 notify the department of revenue and the county assessor of the action and
18 the conditions of noncompliance. If the department of revenue obtains
19 information indicating a possible failure to qualify and comply, it shall
20 provide that information to the ~~department of commerce~~ AUTHORITY. The
21 department of revenue may require the business to file appropriate amended
22 tax returns reflecting any recapture of income tax credits under section
23 43-1083.01 or 43-1164.01.

24 S. Preapproval and postapproval of a business for the purposes of tax
25 incentives under this section do not constitute or imply compliance with any
26 other provision of law or any regulatory rule, order, procedure, permit or
27 other measure required by law. To maintain qualification for tax incentives
28 under this section, a business must separately comply with all environmental,
29 employment and other regulatory measures.

30 T. For five years after postapproval for tax incentives under this
31 section, in any action involving the liquidation of the business assets or
32 relocation out of state, this state claims the position of a secured creditor
33 of the business in the amount of income tax credits and property tax
34 incentives the business received pursuant to section 42-12006, 43-1083.01 or
35 43-1164.01.

36 U. Any information gathered from a renewable energy business for the
37 purposes of this section is considered to be confidential taxpayer
38 information and shall be disclosed only as provided in section 42-2003,
39 subsection B, paragraph 12, except that the ~~department~~ AUTHORITY shall
40 publish the following information in its annual report:

41 1. The name of each renewable energy business and the amount of income
42 tax credits preapproved for each qualifying investment.

43 2. The amount of credits postapproved with respect to each qualifying
44 investment.

45 V. The ~~department~~ AUTHORITY shall:

1 1. Keep annual records of the information provided on applications for
2 renewable energy businesses. These records shall reflect a percentage
3 comparison of the annual amount of monies exempted or credited to qualifying
4 renewable energy businesses to the estimated amount of monies spent in this
5 state in the form of qualifying investments.

6 2. Maintain annual data on growth in this state of renewable energy
7 businesses and industry employment and wages.

8 3. Not later than April 30 of each year, prepare and publish a report
9 summarizing the information collected pursuant to this subsection. The
10 ~~department~~ AUTHORITY shall make copies of the annual report available to the
11 public on request.

12 W. The ~~department of commerce~~ AUTHORITY shall adopt rules and
13 prescribe forms and procedures as necessary for the purposes of this
14 section. The ~~department of commerce~~ AUTHORITY and the department of revenue
15 shall collaborate in adopting rules as necessary to avoid duplication and
16 inconsistencies while accomplishing the intent and purposes of this section.

17 X. For the purposes of this section:

18 1. "Capital investment" means an expenditure to acquire, lease or
19 improve property that is used in operating a business, including land,
20 buildings, machinery and fixtures.

21 2. "Headquarters" means a principal central administrative office
22 where primary headquarters related functions and services are performed,
23 including financial, personnel, administrative, legal, planning and similar
24 business functions.

25 3. "Manufacturing" means fabricating, producing or manufacturing raw
26 or prepared materials into usable products, imparting new forms, qualities,
27 properties and combinations. Manufacturing does not include generating
28 electricity for off-site consumption.

29 4. "Primarily engaged" means that more than fifty per cent of a
30 company's business activity at a particular facility directly involves
31 renewable energy operations, measured by revenues received, expenses
32 incurred, square footage or the number of individuals employed.

33 5. "Qualifying investment" means investment in land, buildings,
34 machinery and fixtures for expansion of an existing renewable energy
35 operation or establishment of a new renewable energy operation in this state
36 after September 30, 2009. Qualifying investment does not include relocating
37 an existing renewable energy operation in this state to another location in
38 this state without additional capital investment of at least two hundred
39 fifty thousand dollars.

40 6. "Qualifying renewable energy operation" means the facility where a
41 qualifying investment was made.

42 7. "Renewable energy" means usable energy, including electricity,
43 fuels, gas and heat, produced through the conversion of energy provided by
44 sunlight, water, wind, geothermal, heat, biomass, biogas, landfill gas or
45 other nonfossil renewable resource.

1 8. "Renewable energy business" means a person primarily engaged in the
2 business of renewable energy manufacturing operations or renewable energy
3 headquarters operations.

4 9. "Renewable energy operations" are limited to manufacturers of, and
5 headquarters for, systems and components that are used or useful in
6 manufacturing renewable energy equipment for the generation, storage, testing
7 and research and development, transmission or distribution of electricity
8 from renewable resources, including specialized crates necessary to package
9 the renewable energy equipment manufactured at the qualifying renewable
10 energy operation.

11 10. "Renewable energy resource" means a resource that is replaced by
12 natural and assisted processes at a rate that is comparable to or faster than
13 the rate of natural depletion and consumption by humans.

14 Sec. 37. Repeal

15 Sections 41-1513, 41-1514 and 41-1514.01, Arizona Revised Statutes, are
16 repealed.

17 Sec. 38. Section 41-1514.02, Arizona Revised Statutes, is amended to
18 read:

19 41-1514.02. Environmental technology assistance; definitions

20 A. ON JULY 1, 2011, THE ARIZONA COMMERCE AUTHORITY SUCCEEDS TO THE
21 REMAINING FUNCTIONS AND RESPONSIBILITIES FORMERLY PERFORMED BY THE DEPARTMENT
22 OF COMMERCE UNDER THIS SECTION. ANY REFERENCE TO DEPARTMENT IN THIS SECTION
23 IS CONSIDERED TO REFER TO THE ARIZONA COMMERCE AUTHORITY.

24 ~~A-~~ B. The department of commerce shall establish and conduct an
25 environmental technology assistance program to promote business and economic
26 development by recruiting and expanding companies that manufacture, produce
27 or process solar and other renewable energy products or products from
28 recycled materials under the conditions prescribed by this section. The
29 department shall:

30 1. Assist qualified environmental technology manufacturers, producers
31 or processors in locating or expanding facilities in this state.

32 2. Encourage the use of environmental technology products.

33 3. Encourage the development of an environmental technology industry
34 in this state.

35 ~~B-~~ C. Until June 30, 1996, the department of commerce shall identify
36 and certify to the department of revenue the names and relevant information
37 relating to the facilities of qualified environmental technology
38 manufacturers, producers and processors for purposes of available tax
39 incentives. The department of commerce may revoke the certification for
40 failure to qualify and comply with the terms and conditions prescribed by
41 this section and shall immediately notify the department of revenue of a
42 revocation. The department of revenue may also revoke the certification if
43 it obtains information indicating a failure to qualify and comply. If the
44 department of revenue proposes to revoke the certification of an
45 environmental technology manufacturer, producer or processor, it shall afford

1 that person the rights of appeal as provided in title 42, chapter 1, article
2 6. The department of commerce shall not certify any new qualified
3 environmental technology manufacturers, producers or processors for the
4 purposes of this section after June 30, 1996. To obtain and maintain
5 certification, an environmental technology manufacturer, producer or
6 processor must:

7 1. Apply to the department of commerce.

8 2. Submit and retain copies of all required information including
9 information relating to the actual or projected number of employees at
10 qualified environmental technology facilities in this state and the actual or
11 projected annual capital investment in those facilities.

12 3. Allow such inspections and audits as are necessary to verify the
13 accuracy of the submitted information.

14 4. Upon initial application, submit to the department of commerce the
15 information required by section 49-109, subsection B in the manner prescribed
16 in section 49-109, subsection C or the information required by section
17 49-109, subsection G, as applicable. The department of commerce shall
18 consider the information submitted pursuant to this paragraph in its
19 determination of certification and may deny certification if after
20 consultation with the department of environmental quality serious,
21 substantial and continuing violations of federal or state environmental laws
22 are found.

23 ~~C.~~ D. Within sixty days after receipt of a complete application and
24 all information required, as prescribed by the department of commerce, the
25 department of commerce shall grant or deny certification and give written
26 notice by certified mail to the applicant. The applicant is certified as a
27 qualified environmental technology manufacturer, producer or processor on the
28 date the notice of certification is delivered to the applicant.

29 ~~D.~~ E. To qualify for assistance under this section, an environmental
30 technology manufacturer, producer or processor must meet the following
31 requirements:

32 1. A manufacturer, producer or processor that is certified not later
33 than July 1, 1995 by the department of commerce pursuant to this section,
34 shall not import hazardous waste, as defined in section 49-921 as of July 1,
35 1993, or special waste, as defined in section 49-851 as of July 1, 1993, into
36 this state from another state or country. Any other manufacturer, producer
37 or processor that is certified by the department of commerce pursuant to this
38 section, after July 1, 1995, shall not as of the date of certification import
39 hazardous waste, as defined in section 49-921, and as interpreted by federal
40 and state regulations or special waste, as defined in section 49-851, into
41 this state from another state or country. This paragraph does not apply to
42 any environmental technology manufacturer, producer or processor, or
43 facilities and their subsequent expansions and replacements that, as of July
44 1, 1993, hold a storage or treatment facility permit issued by the department
45 of environmental quality pursuant to 40 Code of Federal Regulations section

1 270.10 or has obtained plan approval from the department of environmental
2 quality pursuant to section 49-762, that specifically authorizes the
3 acceptance of special waste, for an existing or proposed recycling operation,
4 or import hazardous or special wastes for recycling purposes.

5 2. The manufacturer, producer or processor shall locate or make an
6 additional capital investment in a facility in this state that:

7 (a) Is either owned by a qualified environmental technology
8 manufacturer, producer or processor, or leased by a qualified environmental
9 technology manufacturer, producer or processor for a term of five or more
10 years.

11 (b) Is used predominantly to do any of the following:

12 (i) Sort, store, prepare, convert, fabricate, manufacture or otherwise
13 process finished products consisting of at least ninety per cent recycled
14 materials.

15 (ii) Prepare, fabricate, manufacture or otherwise process finished
16 products that are powered exclusively with solar or other specific renewable
17 energy.

18 (iii) Prepare, fabricate, manufacture or otherwise process raw
19 material or intermediate product exclusively through a hydrometallurgical
20 process where at least eighty-five per cent of the process solution used to
21 produce the finished product is recycled on site for additional production.

22 (iv) Fabricate or manufacture finished paper products that consist of
23 at least eighty per cent recycled material.

24 (c) Costs, or is expected to cost, an aggregate of at least twenty
25 million dollars of new capital investment in this state within five years
26 after construction begins or commencement of installation of improvements.

27 ~~E.~~ F. Certification and qualification by an environmental technology
28 manufacturer, producer or processor for purposes of this section does not
29 constitute compliance with any provision of title 49 or any rule, order,
30 procedure, permit or other regulatory measure required pursuant to title 49.
31 An environmental technology manufacturer, producer or processor shall comply
32 with all applicable environmental requirements of the department of
33 environmental quality separately and independently from qualifying for
34 assistance under this section. For purposes of complying with title 49, all
35 definitions in that title and those adopted in rules pursuant to that title
36 shall be applicable.

37 ~~F.~~ G. To qualify for tax incentives the taxpayer shall:

38 1. Agree with the department of commerce in writing to furnish
39 information relating to the amount of tax benefits the taxpayer receives each
40 year. If the taxpayer fails to provide the required information, the
41 department of commerce shall immediately revoke the taxpayer's qualification
42 and notify the department of revenue.

43 2. Enter into a memorandum of understanding with this state through
44 the department of commerce containing employment goals. Each year the
45 taxpayer shall report in writing to the department of commerce its

1 performance in achieving the goals. The memorandum shall contain provisions
2 that allow:

3 (a) The department of commerce to stop, readjust or recapture all or
4 part of the tax incentives provided to the taxpayer on noncompliance with the
5 terms of the memorandum.

6 (b) The department of commerce to notify the department of revenue of
7 the conditions of noncompliance.

8 (c) The department of revenue to require the taxpayer to file
9 appropriate amended tax returns reflecting the recapture of the tax
10 incentives.

11 ~~G~~ H. A manufacturer, producer or processor who is certified by the
12 department of commerce to qualify for assistance under this section shall not
13 have the certification revoked and shall not be disqualified because of the
14 adoption after certification of a rule or a federal regulation relating to
15 the requirements under subsection ~~D~~ E of this section.

16 ~~H~~ I. Retroactive to July 1, 1996, the certification of a qualified
17 environmental technology manufacturer, producer or processor may be assigned
18 or transferred to one or more successor taxpayers, manufacturers, producers
19 or processors that have acquired and continue to operate a facility that was
20 used to meet the qualifications prescribed in subsection ~~D~~ E of this section
21 and that continues to be used predominantly for the purposes prescribed in
22 subsection ~~D~~ E, paragraph 2, subdivision (b) of this section.

23 ~~I~~ J. For purposes of this section:

24 1. "Environmental technology" means solar and other renewable energy
25 products or recycled materials.

26 2. "Facility" includes a single facility, a combination of facilities,
27 land, improvements, building improvements, real and personal property used
28 for environmental protection facilities as defined in section 42-14154,
29 property used to generate on-site power or energy and machinery and
30 equipment.

31 3. "Finished paper product" means a paper item or commodity or one of
32 its components, including newsprint, paper napkins, paper towels, corrugated
33 paper and related cellulosic products, that contains not more than ten per
34 cent noncellulosic material such as laminates, binders or saturants, that has
35 economic value to a consumer or purchaser and that is ready to be used with
36 or without further altering its form.

37 4. "Finished product" means a marketable product or component of a
38 product that has economic value to a consumer or purchaser and that is ready
39 to be used with or without further altering its form.

40 5. "Hydrometallurgical processing" includes facilities used
41 exclusively for solvent extraction electrowinning, hydrometallurgical
42 recovery, precipitation and refining, but does not include smelters, open pit
43 and underground mines, and concentrator processes.

44 6. "Machinery and equipment" means machinery and equipment that are
45 directly or indirectly used to do any of the following:

1 (a) Sort, store, prepare, convert, fabricate, manufacture or otherwise
2 process finished products consisting of at least ninety per cent recycled
3 materials, including all machinery and equipment designed and used for
4 environmental protection on site as well as all machinery and equipment used
5 to generate power or energy for use on site.

6 (b) Prepare, fabricate, manufacture or otherwise process finished
7 products that are powered exclusively with solar or other specific renewable
8 energy.

9 (c) Prepare, fabricate, manufacture or otherwise process raw material
10 or intermediate product exclusively through a hydrometallurgical process
11 where at least eighty-five per cent of the process solution used to produce
12 the finished product is recycled on site for additional production.

13 (d) Fabricate or manufacture finished paper products that consist of
14 at least eighty per cent recycled materials, including all machinery and
15 equipment that is designed and used for environmental protection on site and
16 machinery and equipment that is used to generate power or energy for use on
17 site.

18 7. "Process solution" means solution that is required throughout the
19 hydrometallurgical process and from which the finished product is extracted.

20 8. "Qualified environmental technology manufacturer, producer or
21 processor" or "qualified environmental technology facility" means an entity
22 that for purposes of titles 42 and 43 meets the qualifications prescribed in
23 subsection ~~D~~ E of this section and is certified by the department of
24 commerce pursuant to subsection ~~B~~ C of this section.

25 9. "Recycled materials" means materials that have been separated,
26 recovered or diverted from the solid waste stream and processed and returned
27 to the economic stream in the form of raw materials or finished products.
28 Recycled materials include work in process by the environmental technology
29 manufacturing, producing or processing company that is composed of at least
30 ninety per cent recycled materials and that will be further processed into a
31 finished product.

32 10. "Renewable energy" means energy that is supplied from sources that
33 are continually replenished from the sun, the earth or the waste stream,
34 including hydroelectric, solar-thermal, photovoltaic, biomass, wind and
35 geothermal processes.

36 11. "Solid waste" means any garbage, trash, rubbish, refuse, sludge
37 from a waste treatment plant, water supply treatment plant or pollution
38 control facility and other discarded material, including solid, liquid,
39 semisolid or contained gaseous material resulting from industrial,
40 agricultural, silvicultural and commercial operations and from community
41 activities, but not including domestic sewage or hazardous waste unless such
42 waste is received by an environmental technology manufacturer, producer or
43 processor that holds a storage facility permit issued by the department of
44 environmental quality pursuant to 40 Code of Federal Regulations section
45 270.10 as of July 1, 1993.

1 Sec. 39. Repeal

2 Section ~~41-1515~~, Arizona Revised Statutes, is repealed.

3 Sec. 40. Section 41-1516, Arizona Revised Statutes, is amended to
4 read:

5 ~~41-1516~~. Healthy forest enterprise incentives; definitions

6 A. The ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY shall:

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

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

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

16 1. Must be primarily engaged in a qualifying project. The business
17 shall submit to the ~~department of commerce~~ AUTHORITY evidence that it is
18 engaged in a qualifying project as follows:

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

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

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

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

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

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

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

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

1 transporting qualifying forest products from or to qualifying projects
2 described in subdivision (b) or (c) of this paragraph, unless a lower mileage
3 is due to forest closures or weather conditions that are beyond the control
4 of the business.

5 2. Must employ at least three permanent full-time employees.

6 3. Must agree to furnish to the ~~department of commerce~~ AUTHORITY
7 information relating to the amount of state tax benefits that the business
8 receives each year.

9 4. Must enter into a memorandum of understanding with the ~~department~~
10 ~~of commerce~~ AUTHORITY containing:

11 (a) Employment goals. Each year the business must report in writing
12 to the ~~department of commerce~~ AUTHORITY its performance in achieving the
13 goals.

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

24 (c) Provisions considered necessary by the ~~department of commerce~~
25 AUTHORITY to ensure the competency and responsibility of businesses that
26 qualify under this section, including registration or other accreditation
27 with trade and professional organizations and compliance with best management
28 and operational practices used by governmental agencies in awarding forestry
29 contracts.

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

41 5. Must submit a copy of the certification to the department of
42 revenue for approval before using the certification for purposes of any tax
43 incentive. The department of revenue shall review and approve the
44 certification in a timely manner if the business is in good standing with the
45 department and is not delinquent in the payment of any tax collected by the

1 department. A failure to approve or deny the certification within sixty days
2 after the date the business submits it to the department constitutes approval
3 of the certification.

4 C. For the purposes of section 42-5075, subsection B, paragraph 19,
5 the ~~department of commerce~~ AUTHORITY shall certify prime contractors that
6 contract for the construction of any building, or other structure, project,
7 development or improvement owned by a qualified business for purposes of a
8 qualifying project described in subsection B, paragraph 1 of this section.

9 D. To obtain and maintain certification under this section, a business
10 must:

11 1. Apply to the ~~department of commerce~~ AUTHORITY.

12 2. Submit and retain copies of all required information, including
13 information relating to the actual or projected number of employees in this
14 state.

15 3. Allow inspections and audits to verify the qualification and
16 accuracy of information submitted to the ~~department of commerce~~ AUTHORITY.

17 E. Certification under this section is valid for twelve calendar
18 months from the date of issuance. A business must apply for recertification
19 at least thirty days before the current certification expires. The
20 application for recertification shall be in a form prescribed by the
21 ~~department of commerce~~ AUTHORITY and shall confirm that the business is
22 continuing in a qualifying project and is in compliance with all requirements
23 prescribed for certification.

24 F. Within sixty days after receiving a complete and correct
25 application and all required information as prescribed by this section, the
26 ~~department of commerce~~ AUTHORITY shall grant or deny certification and give
27 written notice by certified mail to the applicant. The applicant is
28 certified as a qualified business on the date the notice of certification is
29 delivered to the applicant. A failure to respond within sixty days after
30 receiving a complete and correct application constitutes approval of the
31 application.

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

35 H. On or before March 1 of each year, each qualifying business shall
36 make a report to the ~~department of commerce~~ AUTHORITY on all business
37 activity in the preceding calendar year. Business information contained in
38 the reports is confidential and shall not be disclosed to the public except
39 as provided by this section and except that a copy of the report shall be
40 transmitted to the department of revenue. The report shall be in a form
41 prescribed by the ~~department of commerce~~ AUTHORITY and include:

42 1. Information prescribed by the ~~department of commerce~~ AUTHORITY with
43 respect to both qualifying projects and other projects and business activity
44 that do not qualify for purposes of this section.

- 1 2. Employment information necessary to confirm eligibility for income
2 tax credits as prescribed by sections 43-1076 and 43-1162.
- 3 3. The quantity, measured by weight, of qualifying forest products
4 harvested, transported or processed.
- 5 I. On or before May 1 of each year, the ~~department of commerce~~
6 **AUTHORITY** shall report to the joint legislative budget committee:
- 7 1. The quantity, measured by weight, of qualifying forest products
8 reported by harvesters, by transporters and by processors in the preceding
9 calendar year.
- 10 2. The number of new full-time employees hired in qualified employment
11 positions in this state in the preceding calendar year and reported for tax
12 credit purposes.
- 13 3. The total number of all full-time employees employed in qualified
14 employment positions in this state in the preceding calendar year and
15 reported for tax credit purposes.
- 16 J. For purposes of administering and ensuring compliance with this
17 section, agents of the ~~department of commerce~~ **AUTHORITY** may enter, and a
18 qualified business shall allow access to, a qualifying project site at
19 reasonable times and on reasonable notice to:
- 20 1. Inspect the facilities at the site.
- 21 2. Obtain factual data and records pertinent to and required by law to
22 be kept for purposes of tax incentives.
- 23 3. Otherwise ascertain compliance with law and the terms of the
24 memorandum of understanding.
- 25 K. The ~~department of commerce~~ **AUTHORITY** shall revoke the business'
26 certification and notify the department of revenue and county assessor if
27 either:
- 28 1. Within thirty days after a formal request from the ~~department of~~
29 ~~commerce~~ **AUTHORITY** or the department of revenue the business fails or refuses
30 to provide the information or access for inspections required by this
31 section.
- 32 2. The business no longer meets the terms and conditions required for
33 qualification for the applicable tax incentives.
- 34 L. For the purposes of this section:
- 35 1. "Forest health" means the degree to which the integrity of the
36 forest is sustained, including reducing the risk of catastrophic wildfire and
37 destructive insect infestation, benefiting wildland habitats, watersheds and
38 communities.
- 39 2. "Harvesting" means all operations relating to felling or otherwise
40 removing trees and other forest plant growth and preparing them for transport
41 for subsequent processing.
- 42 3. "Initial processing" means:
- 43 (a) The first change, after harvest, in the physical structure of
44 qualifying forest products removed from a qualifying project into a
45 marketable commercial product or component of a product that has commercial

1 value to a consumer or purchaser and that is ready to be used with or without
2 further altering its form.

3 (b) Burning qualifying forest products in the process of commercial
4 electrical generation or commercial thermal energy production for heating or
5 cooling, regardless of the physical structure of the forest product before
6 burning.

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

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

18 (b) Forest residue receiving and handling equipment, including truck
19 dumpers, log unloaders, scales, log decking facilities and equipment and chip
20 pile facilities.

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

26 (d) Forest waste and residue disposal and processing equipment,
27 including:

28 (i) Processing and sizing equipment, hogs, chippers, screens,
29 pelletizers and wood splitters.

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

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

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

36 (v) Generated waste disposal equipment, including ash silos and
37 wastewater treatment and disposal equipment.

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

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

1 4. A motion picture production company must submit a completed
2 application pursuant to subsection C of this section. An application is
3 complete on receipt of all requested information.

4 5. A motion picture production company must include in the credits for
5 each motion picture, other than a commercial advertisement or music video, an
6 acknowledgement that the production was filmed in Arizona.

7 B. Only a motion picture production company that demonstrates that it
8 has the lawful right to produce a particular production may apply for
9 qualification under this section with respect to that production.

10 C. A motion picture production company initially applying for
11 qualification under this section must report the following to the department
12 of commerce on a form and in a manner prescribed by the department, with the
13 cooperation of the department of revenue:

14 1. The name, address, telephone number and website of the motion
15 picture production company.

16 2. The name and address of an individual who will maintain records of
17 expenditures in this state.

18 3. The projected first preproduction date and last production date in
19 this state.

20 4. The production office address and office telephone number in this
21 state.

22 5. The estimated total budget of the production.

23 6. The estimated total expenditures in this state.

24 7. The estimated total percentage of the production taking place in
25 this state.

26 8. The estimated level of employment of residents of this state in the
27 cast and crew.

28 9. A script, including a synopsis, the proposed director and a
29 preliminary list of the cast and producer, except that, with respect to a
30 television series, other than a pilot production, in lieu of a script the
31 applicant must include:

32 (a) A synopsis of the general nature of the series.

33 (b) A description of the characters and the intended nature of their
34 interaction with each other.

35 (c) A description of the locations.

36 (d) A description of the sets.

37 (e) The intended distribution or broadcast medium with specific
38 television channels, if known.

39 10. An affirmation signed by any person who will be credited on screen
40 as the producer or producers of the motion picture, not including the
41 executive producers, associate producers, assistant producers or line
42 producers, that:

43 (a) The motion picture production company agrees to furnish records of
44 expenditures in this state to the department of revenue on request.

1 (b) Any items purchased with a certificate issued under section
2 42-5009, subsection H are intended for use by the applicant directly in
3 motion picture production.

4 D. The department of commerce shall review all applications within
5 thirty days after submission of a complete application pursuant to subsection
6 C of this section to determine whether the motion picture production company
7 satisfies all of the criteria provided in subsection A of this section and
8 shall establish the process by which the department qualifies and preapproves
9 a company for motion picture production tax incentives. This process shall
10 preapprove a company for motion picture production tax incentives based on
11 priority placement established by the date that such motion picture
12 production company filed its initial application for qualification with the
13 department.

14 E. The department of commerce may conduct a site visit to verify that
15 production has begun. Within ninety days after the department preapproves
16 the company's initial application, the company must submit notice to the
17 department that production has begun and provide at least one of the
18 following:

19 1. A copy of a contract, loan out agreement or deal memo with a
20 cameraman and crew.

21 2. A copy of the crew call sheet for the first day of production.

22 3. Evidence that residents of this state have been paid a total of at
23 least five thousand dollars for work on the preapproved motion picture.

24 4. A copy of a contract or agreement directly attributable to the
25 preapproved motion picture.

26 F. Preapproval by the department of commerce under subsection D of
27 this section lapses, the application is void and the amount of the
28 preapproved incentives does not apply against the dollar limit prescribed by
29 subsection J of this section if, within ninety days after the department
30 preapproves the company, the company fails to provide documentation of
31 either:

32 1. Its expenditure in this state of the lesser of:

33 (a) Ten per cent of the estimated total state budget of the
34 production.

35 (b) Two hundred fifty thousand dollars.

36 2. A completion bond, equal to the estimated total budget of the
37 production, for the production of the motion picture for which the company
38 was preapproved. For the purposes of this paragraph, "completion bond" means
39 an executed written contract, issued by an insurance company with an
40 insurance industry rating of B+ or better by A.M. Best company guarantying to
41 the financiers of the project that it will be completed according to the
42 terms of the preapproved application submitted by the production company in
43 its application.

44 G. The preapproved amount applies against the dollar limit prescribed
45 by subsection J of this section for the year in which the application was

1 submitted regardless of whether the initial preapproval period extends into
2 the following year or years. Before the expiration of the initial
3 preapproval or requalification period, a company may voluntarily relinquish
4 unused credit amounts.

5 H. The department of commerce shall reallocate the amount of credits
6 that is voluntarily relinquished under subsection G of this section, that
7 lapses under subsection F of this section or that lapses under subsection O
8 of this section. The reallocation shall be to other motion picture
9 production companies that applied in the original credit year based on
10 priority placement. The amount of the reallocated credits shall continue to
11 apply against the dollar limit of the original credit year regardless of the
12 year in which the reallocation occurs. If for any year an unused balance
13 occurs in the income tax credits authorized under the dollar limit prescribed
14 by subsection J of this section:

15 1. The balance shall be allocated to motion picture production
16 companies that successfully appeal the denial of approval under this section
17 or section 41-1517.01. Any amount of income tax credits due to successful
18 appeals that are not paid from an unused balance in any year shall be paid
19 against the dollar limit allowed by subsection J of this section in the
20 following year.

21 2. Any remaining unused balance shall be reallocated for the purposes
22 of this section in the following year.

23 I. Beginning with the tax credits allocated for 2006 pursuant to
24 subsection J of this section, an approved credit offsets tax liability for
25 the taxable year for which the credit was originally allocated or any
26 subsequent taxable year within the applicable carryforward period pursuant to
27 section 43-1075, subsection G or section 43-1163, subsection G. The credits
28 must be claimed on a timely filed original income tax return, including
29 extensions.

30 J. Subject to the requirements of section 41-1517.01 and subsections K
31 and U of this section, the department of commerce shall not preapprove income
32 tax credits exceeding a total of:

33 1. Thirty million dollars for 2006.

34 2. Forty million dollars for 2007.

35 3. Fifty million dollars for 2008.

36 4. Sixty million dollars for 2009.

37 5. From and after December 31, 2009, seventy million dollars for a
38 single year.

39 6. Five million dollars for an individual motion picture application
40 in 2007.

41 7. Seven million dollars for an individual motion picture application
42 in 2008.

43 8. Eight million dollars for an individual motion picture application
44 in 2009.

1 9. From and after December 31, 2009, nine million dollars for an
2 individual motion picture application.

3 K. Beginning in 2008, the following provisions apply with respect to
4 commercial advertisement and music video production:

5 1. Five per cent of the maximum dollar amount of income tax credits
6 prescribed for any year by subsection J of this section is reserved for use
7 with respect to commercial advertisement and music video production.

8 2. A commercial advertisement or music video production company may
9 apply for qualification under subsection C of this section before the company
10 reaches the minimum expenditure threshold requirements of subsection A,
11 paragraph 1 of this section.

12 3. In lieu of a script under subsection C, paragraph 9 of this
13 section, the applicant must submit a synopsis or storyboard that:

14 (a) Identifies the product, service, person or event for a commercial
15 advertisement or the artist and song for a music video.

16 (b) Describes the general content or message to be conveyed.

17 (c) Describes the location or locations.

18 (d) Describes the sets.

19 (e) Describes the intended distribution or medium and specific
20 channels, if known.

21 4. The department must review the completed application within fifteen
22 business days.

23 5. Expenses incurred before the date of submission of a completed
24 application under subsection C of this section do not qualify as production
25 costs.

26 6. The department shall allocate the income tax credit incentives
27 based on priority placement established by the date that the company files
28 its application and based on the percentage of estimated total expenditures
29 in this state allowed as a credit under section 43-1075 or 43-1163.

30 7. Within sixty days after applying with the department under
31 subsection C of this section, a company that is preapproved for a specific
32 production must notify and provide documentation of expenditures to the
33 department of the total amount of eligible production costs associated with
34 the production.

35 8. The company is not eligible for income tax credit incentives until
36 the company's eligible production expenditures reach two hundred fifty
37 thousand dollars in a period of twelve consecutive months. When the company
38 reaches that threshold, the company may apply to the department for approval
39 of the income tax credit incentives pursuant to subsection 0 of this
40 section. Applications for approval of income tax credit incentives may not
41 be submitted by the same company more frequently than once a calendar month.

42 9. Notwithstanding any other provision of this section, the department
43 of commerce shall adopt rules and prescribe forms and procedures as necessary
44 for the purposes of this subsection.

1 L. Except for applications with respect to commercial advertisement
2 and music video production under subsection K of this section, after October
3 31 of each year, if the department has preapproved the maximum calendar year
4 tax credit amount pursuant to subsection J of this section, the department
5 may accept initial applications for the next calendar year. The preapproval
6 of any application pursuant to this subsection shall not be effective prior
7 to the first business day of the following calendar year. The department may
8 accept initial applications with respect to commercial advertisement and
9 music video production under subsection K of this section only during the
10 calendar year in which the credits would be allotted.

11 M. Subject to subsection O of this section, the department of commerce
12 shall deny an application submitted on completion of the production pursuant
13 to subsection O of this section if it determines that:

14 1. The motion picture production company does not meet all of the
15 established criteria provided in subsection A of this section.

16 2. The production would constitute an obscene motion picture film or
17 obscene pictorial publication under title 12, chapter 7, article 1.1.

18 3. The production depicts sexual activity as defined in title 13,
19 chapter 35.

20 4. The production would constitute sexual exploitation of a minor or
21 commercial sexual exploitation of a minor under title 13, chapter 35.1.

22 N. On a determination by the department of commerce that a motion
23 picture production company qualifies for motion picture production tax
24 incentives, the department shall issue the company a written letter of
25 qualification and transmit a copy of the letter to the department of revenue.
26 Beginning from and after December 31, 2007, a letter of qualification is
27 effective for twenty-four consecutive months as stated in the letter.

28 O. Upon completion of the motion picture production, a motion picture
29 production company that qualifies for the motion picture tax incentives shall
30 apply to the department in writing for approval of income tax credits, submit
31 a viewable copy of the motion picture, except as provided in subsection P of
32 this section, and certify the total amount of eligible production costs
33 associated with the project incurred from and after December 31, 2005. From
34 and after June 30, 2006, the department shall provide approval to a motion
35 picture production company that it has met the eligibility requirements of
36 this section and shall notify the department of revenue that the motion
37 picture production company may claim the tax credits pursuant to sections
38 43-1075 and 43-1163. If the eligible production costs actually spent are
39 less than the amount preapproved for income tax credits, the preapproved
40 amount not incurred lapses and does not apply against the dollar limit
41 prescribed by subsection J of this section for that year.

42 P. A motion picture production company may apply for postapproval of
43 the production under subsection O of this section before a viewable copy of
44 the production is available. To do so, the company must submit with its
45 application a letter of credit, payable to the department of revenue,

1 providing that within two business days after the issuer receives a written
2 determination from the department of commerce that the production fails to
3 qualify for the tax credits the issuer will pay to the department of revenue
4 the full face value of the income tax credits in the application. If the
5 department of revenue draws on the letter of credit, the monies shall be
6 transferred to and held in an interest bearing account pending the final
7 outcome of an appeal, if any. The letter of credit may be released on the
8 determination by the department of commerce that the completed production
9 qualifies for the tax credits.

10 Q. If a preapproved motion picture production company fails to
11 undertake production, as described in subsection F of this section, and also
12 fails to voluntarily relinquish the unused credit amounts for reallocation by
13 the department as provided by subsection G of this section within the
14 ninety-day period, the company and all persons signing the application for
15 preapproval are disqualified from receiving, or participating in any motion
16 picture production company that applies for or receives, tax incentives
17 pursuant to this section for three years after the original application.

18 R. The department of commerce, with the cooperation of the department
19 of revenue, shall adopt rules and publish and prescribe forms and procedures
20 as necessary to effectuate the purposes of this section.

21 S. Any information gathered from motion picture production companies
22 for the purposes of this section, or applicants for infrastructure incentives
23 for the purposes of section 41-1517.01, shall be considered confidential
24 taxpayer information and shall be disclosed only as provided in section
25 42-2003, subsection B, paragraph 12, except that the department shall publish
26 the following information in its annual report:

27 1. The name of each motion picture production company and
28 infrastructure applicant and the amount of income tax credits preapproved for
29 each production and infrastructure project.

30 2. The amount of credits approved with respect to each production.

31 T. The department of commerce shall:

32 1. Keep annual records of the information provided on applications for
33 motion picture production tax incentives. These records shall reflect a
34 percentage comparison of the annual amount of monies exempted or credited to
35 qualifying motion picture production companies to the estimated amount of
36 monies spent on in-state production costs by motion picture production
37 companies.

38 2. Maintain annual data on growth in Arizona-based motion picture
39 industry companies and motion picture industry employment and wages.

40 3. Not later than April 30 of each year, prepare and publish a report
41 summarizing the information collected pursuant to this subsection. The
42 department shall make copies of the annual report available to the public on
43 request.

44 U. Subject to annual legislative authorization, the amount of three
45 hundred thirty seven thousand seven hundred dollars from the dollar amount of

1 income tax credits under subsection J of this section is allocated each year
2 to the department of commerce for up to six full-time equivalent positions
3 dedicated solely for the purposes of this section and section 41-1517.01. If
4 the income tax credits terminate pursuant to subsection A of this section and
5 section 41-1517.01, subsection A, the authorization under this subsection and
6 any positions dedicated for those purposes also terminate.

7 V. ON JULY 1, 2011, THE ARIZONA COMMERCE AUTHORITY SUCCEEDS TO THE
8 REMAINING FUNCTIONS AND RESPONSIBILITIES FORMERLY PERFORMED BY THE DEPARTMENT
9 OF COMMERCE UNDER THIS SECTION. ANY REFERENCE TO DEPARTMENT IN THIS SECTION
10 IS CONSIDERED TO REFER TO THE ARIZONA COMMERCE AUTHORITY.

11 ~~V.~~ W. For the purposes of this section:

12 1. "Commercial advertisement" means an advertising message designed
13 for delivery through either:

14 (a) A motion picture film or video medium to attract the attention of
15 consumers or influence consumers' feelings toward a particular product,
16 service, event or cause.

17 (b) Still photography that is used in national or international print
18 media to attract the attention of consumers or influence consumers' feelings
19 toward a particular product, service event or cause.

20 2. "Motion picture" means a single medium or multimedia program,
21 including a commercial advertisement, music video or television series, that:

22 (a) Is created by production activities conducted in whole or in part
23 in this state.

24 (b) Can be viewed or reproduced.

25 (c) Is intended for commercial distribution or licensing in the
26 delivery medium used.

27 Motion picture does not include any production featuring actual news, current
28 events, weather, locally produced and locally broadcast television
29 productions, financial market reports, concerts, internet broadcasts, talk
30 shows and interviews, game shows, sporting events, award or other gala
31 events, a production whose sole purpose is fund-raising, a production used
32 for corporate or organizational training or in-house corporate advertising or
33 other similar production activities.

34 3. "Motion picture production company" or "production company" means
35 any person primarily engaged in the business of producing motion pictures and
36 that has a physical business office and bank account in this state.

37 4. "Motion picture production tax incentives" means the tax deductions
38 for transaction privilege and use taxes listed in section 42-5009, subsection
39 H and the credit against income taxes provided under section 43-1075 or
40 43-1163.

41 5. "Music video" means a filmed or videotaped rendition of a song or
42 songs, portraying musicians performing the song or other visual images set to
43 the lyrics of the song.

44 6. "Television series" means a group of productions that is created or
45 adapted for television broadcast with a common series title, that is related

1 to each other in subject or theme, that is produced seasonally for appearing
2 at scheduled intervals, but subject to discretionary programming and
3 scheduling decisions, and with or without a predetermined number of
4 episodes. Television series includes a pilot production for the promotion or
5 introduction of a television series.

6 Sec. 42. Section 41-1517.01, Arizona Revised Statutes, is amended to
7 read:

8 41-1517.01. Motion picture infrastructure tax incentives;
9 definitions

10 A. From and after October 31, 2007 through December 31, 2010, the
11 department of commerce shall certify motion picture infrastructure projects
12 in this state for the purpose of tax credits under section 43-1075.01 or
13 43-1163.01. To qualify for certification:

14 1. A person must apply to the department. The applicant must be the
15 person who will own and operate the infrastructure project and may be a
16 motion picture production company, as defined in section 41-1517. The
17 application must include:

18 (a) The applicant's name and contact information.

19 (b) A detailed description of the project.

20 (c) A preliminary budget.

21 (d) An outline of how the project meets the requirements of this
22 section.

23 (e) The projected start and completion dates.

24 (f) The name and contact information for the prime contractor, if
25 known.

26 (g) A copy of the construction contract, if available.

27 (h) An affirmation signed by an executive representing the applicant
28 that:

29 (i) The applicant agrees to furnish records of expenditures on
30 infrastructure projects in this state to the department of commerce on
31 request.

32 (ii) Any items included in its base investment are intended for use by
33 the applicant directly in the infrastructure project.

34 2. If the application is for a soundstage, after the date the
35 department of commerce approves the application under subsection B of this
36 section, the applicant must spend at least:

37 (a) Two hundred fifty thousand dollars in this state directly on
38 project expenses within ninety days.

39 (b) An additional one million dollars in this state directly on
40 project expenses within twelve months.

41 (c) A total of at least five million dollars in this state directly on
42 project expenses within thirty-six months.

43 3. If the application is for support and augmentation facilities,
44 after the date the department of commerce approves the application under
45 subsection B of this section, the applicant must spend at least:

- 1 (a) Two hundred fifty thousand dollars in this state directly on
2 project expenses within ninety days.
- 3 (b) A total of at least one million dollars in this state directly on
4 project expenses within thirty-six months.
- 5 B. Within thirty days after submission, the department of commerce
6 shall review each complete application to determine whether the applicant
7 satisfies all of the criteria required by this section. The department may
8 conduct a site visit as part of the review process. This process shall
9 approve an applicant for tax credits under this section based on:
- 10 1. Priority placement for credits under this section established by
11 the date the applicant filed its initial application under subsection A of
12 this section.
- 13 2. The availability of tax credit amounts under the dollar limits
14 prescribed by subsection C of this section.
- 15 C. Subject to the limits prescribed in section 41-1517, subsection J,
16 the department of commerce shall not certify income tax credits under this
17 section, computed as fifteen per cent of the total base investment, exceeding
18 a total of:
- 19 1. Five million dollars for soundstage projects initially certified in
20 2008.
- 21 2. If no soundstage project was initially certified in 2008, five
22 million dollars for soundstage projects initially certified in 2009.
- 23 3. If at least one soundstage project was initially certified in 2008:
24 (a) Five million dollars for soundstage projects initially certified
25 in 2009.
- 26 (b) Seven million dollars for support and augmentation facilities
27 initially certified in 2009 that are associated with certified soundstage
28 projects.
- 29 4. If no soundstage project was initially certified in 2008 or 2009,
30 five million dollars for soundstage projects initially certified in 2010.
- 31 5. If only one soundstage project was initially certified in 2008 or
32 2009:
- 33 (a) Five million dollars for soundstage projects initially certified
34 in 2010.
- 35 (b) Nine million dollars for support and augmentation facilities
36 initially certified in 2010 that are associated with the certified soundstage
37 project.
- 38 6. If more than one soundstage project was initially certified in 2008
39 or 2009, or both:
- 40 (a) Five million dollars for soundstage projects initially certified
41 in 2010.
- 42 (b) Nine million dollars for support and augmentation facilities
43 initially certified in 2010 that are associated with certified soundstage
44 projects.

1 7. Three million dollars for a support and augmentation facilities
2 project.

3 D. After October 31 of each year, if the department has preapproved
4 the maximum dollar amount of income tax credits under subsection C of this
5 section for the calendar year, the department may accept initial applications
6 for the next calendar year. The preapproval of any application pursuant to
7 this subsection is not effective before the first business day of the
8 following calendar year.

9 E. Preapproval by the department of commerce under subsection B of
10 this section lapses, the application is void and the amount of the
11 preapproved incentives does not apply against the dollar limit prescribed by
12 subsection C of this section if:

13 1. Within ninety days after the department preapproves the company,
14 the company fails to provide documentation of:

15 (a) Its expenditure in this state of the lesser of:

16 (i) Ten per cent of the estimated total base investment amount.

17 (ii) Two hundred fifty thousand dollars.

18 (b) A surety bond equal to the estimated total base investment amount
19 for which the company was preapproved.

20 2. For soundstage projects, within one year after the department
21 preapproves the company, the company fails to provide documentation of:

22 (a) Total expenditure in this state of one million two hundred fifty
23 thousand dollars.

24 (b) A surety bond equal to the estimated total base investment amount
25 for which the company was preapproved.

26 F. On completion of the motion picture infrastructure project, an
27 applicant that has been preapproved for income tax credits must apply to the
28 department in writing for approval of the total base investment in the
29 project. If the applicant has met the eligibility requirements of this
30 section, the department shall:

31 1. Approve the total base investment amount, but the calculated income
32 tax credit shall not exceed the preapproved amount under this section.

33 2. Notify the department of revenue that the applicant may claim the
34 income tax credits pursuant to section 43-1075.01 or 43-1163.01 in the amount
35 determined under paragraph 1 of this subsection.

36 G. The company and all persons signing the application for preapproval
37 may be disqualified from receiving future tax credits pursuant to this
38 section if, within eighteen months after the date of postapproval under
39 subsection F of this section, the applicant fails to submit a report to the
40 department that includes:

41 1. A list of activities and productions conducted at the project in
42 the twelve months following postapproval.

43 2. The amount of any additional capital investment.

44 3. Any changes to or improvements made to the project since the date
45 of postapproval.

1 H. Within sixty months after postapproval under subsection F of this
2 section, if the department of commerce determines that a person that received
3 a tax credit pursuant to this section failed to comply with any of the
4 requirements prescribed by this section, the department shall terminate,
5 adjust or recapture all or part of the tax credit. The department of
6 commerce shall notify the department of revenue of the conditions of
7 noncompliance. The department of revenue may also terminate the approval of
8 the credit if it obtains information indicating a failure to qualify and
9 comply. The department of revenue may require the person to:

10 1. File appropriate amended tax returns reflecting the recapture of
11 the amount of the tax credit actually applied to reduce state income tax
12 liability.

13 2. Pay a penalty of four and one-half per cent of the amount of the
14 applied credit per month elapsing from the date the penalty is assessed until
15 it is paid, except that the total penalty shall not exceed twenty-five per
16 cent of the full amount of the credit.

17 I. The department of commerce, with the cooperation of the department
18 of revenue, shall adopt rules and publish and prescribe forms and procedures
19 as necessary to effectuate the purposes of this section.

20 J. Any information gathered from applicants for the purposes of this
21 section is considered to be confidential taxpayer information and shall be
22 disclosed only as provided in section 41-1517, subsection S and section
23 42-2003, subsection B, paragraph 12.

24 K. ON JULY 1, 2011, THE ARIZONA COMMERCE AUTHORITY SUCCEEDS TO THE
25 REMAINING FUNCTIONS AND RESPONSIBILITIES FORMERLY PERFORMED BY THE DEPARTMENT
26 OF COMMERCE UNDER THIS SECTION. ANY REFERENCE TO DEPARTMENT IN THIS SECTION
27 IS CONSIDERED TO REFER TO THE ARIZONA COMMERCE AUTHORITY.

28 ~~K.~~ L. For the purposes of this section:

29 1. "Base investment" means the budget for the infrastructure project.

30 2. "Motion picture" has the same meaning as defined in section
31 41-1517.

32 3. "Motion picture infrastructure project", "infrastructure project"
33 and "project":

34 (a) Means soundstages and support and augmentation facilities that are
35 constructed in this state and primarily used for motion picture production.

36 (b) Does not include motion picture theaters and other commercial
37 exhibition facilities.

38 4. "Soundstage" means a permanent facility in this state of one or
39 more sets or stages used primarily for staging and filming motion pictures
40 and any land, permanent buildings or capital equipment that is in or adjacent
41 to, and is necessary for the operation of, a soundstage.

42 5. "Support and augmentation facilities" means permanent facilities in
43 this state that are used to complement motion picture production needs and
44 complement the motion picture production.

1 6. "Surety bond" means an executed written contract, issued by an
2 insurance company with an insurance industry rating of B+ or better by A.M.
3 Best company guarantying to the financiers of the project that it will be
4 completed according to the terms of the preapproved application submitted by
5 the production company in its application.

6 Sec. 43. Section 41-1518, Arizona Revised Statutes, is amended to
7 read:

8 41-1518. Capital investment incentives; evaluation;
9 certification; definitions

10 A. ~~Beginning July 1, 2006, the department of commerce~~ THE ARIZONA
11 COMMERCE AUTHORITY shall receive and evaluate applications that are submitted
12 by qualified investors to receive a tax credit pursuant to section 43-1074.02
13 for qualified investments made in a qualified small business and certify to
14 the department of revenue the names, amounts and other relevant information
15 relating to the applicants.

16 B. To be eligible for a tax credit pursuant to this section and
17 section 43-1074.02, a qualified investor shall file an application with the
18 ~~department of commerce~~ AUTHORITY within thirty days after making a qualified
19 investment. The application, on a form prescribed by the ~~department of~~
20 ~~commerce~~ AUTHORITY, shall include:

21 1. The name, address and federal income tax identification number of
22 the applicant.

23 2. The name and federal employer identification number of the
24 qualified small business that received a qualified investment made by the
25 applicant.

26 3. The date the qualified investment was made.

27 4. Any additional information that the ~~department of commerce~~
28 AUTHORITY requires.

29 C. As part of the application, the applicant and the qualified small
30 business that receives the investment shall each provide written
31 authorization pursuant to section 42-2003 designating the ~~department of~~
32 ~~commerce~~ AUTHORITY as eligible to receive tax information from the department
33 of revenue for the purpose of determining if any misrepresentations exist on
34 the application. The authorization shall limit disclosure to income tax
35 information for the latest two years for which returns were filed with the
36 department of revenue preceding the date the application is filed and for all
37 tax years through the year in which the investment was made for which a
38 return was not filed as of the date of the application. The applicant shall
39 also provide in the written authorization income tax information for all tax
40 years in which the applicant could claim or carry forward the credit pursuant
41 to this section, but limited to the tax years in which the applicant actually
42 claims a credit or carries forward a credit on a return filed with the
43 department of revenue. An applicant who has an individual ownership interest
44 as a co-owner of a business who may be entitled to a pro rata share of the
45 credit pursuant to section 43-1074.02, subsection E shall provide a written

1 authorization with content similar to the authorization, and in the same
2 manner as, any other applicant is required to provide.

3 D. The ~~department of commerce~~ AUTHORITY shall review and make a
4 determination with respect to each application within ninety days after
5 receiving the application. The ~~department of commerce~~ AUTHORITY may request
6 additional information from the applicant in order to make an informed
7 decision regarding the eligibility of the qualified investor or qualified
8 small business.

9 E. Subject to subsection F of this section, the ~~department of commerce~~
10 AUTHORITY shall authorize tax credits for each qualified investor who makes a
11 qualified investment in a qualified small business. The amount of the credit
12 shall be:

13 1. If the qualified investment is made in a qualified small business
14 that maintains its principal place of business in a rural county of this
15 state or is a bioscience enterprise, twelve per cent of the amount of the
16 investment per year for the first and second taxable years after the
17 investment is made and eleven per cent of the amount of the investment for
18 the third taxable year after the year in which the investment is made.

19 2. If the qualified investment is made in a qualified small business
20 other than a business described in paragraph 1 of this subsection, ten per
21 cent of the amount of the investment for each of the three taxable years
22 after the year in which the investment is made.

23 F. The ~~department of commerce~~ AUTHORITY shall not authorize tax
24 credits under this section after June 30, ~~2011~~ 2016. The ~~department of~~
25 ~~commerce~~ AUTHORITY shall not certify tax credits under this section exceeding
26 twenty million dollars. Tax credits that expire after certification or that
27 are otherwise not timely used by the qualified investor for whom they were
28 originally authorized shall be included in the twenty million dollar
29 limitation. If qualifying applications exceed twenty million dollars, the
30 ~~department of commerce~~ AUTHORITY shall authorize credits in the order of the
31 date and time that the applications are received by the ~~department of~~
32 ~~commerce~~ AUTHORITY, as evidenced by the time and date stamped on the
33 application when received by the ~~department~~ AUTHORITY. All applications
34 shall be filed in person at the ~~department of commerce~~ ARIZONA COMMERCE
35 AUTHORITY. If an application is received that, if authorized, would require
36 the ~~department of commerce~~ AUTHORITY to exceed the twenty million dollar
37 limit, the ~~department of commerce~~ AUTHORITY shall only grant the applicant
38 the remaining amount of tax credits that would not exceed the twenty million
39 dollar limit. After the ~~department of commerce~~ AUTHORITY authorizes twenty
40 million dollars in tax credits, the ~~department of commerce~~ AUTHORITY shall
41 deny any subsequent applications that are received. The ~~department of~~
42 ~~commerce~~ AUTHORITY shall certify to the qualified investor and to the
43 department of revenue the amount of the tax credit that is authorized for
44 purposes of section 43-1074.02 for each taxable year described in subsection
45 E of this section.

1 G. The total of all qualified investments in any calendar year by a
2 qualified investor and its affiliates in qualified small businesses that are
3 eligible for a tax credit pursuant to this section and section 43-1074.02
4 shall not exceed two hundred fifty thousand dollars. The maximum amount of
5 qualified investments in a single qualified small business for which the
6 ~~department of commerce~~ AUTHORITY may authorize tax credits under this section
7 shall not exceed an aggregate of two million dollars in investments for all
8 taxable years. If applications for tax credits are received for investments
9 that exceed the limits prescribed by this subsection for any qualified small
10 business, the ~~department of commerce~~ AUTHORITY shall authorize credits in the
11 order of the date and time that the applications are received by the
12 ~~department of commerce~~ AUTHORITY. If an application is received that, if
13 authorized, would require the ~~department of commerce~~ AUTHORITY to authorize
14 tax credits for any investment in a qualified small business that would cause
15 the total qualified investments in the business to exceed the limits
16 prescribed by this subsection, the ~~department of commerce~~ AUTHORITY shall
17 only grant the applicant the remaining amount of tax credits that would not
18 exceed the limits prescribed by this subsection.

19 H. The qualified investor shall file a return claiming the tax credit
20 with the department of revenue for application against income tax pursuant to
21 section 43-1074.02 by the due date of the return, including extensions, for
22 the tax year in which the credit is available. If the qualified investor
23 fails to timely file a return claiming the credit for a taxable year, the
24 credit expires for that taxable year and there shall be no carryforward of
25 the expired credit. If a qualified investor includes co-owners of a business
26 who qualify for individual pro rata shares of the credit pursuant to section
27 43-1074.02, subsection E, each individual owner shall file a return claiming
28 the tax credit with the department of revenue by the due date of the return,
29 including extensions, for the tax year in which the credit is available. If
30 an individual co-owner fails to timely file a return claiming the credit for
31 a taxable year, the credit expires for that taxable year and there shall be
32 no carryforward of the expired credit. Credits that expire or that otherwise
33 are not timely used by the qualified investor or by the individual co-owner
34 of a business for whom the credits were originally authorized shall not be
35 reissued.

36 I. On receiving an application for a tax credit from a qualified
37 investor, or a written request for certification as a qualified small
38 business from a corporation, limited liability company, partnership or other
39 business entity, the ~~department of commerce~~ AUTHORITY shall determine whether
40 the corporation, limited liability company, partnership or other business
41 entity that is named in the application or written request is a qualified
42 small business. The ~~department of commerce~~ AUTHORITY shall determine if the
43 business is a bioscience enterprise and if the business maintains its
44 principal place of business in a rural county in this state. After
45 determining the qualifications, the ~~department of commerce~~ AUTHORITY shall

1 certify the qualified small business as being eligible to receive qualified
2 investments for purposes of this section. The certification is valid for one
3 year, but the ~~department of commerce~~ AUTHORITY may revoke the certification
4 at any time or refuse to renew the certification if the business fails to
5 maintain the required qualifications. If a qualified small business fails to
6 maintain the qualifications, the business shall notify the ~~department of~~
7 ~~commerce~~ AUTHORITY within five business days of failing to meet the
8 qualifications. The ~~department of commerce~~ AUTHORITY shall revoke the
9 certification of the business and may assess a penalty against the business
10 entity equal to the amount of the tax credits authorized after the business
11 failed to meet the qualifications. The penalty shall be deposited into the
12 state general fund. If the certification is revoked or expires, subsequent
13 investments in the business do not qualify for a tax credit pursuant to this
14 section and section 43-1074.02. All tax credits that are issued before any
15 expiration or revocation of the certification shall remain valid. Any
16 application for a tax credit shall not be denied on the basis of the
17 expiration or revocation of the certification if the investment was made
18 before the date of the expiration or revocation.

19 J. The ~~department of commerce~~ AUTHORITY shall provide to the
20 department of revenue necessary information required to administer this
21 section and section 43-1074.02. If the ~~department of commerce~~ AUTHORITY
22 subsequently discovers that an applicant who received a tax credit
23 misrepresented information on the application, the ~~department of commerce~~
24 AUTHORITY shall immediately notify the department of revenue and provide the
25 department of revenue all information that relates to that applicant. If the
26 department of revenue determines that there has been a misrepresentation on
27 the application, the department of revenue shall deny the credit if the
28 misrepresentation relates to whether the applicant was a qualified investor
29 or made a qualified investment. If the misrepresentation relates to whether
30 the investment was made to:

31 1. A qualified small business, the department of revenue shall deny
32 the credit only if the applicant knew or should have known at any time before
33 the certification that the representation was false.

34 2. A bioscience enterprise or a business that maintains its principal
35 place of business in a rural county in this state, the department of revenue
36 shall decrease the amount of the credit that would have been allowed under
37 subsection E, paragraph 1 of this section to the amount allowed under
38 subsection E, paragraph 2 of this section only if the applicant knew or
39 should have known at any time before the certification that the
40 representation was false.

41 K. For the purposes of this section:

42 1. "Affiliate" means any person or entity that controls, that is
43 controlled by or that is under common control with another person or
44 entity. For the purposes of this paragraph, "control" means the power to

1 determine the policies of an entity whether through ownership of voting
2 securities, by contract or otherwise.

3 2. "Asset" means any owned property that has value including financial
4 assets and physical assets. Intellectual property shall not be included when
5 determining total assets.

6 3. "Bioscience enterprise" means a business whose activity is related
7 to bioscience as determined by the ~~department of commerce~~ AUTHORITY or any
8 corporation, partnership, limited liability company or other business entity
9 that is primarily engaged in a business that conducts research, development,
10 manufacture, marketing, sale and licensing of products, services and
11 solutions relating to either of the following:

12 (a) Medical, pharmaceutical, nutraceutical, bioengineering,
13 biomechanical, bioinformatics or other life-science based applications.

14 (b) Applications of modern biological, bioengineering, biomechanical
15 or bioinformatics technologies in the fields of human, plant or animal
16 health, agriculture, defense, homeland security or the environment.

17 4. "Qualified investment" means an investment in an equity security
18 that meets all of the following requirements:

19 (a) The equity security shall be common stock, preferred stock, an
20 interest in a partnership or limited liability company, a security that is
21 convertible into an equity security or ANY other equity security as
22 determined by the ~~department of commerce~~ AUTHORITY.

23 (b) The investment shall be at least twenty-five thousand dollars.

24 (c) The qualified investor and its affiliates do not hold, of record
25 or beneficially, immediately before making an investment, equity securities
26 possessing more than thirty per cent of the total voting power of all equity
27 securities of the qualified small business.

28 5. "Qualified investor" means an individual, limited liability
29 company, partnership, S corporation as defined in section 1361 of the
30 internal revenue code or other business entity that makes a qualified
31 investment in a qualified small business. Qualified investor does not mean a
32 corporation that is subject to tax under title 43, chapter 11.

33 6. "Qualified small business" means a corporation, limited liability
34 company, partnership or other business entity that:

35 (a) Maintains at least a portion of its operations at an office or
36 manufacturing or research facility located in this state.

37 (b) Has at least two principal full-time equivalent employees who are
38 residents in this state. For the purposes of this subdivision, "principal"
39 means a person whose sole responsibility is not administrative.

40 ~~(c) Does not have a principal business involving any of the following:~~

41 ~~(i) Sales or distribution of retail goods or food or restaurant~~
42 ~~services.~~

43 ~~(ii) Development, sale, leasing, rental or operation of, or investment~~
44 ~~in, real estate.~~

1 ~~(iii) Providing professional services, except for professional~~
2 ~~services for hardware or software licensed or sold by the provider of such~~
3 ~~services.~~

4 ~~(iv) Providing health care services to patients, except for services~~
5 ~~provided in connection with research, development, clinical trials and~~
6 ~~marketing activities by bioscience enterprises.~~

7 ~~(v) Providing banking, brokerage, insurance or other financial or~~
8 ~~investment services.~~

9 ~~(vi) Providing personal services.~~

10 ~~(vii) Operating mining, forestry and other natural resource~~
11 ~~exploitation or extraction businesses, except for research and development in~~
12 ~~these businesses.~~

13 ~~(viii) Agricultural operations, except for research and development in~~
14 ~~these businesses.~~

15 ~~(ix) Operating an investment company or fund.~~

16 ~~(x) Any other business activity that the department of commerce~~
17 ~~determines by rule to be unsuited to fulfill the purposes of this section.~~

18 ~~(d)~~ (c) Does not engage in any activities that involve human cloning or
19 embryonic stem cell research.

20 ~~(e)~~ (d) Has total assets not exceeding two million dollars THROUGH
21 DECEMBER 31, 2011 OR TEN MILLION DOLLARS BEGINNING FROM AND AFTER DECEMBER
22 31, 2011, excluding any investment made under this section.

23 ~~(f)~~ (e) Has not exceeded the limitation on qualified investments
24 prescribed by subsection G of this section.

25 (f) DOES NOT HAVE A PRINCIPAL BUSINESS INVOLVING ACTIVITIES EXCLUDED
26 BY THE AUTHORITY. THE AUTHORITY SHALL PROVIDE A LIST OF EXCLUDED BUSINESSES
27 TO ANY PERSON ON REQUEST.

28 7. "Rural county" means a county that has a population of ~~four~~ SEVEN
29 hundred FIFTY thousand or fewer persons.

30 Sec. 44. Repeal

31 Sections ~~41-1518.01~~ and ~~41-1519~~, Arizona Revised Statutes, are
32 repealed.

33 Sec. 45. Title 41, chapter 10, article 1, Arizona Revised Statutes, is
34 amended by adding section 41-1525, to read:

35 ~~41-1525.~~ Arizona quality jobs incentives; tax credits for new
36 employment; qualifications; definitions

37 A. THE OWNER OF A BUSINESS OR AN INSURER LOCATED IN THIS STATE BEFORE
38 JULY 2017 IS ELIGIBLE FOR INCOME TAX CREDITS UNDER SECTION 43-1074 OR 43-1161
39 OR AN INSURANCE PREMIUM TAX CREDIT UNDER SECTION 20-224.03 FOR NET INCREASES
40 IN QUALIFIED EMPLOYMENT POSITIONS.

41 B. TO QUALIFY UNDER THIS SECTION, THE OWNER MUST IN THE FIRST TAXABLE
42 YEAR IT CLAIMS A TAX CREDIT:

43 1. INVEST AT LEAST FIVE MILLION DOLLARS OF CAPITAL INVESTMENT AND
44 CREATE AT LEAST TWENTY-FIVE NEW QUALIFIED EMPLOYMENT POSITIONS WITHIN THE
45 EXTERIOR BOUNDARIES OF A CITY OR TOWN THAT HAS A POPULATION OF FIFTY THOUSAND

1 PERSONS OR MORE AND THAT IS LOCATED IN A COUNTY THAT HAS A POPULATION OF
2 EIGHT HUNDRED THOUSAND PERSONS OR MORE.

3 2. INVEST AT LEAST ONE MILLION DOLLARS OF CAPITAL INVESTMENT AND
4 CREATE AT LEAST FIVE QUALIFIED EMPLOYMENT POSITIONS IN ANY OTHER LOCATION.

5 C. NO MORE THAN FOUR HUNDRED NEW JOBS PER EMPLOYER QUALIFY FOR FIRST
6 YEAR CREDITS EACH YEAR, AND NO MORE THAN TEN THOUSAND NEW JOBS FOR ALL
7 EMPLOYERS QUALIFY FOR FIRST YEAR CREDITS EACH YEAR.

8 D. TO CLAIM A TAX CREDIT, THE OWNER MUST:

9 1. CERTIFY TO THE DEPARTMENT OF REVENUE OR THE DEPARTMENT OF
10 INSURANCE, AS APPLICABLE, ON OR BEFORE THE DUE DATE OF THE TAX RETURN,
11 INCLUDING ANY EXTENSIONS FOR THE YEAR FOR WHICH THE CREDIT IS CLAIMED, IN A
12 FORM PRESCRIBED BY THE DEPARTMENT, INCLUDING ELECTRONIC MEDIA, INFORMATION
13 THAT THE DEPARTMENT MAY REQUIRE, INCLUDING THE OWNERSHIP INTERESTS OF
14 CO-OWNERS OF THE BUSINESS IF THE BUSINESS IS A PARTNERSHIP, LIMITED LIABILITY
15 COMPANY OR AN S CORPORATION, AND THE FOLLOWING INFORMATION FOR EACH EMPLOYEE
16 IN THE LOCATION:

17 (a) THE DATE OF INITIAL EMPLOYMENT.
18 (b) THE NUMBER OF HOURS WORKED DURING THE YEAR.
19 (c) WHETHER THE POSITION WAS FULL-TIME.
20 (d) THE EMPLOYEE'S ANNUAL COMPENSATION.
21 (e) THE TOTAL COST OF HEALTH INSURANCE FOR THE EMPLOYEE AND THE COST
22 PAID BY THE EMPLOYER.
23 (f) OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

24 2. REPORT AND CERTIFY TO THE AUTHORITY THE FOLLOWING INFORMATION, AND
25 PROVIDE SUPPORTING DOCUMENTATION, ON A FORM AND IN A MANNER APPROVED BY THE
26 AUTHORITY, AND AS SPECIFIED IN SUBSECTION E OF THIS SECTION, FOR EACH YEAR IN
27 WHICH THE TAXPAYER EARNED AND CLAIMED OR USED CREDITS OR IS CARRYING FORWARD
28 AMOUNTS FROM PREVIOUSLY EARNED AND CLAIMED CREDITS:

29 (a) THE BUSINESS NAME AND MAILING ADDRESS AND ANY OTHER CONTACT
30 INFORMATION REQUESTED BY THE AUTHORITY.
31 (b) THE PHYSICAL ADDRESS OF THE BUSINESS LOCATION.
32 (c) THE AVERAGE HOURLY WAGE AND THE TOTAL AMOUNT OF COMPENSATION PAID
33 TO EMPLOYEES QUALIFIED FOR THE CREDIT AND FOR ALL EMPLOYEES.
34 (d) THE TOTAL NUMBER OF QUALIFIED EMPLOYMENT POSITIONS AND THE AMOUNT
35 OF INCOME TAX OR PREMIUM TAX CREDITS QUALIFIED FOR IN THE TAXABLE YEAR.
36 (e) THE ESTIMATED AMOUNT OF TAX CREDITS TO BE USED IN THE TAXABLE YEAR
37 TO OFFSET TAX LIABILITY.
38 (f) THE ESTIMATED AMOUNT OF TAX CREDITS TO BE AVAILABLE FOR
39 CARRYFORWARD IN THE TAXABLE YEAR AND THE YEAR IN WHICH THE CREDITS EXPIRE.
40 (g) THE NUMBER OF JOBS AND THE AMOUNT OF CREDITS EARNED AND CLAIMED ON
41 THE PRIOR YEAR'S TAX RETURN.
42 (h) THE AMOUNT OF CREDITS USED TO OFFSET TAX LIABILITIES ON THE PRIOR
43 YEAR'S TAX RETURN.
44 (i) THE AMOUNT OF CREDITS AVAILABLE FOR CARRYFORWARD AS REPORTED ON
45 THE PRIOR YEAR'S TAX RETURN AND THE YEAR THE CREDITS EXPIRE.

1 (j) CAPITAL INVESTMENT MADE DURING THE TAXABLE YEAR AND THE PRECEDING
2 TAXABLE YEAR.

3 (k) OTHER INFORMATION NECESSARY FOR THE MANAGEMENT AND REPORTING OF
4 THE INCENTIVES UNDER THIS SECTION.

5 3. FOR ANY YEAR IN WHICH THE TAXPAYER IS CLAIMING FIRST YEAR CREDITS,
6 REPORT AND CERTIFY THE FOLLOWING ADDITIONAL INFORMATION AND PROVIDE
7 SUPPORTING DOCUMENTATION TO THE AUTHORITY ON A FORM AND IN A MANNER APPROVED
8 BY THE AUTHORITY, AND AS SPECIFIED IN SUBSECTION E OF THIS SECTION:

9 (a) THAT THE INCREASE IN THE NUMBER OF QUALIFIED EMPLOYMENT POSITIONS
10 FOR WHICH CREDIT IS SOUGHT IS THE LEAST OF:

11 (i) THE TOTAL NUMBER OF FILLED QUALIFIED EMPLOYMENT POSITIONS CREATED
12 AT THE LOCATION DURING THE TAXABLE YEAR.

13 (ii) THE DIFFERENCE BETWEEN THE AVERAGE NUMBER OF FULL-TIME EMPLOYEES
14 IN THE CURRENT TAXABLE YEAR AND THE AVERAGE NUMBER OF FULL-TIME EMPLOYEES
15 DURING THE IMMEDIATELY PRECEDING TAXABLE YEAR.

16 (iii) FOUR HUNDRED QUALIFIED EMPLOYMENT POSITIONS PER TAXPAYER EACH
17 YEAR.

18 (b) THAT ALL EMPLOYEES FILLING A QUALIFIED EMPLOYMENT POSITION WERE
19 EMPLOYED FOR AT LEAST NINETY DAYS DURING THE FIRST TAXABLE YEAR.

20 (c) THAT NONE OF THE EMPLOYEES FILLING QUALIFIED EMPLOYMENT POSITIONS
21 WERE EMPLOYED BY THE TAXPAYER DURING THE TWELVE MONTHS BEFORE THE CURRENT
22 DATE OF HIRE EXCEPT FOR THOSE RELOCATING TO THIS STATE.

23 (d) THAT ALL EMPLOYEES FOR WHOM SECOND AND THIRD YEAR CREDITS ARE
24 CLAIMED ARE IN QUALIFIED EMPLOYMENT POSITIONS FOR WHICH FIRST YEAR CREDITS
25 WERE ALLOWED AND CLAIMED BY THE TAXPAYER ON THE ORIGINAL FIRST AND SECOND
26 YEAR TAX RETURNS.

27 (e) THAT ALL EMPLOYEES FOR WHOM CREDITS ARE TAKEN PERFORMED THEIR JOB
28 DUTIES PRIMARILY AT THE DESIGNATED LOCATIONS OF THE BUSINESS.

29 E. TO QUALIFY FOR FIRST YEAR CREDITS, THE REPORT AND CERTIFICATION
30 PRESCRIBED BY SUBSECTION D, PARAGRAPHS 2 AND 3 OF THIS SECTION MUST BE FILED
31 WITH THE AUTHORITY BY THE EARLIER OF SIX MONTHS AFTER THE END OF THE TAXABLE
32 YEAR IN WHICH THE QUALIFIED EMPLOYMENT POSITIONS WERE CREATED OR BY THE DATE
33 THE TAX RETURN IS FILED FOR THE TAXABLE YEAR IN WHICH THE QUALIFIED
34 EMPLOYMENT POSITIONS WERE CREATED. TO QUALIFY FOR SECOND YEAR CREDITS, THE
35 REPORT AND CERTIFICATION PRESCRIBED BY SUBSECTION D, PARAGRAPH 2 OF THIS
36 SECTION MUST BE FILED WITH THE AUTHORITY BY THE EARLIER OF SIX MONTHS AFTER
37 THE END OF THE TAXABLE YEAR OR THE DATE THE TAX RETURN IS FILED FOR THE
38 TAXABLE YEAR IN WHICH THE SECOND YEAR CREDITS ARE ALLOWABLE. TO QUALIFY FOR
39 THIRD YEAR CREDITS, THE REPORT AND CERTIFICATION PRESCRIBED BY SUBSECTION D,
40 PARAGRAPH 2 OF THIS SECTION MUST BE FILED WITH THE AUTHORITY BY THE EARLIER
41 OF SIX MONTHS AFTER THE END OF THE TAXABLE YEAR OR THE DATE THE TAX RETURN IS
42 FILED FOR THE TAXABLE YEAR IN WHICH THE THIRD YEAR CREDITS ARE ALLOWABLE.

43 F. ANY INFORMATION SUBMITTED TO THE AUTHORITY UNDER SUBSECTION D,
44 PARAGRAPH 2, SUBDIVISIONS (e) THROUGH (j) OF THIS SECTION IS EXEMPT FROM

1 TITLE 39, CHAPTER 1, ARTICLE 2 AND CONSIDERED TO BE CONFIDENTIAL AND IS NOT
2 SUBJECT TO DISCLOSURE EXCEPT:

3 1. TO THE EXTENT THAT THE PERSON OR ORGANIZATION THAT PROVIDED THE
4 INFORMATION CONSENTS TO THE DISCLOSURE.

5 2. TO THE DEPARTMENT OF REVENUE FOR USE IN TAX ADMINISTRATION.

6 G. DOCUMENTS FILED WITH THE AUTHORITY, THE DEPARTMENT OF INSURANCE AND
7 THE DEPARTMENT OF REVENUE UNDER SUBSECTION D OF THIS SECTION SHALL CONTAIN
8 EITHER A SWORN STATEMENT OR CERTIFICATION, SIGNED BY AN OFFICER OF THE
9 COMPANY UNDER PENALTY OF PERJURY, THAT THE INFORMATION CONTAINED IS TRUE AND
10 CORRECT ACCORDING TO THE BEST BELIEF AND KNOWLEDGE OF THE PERSON SUBMITTING
11 THE INFORMATION AFTER A REASONABLE INVESTIGATION OF THE FACTS. IF THE
12 DOCUMENT CONTAINS INFORMATION THAT IS MATERIALLY FALSE, THE TAXPAYER IS
13 INELIGIBLE FOR THE TAX CREDITS DESCRIBED UNDER SUBSECTION A OF THIS SECTION
14 AND IS SUBJECT TO RECOVERY OF THE AMOUNT OF TAX CREDITS ALLOWED IN PRECEDING
15 TAXABLE YEARS BASED ON THE FALSE INFORMATION, PLUS PENALTIES AND INTEREST.

16 H. THE AUTHORITY MAY MAKE SITE VISITS TO A TAXPAYER'S FACILITIES IF IT
17 IS NECESSARY TO FURTHER DOCUMENT OR CLARIFY REPORTED INFORMATION. THE
18 TAXPAYER MUST FREELY PROVIDE THE ACCESS.

19 I. THE AUTHORITY BY RULE MAY PRESCRIBE ADDITIONAL REPORTING
20 REQUIREMENTS FOR TAXPAYERS WHO CLAIM TAX CREDITS PURSUANT TO THIS SECTION.

21 J. ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, THE AUTHORITY SHALL
22 TRANSMIT A REPORT TO THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER
23 OF THE HOUSE OF REPRESENTATIVES AND THE CHAIRPERSONS OF THE SENATE FINANCE
24 COMMITTEE AND THE HOUSE OF REPRESENTATIVES WAYS AND MEANS COMMITTEE AND
25 PROVIDE A COPY OF THE REPORT TO THE SECRETARY OF STATE. THE REPORT SHALL
26 INCLUDE THE FOLLOWING INFORMATION.

27 1. THE BUSINESS NAMES, LOCATIONS, NUMBER OF EMPLOYEES AND AMOUNT OF
28 COMPENSATION PAID TO EMPLOYEES QUALIFYING FOR INCOME TAX CREDITS AS REPORTED
29 TO THE AUTHORITY.

30 2. THE AMOUNT OF CAPITAL INVESTMENT, MADE DURING THE PRECEDING FISCAL
31 YEAR AND CUMULATIVELY.

32 3. THE TOTAL AMOUNT OF INCOME TAX CREDITS ALLOWED FOR THE PRECEDING
33 TAXABLE YEAR AND THE NUMBER OF QUALIFIED EMPLOYMENT POSITIONS FOR WHICH
34 CREDITS WERE CLAIMED PURSUANT TO SECTIONS 43-1074 AND 43-1161.

35 K. FOR THE PURPOSES OF THIS SECTION:

36 1. "CAPITAL INVESTMENT" MEANS AN EXPENDITURE TO ACQUIRE, LEASE OR
37 IMPROVE PROPERTY THAT IS USED IN OPERATING A BUSINESS, INCLUDING LAND,
38 BUILDINGS, MACHINERY AND FIXTURES.

39 2. "PRIMARILY" MEANS MORE THAN SEVENTY-FIVE PER CENT OF THE SQUARE
40 FOOTAGE OF THE LOCATION OR LOCATIONS.

41 3. "QUALIFIED EMPLOYMENT POSITION" MEANS EMPLOYMENT THAT MEETS THE
42 FOLLOWING REQUIREMENTS:

43 (a) THE POSITION CONSISTS OF AT LEAST ONE THOUSAND SEVEN HUNDRED FIFTY
44 HOURS PER YEAR OF FULL-TIME PERMANENT EMPLOYMENT.

1 (b) THE JOB DUTIES ARE PERFORMED PRIMARILY AT THE LOCATION OR
2 LOCATIONS OF THE BUSINESS.

3 (c) THE EMPLOYMENT PROVIDES HEALTH INSURANCE COVERAGE FOR THE EMPLOYEE
4 FOR WHICH THE EMPLOYER PAYS AT LEAST SIXTY-FIVE PER CENT OF THE PREMIUM OR
5 MEMBERSHIP COST. IF THE BUSINESS IS SELF-INSURED, THE EMPLOYER PAYS AT LEAST
6 SIXTY-FIVE PER CENT OF A PREDETERMINED FIXED COST PER EMPLOYEE FOR AN
7 INSURANCE PROGRAM THAT IS PAYABLE WHETHER OR NOT THE EMPLOYEE HAS FILED
8 CLAIMS.

9 (d) THE EMPLOYER PAYS COMPENSATION AT LEAST EQUAL TO THE MEDIAN WAGE
10 BY COUNTY AS COMPUTED ANNUALLY BY THE AUTHORITY.

11 Sec. 46. Section 41-1531, Arizona Revised Statutes, is amended to
12 read:

13 41-1531. Designating military reuse zone; term; renewal

14 A. After executing a lease with a term of fifteen years or longer for
15 the use or occupancy of real property or improvements that are located on a
16 closed military facility with a runway that is at least eight thousand feet
17 long at closing or after title to any part of a closed military facility with
18 a runway that is at least eight thousand feet long at closing is transferred
19 to this state or to another public or private entity, the governor, after
20 consulting with the ~~director of the department of commerce~~ CHIEF EXECUTIVE
21 OFFICER OF THE ARIZONA COMMERCE AUTHORITY, may designate the property as a
22 military reuse zone. Only properties that were used for operational and
23 training purposes of the active uniformed services of the United States
24 qualify for consideration as a military reuse zone.

25 B. The governor shall set a termination date for the military reuse
26 zone that is not more than ten years after the date the zone is
27 designated. During the last year before termination the governor may renew
28 the military reuse zone for one term of ten years. Thereafter, the
29 legislature and the governor by joint resolution may renew the military reuse
30 zone for additional ten year terms.

31 Sec. 47. Section 41-1532, Arizona Revised Statutes, is amended to
32 read:

33 41-1532. Tax incentives; conditions

34 A. A prime contractor may qualify for an exemption from transaction
35 privilege tax with respect to activities in a military reuse zone as
36 provided, and subject to the terms and conditions prescribed, by section
37 42-5075, subsection B, paragraph 4.

38 B. A taxpayer that owns or leases income producing property located in
39 a military reuse zone is eligible for an income tax credit for net increases
40 in employment of full-time employees who are primarily engaged in providing
41 aviation or aerospace services or in manufacturing, assembling or fabricating
42 aviation or aerospace products as provided, and subject to the terms and
43 conditions prescribed, by section 43-1079 or 43-1167, as applicable. To
44 qualify for a tax incentive under this subsection the taxpayer shall:

1 1. Agree with the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY in
2 writing to furnish information relating to the amount of tax benefits the
3 taxpayer receives for each taxable year in which the taxpayer claims the
4 credit. If the taxpayer fails to provide the required information, the
5 ~~department of commerce~~ AUTHORITY shall immediately revoke the taxpayer's
6 qualification and notify the department of revenue.

7 2. Enter into a memorandum of understanding with this state through
8 the ~~department of commerce~~ AUTHORITY containing employment goals. Each year
9 in which the taxpayer claims the credit the taxpayer shall report in writing
10 to the ~~department of commerce~~ AUTHORITY its performance in achieving the
11 goals. The memorandum shall contain provisions that allow:

12 (a) The ~~department of commerce~~ AUTHORITY to stop, readjust or
13 recapture all or part of the tax credit allowed to the taxpayer on
14 noncompliance with the terms of the memorandum.

15 (b) The ~~department of commerce~~ AUTHORITY to notify the department of
16 revenue of the conditions of noncompliance.

17 (c) The department of revenue to require the taxpayer to file
18 appropriate amended tax returns reflecting the recapture of the tax credit.

19 C. Taxable property in a military reuse zone that is devoted to
20 providing aviation or aerospace services or to manufacturing, assembling or
21 fabricating aviation or aerospace products qualifies for assessment as class
22 six property as provided, and subject to the terms and conditions prescribed,
23 by sections 42-12006 and 42-15006.

24 D. To qualify for a tax incentive described in subsection A or C of
25 this section, the taxpayer shall provide to the ~~department of commerce~~
26 AUTHORITY information relating to the amount of tax benefits the taxpayer
27 receives each year for each year in which the taxpayer claims the incentives
28 on forms prescribed by the ~~department of commerce~~ AUTHORITY. If the taxpayer
29 fails to provide the required information, the ~~department of commerce~~
30 AUTHORITY shall immediately revoke the taxpayer's certification of
31 eligibility and notify the department of revenue.

32 E. Taxpayers who qualify for tax incentives under subsection B or C of
33 this section shall be certified by the ~~department of commerce~~ AUTHORITY as
34 eligible for a five year period, subject to termination in the event of
35 changed circumstances rendering the taxpayer no longer eligible.

36 F. Notwithstanding subsection C of this section, an insurer located in
37 a military reuse zone is eligible for a premium tax credit under section
38 20-224.04 for net increases in employment positions of residents of this
39 state. To qualify for a premium tax credit the insurer shall:

40 1. Agree with the ~~department of commerce~~ AUTHORITY in writing to
41 furnish information relating to the amount of premium tax credits the insurer
42 receives each year. If the insurer fails to provide the required
43 information, the ~~department of commerce~~ AUTHORITY shall immediately revoke
44 the insurer's qualification and notify the department of insurance.

1 2. Enter into a memorandum of understanding with this state through
2 the ~~department of commerce~~ AUTHORITY containing employment goals. Each year
3 the insurer shall report in writing to the ~~department of commerce~~ AUTHORITY
4 its performance in achieving the goals. The memorandum shall contain
5 provisions that allow:

6 (a) The ~~department of commerce~~ AUTHORITY to stop, readjust or
7 recapture all or part of the premium tax credits provided to the insurer on
8 noncompliance with the terms of the memorandum.

9 (b) The ~~department of commerce~~ AUTHORITY to notify the department of
10 insurance of the conditions of noncompliance.

11 Sec. 48. Section 41-1533, Arizona Revised Statutes, is amended to
12 read:

13 41-1533. Duties of Arizona commerce authority

14 The ~~department~~ ARIZONA COMMERCE AUTHORITY shall administer this article
15 and shall:

16 1. Monitor the implementation and operation of this article and
17 continually evaluate the progress made in the military reuse zone.

18 2. Assist an employer or prospective employer in a zone to obtain the
19 benefits of any incentive authorized by this article.

20 3. Submit an annual written report to the governor evaluating the
21 effectiveness of the program with respect to each zone, stating the amount of
22 foregone tax revenue due to the incentives offered pursuant to section
23 41-1532, reporting any abuses and presenting any suggestions to improve the
24 program. The report is due on or before March 1, beginning in the first full
25 calendar year after the zone is established and ending in the first full
26 calendar year after the zone is terminated.

27 4. Adopt rules as necessary to administer this article.

28 5. Provide information regarding military reuse zones on request and
29 conduct informational and instructional seminars and training.

30 Sec. 49. Section 41-1541, Arizona Revised Statutes, is amended to
31 read:

32 41-1541. Arizona job training program

33 A. The Arizona job training program is established in the ~~department~~
34 ~~of commerce~~ ARIZONA COMMERCE AUTHORITY. The program shall provide training
35 for specific employment opportunities with qualified new and expanding
36 businesses and businesses undergoing economic conversion. If job training
37 employer tax monies are deposited in the Arizona job training fund pursuant
38 to section 23-769, the program may provide incumbent worker training. The
39 guidelines established pursuant to section 41-1543 shall provide additional
40 weight for incumbent worker training applicants who demonstrate that
41 incumbent worker trainees will receive an increase in compensation on
42 completion of the training.

43 B. The ~~director~~ CHIEF EXECUTIVE OFFICER shall implement the program
44 and spend monies in the Arizona job training fund established by section
45 41-1544.

1 C. The ~~department~~ AUTHORITY, the business receiving monies for
2 training and the provider of training shall design the training programs.

3 D. The business shall contribute monies or other appropriate
4 resources, including technical assistance, machinery or training space, as
5 follows:

6 1. For specific employment opportunities with qualified new and
7 expanding businesses and businesses undergoing economic conversion, in an
8 amount equal to at least twenty-five per cent of the estimated cost of the
9 proposed training.

10 2. For incumbent worker training, in an amount equal to at least fifty
11 per cent of the estimated cost of the proposed training.

12 E. The ~~department~~ AUTHORITY shall not be a direct provider of the
13 training established pursuant to this article.

14 F. Training may be provided by the state community college system, a
15 private postsecondary educational institution licensed under title 32,
16 chapter 30, a community college operated by a tribal government or another
17 qualified training provider.

18 G. Before a business currently operating in this state is eligible to
19 receive training monies, the ~~department~~ AUTHORITY shall require the business
20 to maintain or exceed its current level of training expenditures.

21 Sec. 50. Section 41-1542, Arizona Revised Statutes, is amended to
22 read:

23 41-1542. Governor's council on workforce policy; duties

24 A. The governor by executive order may establish a governor's council
25 on workforce policy. If the governor establishes a governor's council on
26 workforce policy, the council shall include at least the following members:

27 ~~1. The director of the department of commerce or the director's~~
28 ~~designee.~~

29 1. THE CHIEF EXECUTIVE OFFICER OF THE ARIZONA COMMERCE AUTHORITY OR
30 THE CHIEF EXECUTIVE OFFICER'S DESIGNEE.

31 2. The director of the department of economic security or the
32 director's designee.

33 3. The superintendent of public instruction or the superintendent's
34 designee.

35 4. One representative from a rural community college district who is
36 appointed by the governor.

37 5. One representative from an urban community college district who is
38 appointed by the governor.

39 6. One representative from organized labor who is appointed by the
40 governor.

41 7. Representatives from large businesses who are appointed by the
42 governor and who shall compose at least thirty per cent of the total
43 membership of the council.

1 8. Representatives from small businesses who are appointed by the
2 governor and who shall compose at least twenty-five per cent of the total
3 membership of the council.

4 B. The governor's council on workforce policy that is established by
5 executive order shall develop program guidelines for selection criteria and
6 program operations. These guidelines shall include the following areas:

- 7 1. Project application procedures.
- 8 2. Categories of allowable and excluded project costs.
- 9 3. Limitations relating to partial or total project costs and interim
10 and end of project reporting requirements.
- 11 4. Procedures to assure that both urban and rural economic interests
12 are addressed.
- 13 5. Criteria to evaluate effective use of training monies.
- 14 6. Criteria to determine the annual qualifying wage rate per county so
15 that the qualifying wage rate reflects current economic conditions and the
16 needs of local businesses in the county.

17 C. The governor's council on workforce policy shall meet at least four
18 times each year and shall submit a written annual report to the governor, the
19 president of the senate, the speaker of the house of representatives and the
20 joint legislative budget committee by December 1 of each year. This report
21 shall include:

- 22 1. The qualifying wage rate per county.
- 23 2. The number of businesses recruited.
- 24 3. The number of approved applicants.
- 25 4. The number of persons hired.
- 26 5. The number of incumbent workers trained.
- 27 6. The racial and ethnic background of persons trained.
- 28 7. The number of persons trained by job skill category.
- 29 8. The average salaries paid.
- 30 9. The breakdown of full-time and part-time jobs.
- 31 10. The information on the efforts to leverage other training
32 resources.
- 33 11. A summary of the information considered pursuant to section
34 41-1543.
- 35 12. The number of grant applications denied due to either of the
36 following:
 - 37 (a) Insufficient available grant money.
 - 38 (b) The inability to meet the qualifying wage requirements pursuant to
39 subsection B, paragraph 6 of this section.
- 40 13. A summary of annual spending by state government on workforce
41 development, including details on each state program that participates in
42 workforce development in any state agency or community college. The report
43 shall include:
 - 44 (a) Actual expenditures from state, federal or other sources for the
45 prior fiscal year, by fund, program and agency and in total.

1 (b) Estimated expenditures from state, federal or other sources for
2 the current fiscal year, by fund, program and agency and in total.

3 (c) Federally mandated performance measure results by program,
4 including measures for the previous two fiscal years and for the current
5 fiscal year.

6 (d) Agency or statewide performance measure results as described in
7 subsection E of this section by program, including measures for the previous
8 two fiscal years and for the current fiscal year.

9 (e) A strategic plan that identifies:

10 (i) Each workforce development program in this state.

11 (ii) How the state programs met all performance measures in the
12 previous fiscal year.

13 D. Each state agency and community college shall submit to the
14 governor's council on workforce policy the information necessary to compile
15 the report described in subsection C, paragraph 13 of this section by
16 November 1 of each year.

17 E. The governor's council on workforce policy shall coordinate with
18 state agencies and state community colleges to produce outcome-based
19 performance measures for all state workforce development programs.

20 Sec. 51. Section 41-1543, Arizona Revised Statutes, is amended to
21 read:

22 41-1543. Application criteria

23 The ~~director of the department of commerce in accordance with CHIEF~~
24 ~~EXECUTIVE OFFICER PURSUANT TO~~ the guidelines established by the governor's
25 council on workforce policy shall consider the following before any award of
26 monies pursuant to this article:

27 1. THE training cost per employee.

28 2. The ability to leverage other job training resources.

29 3. The quality of jobs resulting from the training proposal, including
30 a requirement that a business receiving monies pursuant to this article pay
31 compensation at least equal to the qualifying wage rate per county that is
32 prescribed for the year in which the award is considered.

33 4. The use of the local labor force, dislocated workers, the
34 chronically unemployed and other special populations, including the disabled
35 and veterans.

36 5. The location or expansion of the business in rural or economically
37 depressed areas.

38 6. The diversity provided to the economy and the promotion of existing
39 and expanding businesses and businesses undergoing economic conversion.

40 7. The number of jobs resulting from the training proposal.

41 8. The ability to expand cluster industries. For purposes of this
42 paragraph, "cluster industries" means concentrations of firms across several
43 industries that share common economic foundation needs.

44 9. The extent to which the benefit package including health insurance
45 reflects the needs of the employees.

1 Sec. 52. Section 41-1544, Arizona Revised Statutes, is amended to
2 read:

3 41-1544. Arizona job training fund; definitions

4 A. The Arizona job training fund is established consisting of
5 legislative appropriations, monies deposited pursuant to section 23-769,
6 gifts, grants and other monies. The ~~department~~ AUTHORITY shall administer
7 the fund. On notice from the ~~department~~ CHIEF EXECUTIVE OFFICER, the state
8 treasurer shall invest and divest monies in the fund as provided by section
9 35-313, and monies earned from investment shall be credited to the
10 fund. ~~Before any monies are disbursed pursuant to this section, the~~
11 ~~legislature may appropriate monies in the Arizona job training fund to be~~
12 ~~used for the department of economic security's jobs program to provide job~~
13 ~~training for welfare clients.~~

14 B. The ~~director~~ CHIEF EXECUTIVE OFFICER may accept and expend federal
15 monies and private grants, gifts and contributions to assist in carrying out
16 the purposes of this article. All monies for the program shall be expended
17 only for the costs related to training, except that the ~~department of~~
18 ~~commerce~~ AUTHORITY shall reimburse the department of economic security for
19 the development costs for establishing a system to collect the job training
20 employer tax imposed pursuant to section 23-769 in an amount of not more than
21 four hundred thousand dollars and for incremental costs incurred by the
22 department of economic security relating to the collection of the job
23 training employer tax imposed pursuant to section 23-769. Monies in the
24 Arizona job training fund are exempt from the provisions of section 35-190
25 relating to lapsing of appropriations.

26 C. The Arizona job training fund monies shall be spent on approval of
27 the ~~department~~ AUTHORITY at the direction of the ~~director~~ CHIEF EXECUTIVE
28 OFFICER in accordance with the guidelines and procedures adopted by the
29 governor's council on workforce policy.

30 D. A minimum of twenty-five per cent of the monies appropriated to the
31 Arizona job training fund shall be used to provide training to small
32 businesses employing fewer than one hundred employees.

33 E. A minimum of twenty-five per cent of the monies appropriated to the
34 Arizona job training fund shall be used to provide training to businesses
35 located in rural areas of the state.

36 F. If a business receives monies for training from the Arizona job
37 training fund and the business employs fewer than one hundred employees and
38 is located in a rural area of this state, the business shall be included in
39 the minimum percentages prescribed in subsections D and E of this section.

40 G. No more than fifty per cent of the monies in the Arizona job
41 training fund shall be used to provide incumbent worker training.

42 H. A single grant awarded pursuant to this article shall not be more
43 than ten per cent of the estimated annual total of monies deposited in the
44 Arizona job training fund.

1 I. The ~~department~~ AUTHORITY shall not approve grant monies for
2 reimbursement of the following employer costs:
3 1. Fringe benefits, food and beverages, recruitment and signing
4 bonuses for trainees and trainers.
5 2. Employer costs to complete a program application.
6 3. Except for small businesses, training expenses for partners or
7 corporate officers.
8 4. Employee relocation expenses.
9 5. Training or course development costs that are not part of the
10 employer's approved training plan.
11 6. Costs for assessing the training needs of employees.
12 7. Drug or other testing costs for employee screening or prescreening
13 purposes.
14 8. Costs for trade shows and conferences or seminars that do not
15 result in a skill certificate that is earned by an employee.
16 9. Other costs prohibited by rule.
17 J. For the purposes of this section:
18 1. "Rural area" means either:
19 (a) A county with a population of less than ~~four~~ SEVEN hundred FIFTY
20 thousand persons according to the most recent United States decennial census.
21 (b) A census county division with less than fifty thousand persons in
22 a county with a population of ~~four~~ SEVEN hundred FIFTY thousand or more
23 persons according to the most recent United States decennial census.
24 2. "Small business" means a concern, including its affiliates, that
25 employs fewer than one hundred employees.
26 Sec. 53. Title 41, chapter 10, Arizona Revised Statutes, is amended by
27 adding article 5, to read:
28 ARTICLE 5. ARIZONA COMPETES
29 41-1545. Definitions
30 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:
31 1. "ARIZONA BASIC ENTERPRISE" MEANS ANY ENTERPRISE THAT IS LOCATED OR
32 PRINCIPALLY BASED IN THIS STATE AND THAT CAN PROVIDE DEMONSTRABLE EVIDENCE
33 THAT IT MEETS ONE OR MORE OF THE FOLLOWING:
34 (a) IT IS PRIMARILY ENGAGED IN ONE OR MORE OF THE ARIZONA BASIC
35 INDUSTRIES.
36 (b) IT IS THE NATIONAL OR REGIONAL CORPORATE HEADQUARTERS OF AN
37 ARIZONA BASIC INDUSTRY OR THE CORPORATE OR REGIONAL HEADQUARTERS OF A
38 MULTISTATE ENTERPRISE THAT IS PRIMARILY ENGAGED IN OUT-OF-STATE INDUSTRIAL
39 ACTIVITIES.
40 (c) IT IS PRIMARILY ENGAGED IN DEVELOPING OR PRODUCING GOODS OR
41 PROVIDING SERVICES FOR OUT-OF-STATE SALE.
42 2. "ARIZONA BASIC INDUSTRY" MEANS ANY OF THE FOLLOWING:
43 (a) MANUFACTURING INDUSTRIES IDENTIFIED BY NORTH AMERICAN INDUSTRY
44 CLASSIFICATION SYSTEM CODE SECTORS 31, 32 AND 33.

- 1 (b) PRODUCING GOODS OR SERVICES THAT DERIVE AT LEAST SIXTY-FIVE PER
2 CENT OF REVENUE FROM OUT-OF-STATE SALES.
- 3 (c) RESEARCH AND DEVELOPMENT OF NEW PRODUCTS, PROCESSES OR
4 TECHNOLOGIES.
- 5 (d) NATIONAL OR REGIONAL HEADQUARTERS OR BACK-OFFICE OPERATIONS
6 SUPPORTING A NATIONAL OR REGIONAL COMPANY.
- 7 (e) WAREHOUSE DISTRIBUTION OPERATIONS IDENTIFIED BY NORTH AMERICAN
8 INDUSTRY CLASSIFICATION SYSTEM CODE SECTOR 42 IF SIXTY-FIVE PER CENT OF
9 INVENTORY IS SHIPPED OUT OF STATE.
- 10 3. "AUTHORITY" MEANS THE ARIZONA COMMERCE AUTHORITY.
- 11 4. "EMPLOYEE" MEANS A PERSON EMPLOYED IN A NEW JOB.
- 12 5. "EMPLOYER" MEANS AN ARIZONA BASIC ENTERPRISE PROVIDING NEW JOBS IN
13 CONJUNCTION WITH A PROJECT, EXCEPT THAT THE FOLLOWING DO NOT QUALIFY FOR THE
14 PURPOSES OF THIS ARTICLE:
- 15 (a) ANY CORPORATION, PARTNERSHIP OR OTHER ENTITY CONDUCTING A BUSINESS
16 IDENTIFIED BY ANY OF THE FOLLOWING NORTH AMERICAN INDUSTRY CLASSIFICATION
17 SYSTEM CODE GROUPS, SECTORS OR SUBSECTORS:
- 18 (i) INDUSTRY GROUP 7132 OR 8131.
- 19 (ii) SECTOR 44, 45, 61, 92 OR 221, INCLUDING WATER AND SEWER SERVICES.
- 20 (iii) SUBSECTOR 722.
- 21 (b) ANY CORPORATION, PARTNERSHIP OR OTHER ENTITY THAT IS DELINQUENT IN
22 THE PAYMENT OF ANY UNPROTESTED TAXES OR OTHER AMOUNTS DUE TO THE FEDERAL
23 GOVERNMENT, THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE.
- 24 (c) ANY CORPORATION, PARTNERSHIP OR OTHER ENTITY THAT IS CURRENTLY IN
25 BANKRUPTCY OR HAS PUBLICLY ANNOUNCED ITS INTENTION TO FILE FOR BANKRUPTCY
26 PROTECTION.
- 27 6. "FULL-TIME" MEANS PERMANENT EMPLOYMENT FOR AT LEAST ONE THOUSAND
28 SEVEN HUNDRED FIFTY HOURS PER YEAR.
- 29 7. "HEADQUARTERS" MEANS A PRINCIPAL CENTRAL ADMINISTRATIVE OFFICE
30 WHERE PRIMARY HEADQUARTERS RELATED FUNCTIONS AND SERVICES ARE PERFORMED,
31 INCLUDING FINANCIAL, PERSONNEL, ADMINISTRATIVE, LEGAL, PLANNING AND SIMILAR
32 BUSINESS FUNCTIONS.
- 33 8. "NEW JOB" MEANS FULL-TIME EMPLOYMENT IN A NEW OR EXPANDING ARIZONA
34 BASIC ENTERPRISE THAT PAYS AN AVERAGE ANNUAL WAGE EQUAL TO AT LEAST ONE
35 HUNDRED PER CENT OF THE MEDIAN WAGE BY COUNTY AS DETERMINED ANNUALLY BY THE
36 ARIZONA COMMERCE AUTHORITY AND INCLUDES HEALTH INSURANCE FOR EMPLOYEES FOR
37 WHICH THE EMPLOYER PAYS AT LEAST SIXTY-FIVE PER CENT OF THE PREMIUM OR
38 MEMBERSHIP COST, BUT NOT INCLUDING JOBS OF RECALLED WORKERS OR EXISTING JOBS
39 THAT ARE VACANT OR OTHER JOBS THAT FORMERLY EXISTED IN THE ENTERPRISE IN THIS
40 STATE.
- 41 9. "PRIMARILY ENGAGED" MEANS AT LEAST ONE-HALF OF THE GROSS INCOME OF
42 THE ENTERPRISE IS DERIVED FROM THE ENGAGEMENT.
- 43 41-1545.01. Arizona competes fund
- 44 A. THE ARIZONA COMPETES FUND IS ESTABLISHED CONSISTING OF:

- 1 1. WITHHOLDING TAX REVENUES ALLOCATED TO THE FUND FROM THE JOB
2 CREATION WITHHOLDINGS CLEARING ACCOUNT PURSUANT TO SECTION 43-409, SUBSECTION
3 B, PARAGRAPH 2.
- 4 2. ANY OTHER AMOUNTS DEDICATED TO THE FUND BY LAW.
- 5 3. GIFTS, GRANTS AND OTHER DONATIONS RECEIVED FOR THAT PURPOSE.
- 6 4. ANY AVAILABLE MONIES RECEIVED FROM THE UNITED STATES GOVERNMENT,
7 INCLUDING MONIES FROM THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009
8 (P.L. 111-5).
- 9 B. MONIES CREDITED TO THE FUND MAY BE DEPOSITED IN THE STATE TREASURY
10 OR IN A BANK OR OTHER DEPOSITORY PURSUANT TO SECTION 41-1504, SUBSECTION D,
11 PARAGRAPH 5.
- 12 C. THE CHIEF EXECUTIVE OFFICER SHALL ADMINISTER THE FUND. ON NOTICE
13 FROM THE CHIEF EXECUTIVE OFFICER, THE STATE TREASURER SHALL INVEST AND DIVEST
14 ANY MONIES IN THE FUND DEPOSITED IN THE STATE TREASURY AS PROVIDED BY SECTION
15 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND.
16 MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING
17 TO LAPSING OF APPROPRIATIONS.
- 18 D. THE CHIEF EXECUTIVE OFFICER SHALL USE MONIES IN THE FUND
19 EXCLUSIVELY FOR THE PURPOSES OF THIS ARTICLE.
- 20 41-1545.02. Grants from the Arizona competes fund
- 21 A. THE CHIEF EXECUTIVE OFFICER MAY NEGOTIATE THE AWARD OF MONIES FROM
22 THE ARIZONA COMPETES FUND. THE MONIES SHALL BE PAID, BY GRANT, FOR THE
23 PURPOSES OF:
- 24 1. ATTRACTING, EXPANDING OR RETAINING ARIZONA BASIC ENTERPRISES THAT
25 MEET THE REQUIREMENTS PRESCRIBED BY SUBSECTION B, THAT ACHIEVE THE
26 PERFORMANCE AND QUALIFICATION TARGETS DEVELOPED UNDER SUBSECTION C AND THAT
27 ENTER INTO AN AGREEMENT WITH THE CHIEF EXECUTIVE OFFICER AS PROVIDED BY
28 SUBSECTION C. IN AWARDING MONIES PURSUANT TO THIS PARAGRAPH, THE CHIEF
29 EXECUTIVE OFFICER SHALL GIVE PREFERENCE TO JOB TRAINING AND INFRASTRUCTURE
30 ACTIVITIES THAT CREATE PRIVATE SECTOR JOBS.
- 31 2. SUPPORTING AND ADVANCING PROGRAMS AND PROJECTS FOR RURAL
32 BUSINESSES, SMALL BUSINESSES AND BUSINESS DEVELOPMENT THAT ENHANCE ECONOMIC
33 DEVELOPMENT.
- 34 B. TO BE ELIGIBLE TO RECEIVE A DEAL CLOSING GRANT UNDER SUBSECTION A,
35 PARAGRAPH 1, AN APPLICANT MUST:
- 36 1. BE IN GOOD STANDING UNDER THE LAWS OF THE STATE IN WHICH THE
37 APPLICANT WAS FORMED OR ORGANIZED, AS EVIDENCED BY A CERTIFICATE ISSUED BY
38 THE SECRETARY OF STATE OR OTHER STATE OFFICIAL HAVING CUSTODY OF THE RECORDS
39 PERTAINING TO ENTITIES OR OTHER ORGANIZATIONS FORMED UNDER THE LAWS OF THAT
40 STATE.
- 41 2. OWE NO DELINQUENT TAXES TO A TAXING JURISDICTION IN THIS STATE.
- 42 3. QUALIFY AS AN ARIZONA BASIC INDUSTRY.
- 43 4. PAY COMPENSATION THAT EXCEEDS, ON AVERAGE, ONE HUNDRED PER CENT OF
44 THE MEDIAN WAGE BY COUNTY AS DETERMINED ANNUALLY BY THE AUTHORITY.

1 5. INCLUDE HEALTH INSURANCE FOR EMPLOYEES FOR WHICH THE APPLICANT PAYS
2 AT LEAST SIXTY-FIVE PER CENT OF THE PREMIUM OR MEMBERSHIP COST.

3 6. DEMONSTRATE BY ANALYSIS BY AN INDEPENDENT THIRD PARTY THAT
4 ESTIMATED INCOME, PROPERTY AND TRANSACTION PRIVILEGE TAX AND GOVERNMENT FEE
5 REVENUES IN THIS STATE WILL EXCEED STATE INCENTIVES.

6 C. BEFORE AWARDING A GRANT FROM THE FUND UNDER THIS SECTION, THE CHIEF
7 EXECUTIVE OFFICER MUST ENTER INTO A WRITTEN AGREEMENT WITH THE APPLICANT
8 SPECIFYING THAT:

9 1. A REASONABLE PERCENTAGE OF THE TOTAL AMOUNT OF THE GRANT MAY BE
10 WITHHELD UNTIL THE RECIPIENT MEETS SPECIFIED PERFORMANCE TARGETS.

11 2. IF THE CHIEF EXECUTIVE OFFICER FINDS THAT THE GRANT RECIPIENT HAS
12 NOT MET EACH OF THE PERFORMANCE TARGETS SPECIFIED IN THE AGREEMENT AS OF A
13 DATE STATED IN THE AGREEMENT:

14 (a) THE RECIPIENT MUST REPAY THE GRANT AND ANY RELATED INTEREST TO
15 THIS STATE AT AN AGREED RATE AND ON AGREED TERMS. THE REPAYMENT MAY BE
16 PRORATED TO REFLECT PARTIAL ATTAINMENT OF PERFORMANCE TARGETS.

17 (b) THE CHIEF EXECUTIVE OFFICER SHALL NOT DISBURSE ANY REMAINING GRANT
18 MONEY TO THE RECIPIENT UNDER THE AGREEMENT.

19 (c) THE CHIEF EXECUTIVE OFFICER MAY ASSESS SPECIFIED PENALTIES AGAINST
20 THE RECIPIENT FOR NONCOMPLIANCE.

21 3. IF ANY PART OF THE GRANT IS USED TO BUILD A CAPITAL IMPROVEMENT,
22 THIS STATE MAY:

23 (a) RETAIN A LIEN OR OTHER SECURITY INTEREST IN THE IMPROVEMENT IN
24 PROPORTION TO THE PERCENTAGE OF THE GRANT AMOUNT USED TO PAY FOR THE
25 IMPROVEMENT.

26 (b) REQUIRE THE RECIPIENT, IF THE IMPROVEMENT IS SOLD, TO:

27 (i) REPAY TO THIS STATE THE GRANT MONIES USED TO PAY FOR THE
28 IMPROVEMENT, WITH INTEREST AT A RATE AND ACCORDING TO TERMS STATED IN THE
29 AGREEMENT.

30 (ii) SHARE WITH THIS STATE A PROPORTIONATE AMOUNT OF ANY PROFIT
31 REALIZED FROM THE SALE.

32 D. THE CHIEF EXECUTIVE OFFICER MUST DETERMINE:

33 1. THE PERFORMANCE TARGETS AND DATES REQUIRED TO BE INCLUDED IN EACH
34 GRANT AGREEMENT.

35 2. IF THE GRANT AGREEMENT INCLUDES WITHHOLDING A PERCENTAGE OF THE
36 GRANT UNTIL THE RECIPIENT MEETS THE PERFORMANCE TARGETS, THE PERCENTAGE OF
37 THE GRANT MONEY TO BE WITHHELD.

38 E. BEFORE AWARDING A GRANT FROM THE FUND UNDER THIS SECTION, THE
39 AUTHORITY MUST PREPARE A WRITTEN STATEMENT, SIGNED BY THE CHIEF EXECUTIVE
40 OFFICER, THAT, SPECIFICALLY AND IN DETAIL, ASSESSES THE DIRECT ECONOMIC
41 IMPACT OF THE GRANT. THE STATEMENT MUST:

42 1. INCLUDE A FINDING THAT THE ENTERPRISE IS CLEARLY IN THE BEST
43 INTERESTS OF THIS STATE.

44 2. SET FORTH THE EVIDENCE AND REASONS SUPPORTING THIS FINDING,
45 INCLUDING:

1 (a) THE ESTIMATED ANNUAL TAX REVENUE ACCRUING TO THIS STATE AND ITS
2 POLITICAL SUBDIVISIONS AS A DIRECT OR INDIRECT RESULT OF THE ENTERPRISE.

3 (b) THE PUBLIC BENEFIT OF THE ENTERPRISE FROM THE EMPLOYMENT BASE,
4 INCLUDING THE ESTIMATED NUMBER AND THE MEDIAN WAGE OF JOBS TO BE CREATED IN
5 THIS STATE BY THE POTENTIAL RECIPIENT EACH YEAR.

6 (c) THE EXTENT TO WHICH THE ECONOMIC DEVELOPMENT FROM THE ENTERPRISE
7 WILL RAISE THE STANDARD OF LIVING OF AFFECTED PERSONS, INCREASES FREE
8 ENTERPRISE GROWTH AND INCREASES THE QUALITY OF LIFE IN THIS STATE.

9 (d) THE RATIO OF ECONOMIC BENEFIT FROM WAGES PAID AND CAPITAL
10 INVESTMENT MADE BY THE ENTERPRISE TO THE AMOUNT OF THE GRANT.

11 (e) THE CONTRIBUTION FROM THE ENTERPRISE TO THE GROWTH OF EXISTING
12 BUSINESSES AND CREATION OF NEW BUSINESSES AND BUSINESS CLUSTERS.

13 (f) WHETHER THE ENTERPRISE WILL PROVIDE ITS EMPLOYEES WITH BENEFITS
14 SUCH AS RETIREMENT, CHILD CARE, EDUCATIONAL REIMBURSEMENTS AND TRAINING.

15 (g) THE PERCENTAGE OF THE PRODUCTS OR SERVICES THE ENTERPRISE WILL
16 EXPORT OUTSIDE OF THIS STATE OVER THE FIRST FIVE YEARS OF OPERATION.

17 (h) ANY OTHER INFORMATION THE CHIEF EXECUTIVE OFFICER CONSIDERS TO BE
18 NECESSARY FOR INCLUSION IN THE STATEMENT.

19 41-1545.03. Annual report by grant recipient

20 ON OR BEFORE DECEMBER 31 OF EACH YEAR, EACH ENTITY THAT RECEIVES A
21 GRANT UNDER THIS ARTICLE SHALL SUBMIT TO THE CHIEF EXECUTIVE OFFICER A
22 PROGRESS REPORT CONTAINING THE INFORMATION COMPILED DURING THE PRECEDING
23 CALENDAR YEAR REGARDING THE ATTAINMENT OF EACH OF THE PERFORMANCE TARGETS IN
24 THE GRANT AGREEMENT.

25 41-1545.04. Report on use of monies in the Arizona competes
26 fund

27 A. ON OR BEFORE NOVEMBER 1 OF EACH YEAR, THE AUTHORITY SHALL SUBMIT TO
28 THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND
29 THE JOINT LEGISLATIVE BUDGET COMMITTEE A REPORT ON GRANTS MADE FROM THE
30 ARIZONA COMPETES FUND UNDER THIS ARTICLE IN THE PRECEDING FISCAL YEAR AND ALL
31 PROJECTS CURRENTLY BEING FUNDED FROM THE ARIZONA COMPETES FUND. THE
32 AUTHORITY SHALL PROVIDE A COPY OF THE REPORT TO THE SECRETARY OF STATE. THE
33 REPORT SHALL INCLUDE:

34 1. THE NUMBER OF DIRECT JOBS EACH RECIPIENT COMMITTED TO CREATE IN
35 THIS STATE.

36 2. THE NUMBER OF DIRECT JOBS EACH RECIPIENT ACTUALLY CREATED IN THIS
37 STATE.

38 3. THE MEDIAN WAGE OF THE JOBS EACH RECIPIENT CREATED IN THIS STATE.

39 4. THE AMOUNT OF CAPITAL INVESTMENT EACH RECIPIENT COMMITTED TO SPEND
40 OR ALLOCATE PER PROJECT IN THIS STATE.

41 5. THE AMOUNT OF CAPITAL INVESTMENT EACH RECIPIENT ACTUALLY SPENT OR
42 ALLOCATED PER PROJECT IN THIS STATE.

43 6. THE TOTAL AMOUNT OF GRANTS MADE TO EACH RECIPIENT.

44 7. THE AVERAGE AMOUNT OF MONEY GRANTED FROM THE ARIZONA COMPETES FUND
45 FOR EACH JOB CREATED IN THIS STATE BY GRANT RECIPIENTS.

1 8. THE NUMBER OF JOBS CREATED IN THIS STATE BY GRANT RECIPIENTS IN
2 EACH SECTOR OF THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM.

3 9. OF THE NUMBER OF DIRECT JOBS EACH RECIPIENT CREATED IN THIS STATE,
4 THE NUMBER OF POSITIONS CREATED THAT PROVIDE HEALTH BENEFITS FOR EMPLOYEES.

5 B. THE REPORT SHALL NOT INCLUDE INFORMATION THAT IS MADE CONFIDENTIAL
6 BY LAW.

7 C. THE AUTHORITY MAY REQUIRE GRANT RECIPIENTS TO SUBMIT INFORMATION IN
8 A FORM REQUIRED TO COMPLETE THE REPORT.

9 41-1545.05. Program termination

10 THE PROGRAM ESTABLISHED BY THIS ARTICLE ENDS ON JULY 1, 2016.

11 Sec. 54. Repeal

12 Title 41, chapter 10, article 6, Arizona Revised Statutes, is repealed.

13 Sec. 55. Title 41, chapter 10, Arizona Revised Statutes, is amended by
14 adding a new article 6, to read:

15 ARTICLE 6. ARIZONA AEROSPACE AND DEFENSE COMMISSION

16 Sec. 56. Transfer and renumber

17 Sections 41-1561, 41-1562, 41-1563 and 41-1564, Arizona Revised
18 Statutes, are transferred and renumbered for placement in title 41, chapter
19 10, article 6, Arizona Revised Statutes, as added by this act, as sections
20 41-1552, 41-1552.01, 41-1552.02 and 41-1552.03, respectively.

21 Sec. 57. Repeal

22 The chapter heading of title 41, chapter 10.1, Arizona Revised
23 Statutes, and the article heading of title 41, chapter 10.1, article 1,
24 Arizona Revised Statutes, are repealed.

25 Sec. 58. Section 41-1552.01, Arizona Revised Statutes, as transferred
26 and renumbered by this act, is amended to read:

27 41-1552.01. Arizona aerospace and defense commission:
28 definition

29 A. An Arizona aerospace and defense commission is established IN THE
30 ARIZONA COMMERCE AUTHORITY consisting of:

31 1. One advisory member who is a member of the senate and who is
32 appointed by the president of the senate.

33 2. One advisory member who is a member of the house of representatives
34 and who is appointed by the speaker of the house of representatives.

35 ~~3. The director of the department of commerce or the director's~~
36 ~~designee.~~

37 3. THE CHIEF EXECUTIVE OFFICER OF THE ARIZONA COMMERCE AUTHORITY OR
38 THE CHIEF EXECUTIVE OFFICER'S DESIGNEE.

39 4. One advisory member who is a director of a privately funded
40 organization for economic development or a business development director for
41 an airport in this state and who is appointed by the governor.

42 5. Two advisory members from a university under the jurisdiction of
43 the Arizona board of regents with expertise in educational or research and
44 development systems that support the aerospace and defense industries and who
45 are appointed by the governor.

1 6. Nine private sector members who are appointed by the governor under
2 section 38-211, who are residents of this state and who have knowledge of or
3 expertise in one or more of the following areas:

4 (a) The aerospace and defense industries.

5 (b) Aerospace and defense related research and development.

6 (c) Existing resources that may support the Aerospace and defense
7 related industries in this state.

8 (d) Aerospace and defense related business ventures in this state.

9 (e) Mechanisms for infrastructure improvement.

10 (f) Educational systems that support the aerospace and defense
11 industries.

12 ~~B. The director of the department of commerce shall serve as acting
13 chairman until the members elect a chairman at the first meeting.~~

14 B. THE COMMISSION SHALL ELECT ONE OF ITS MEMBERS TO SERVE AS
15 CHAIRPERSON.

16 C. Commission members who are appointed shall serve two year terms to
17 begin and end on the third Monday in January. No commission member who is
18 appointed may serve more than three consecutive terms.

19 D. Commission members are not eligible for compensation but are
20 eligible for reimbursement for expenses pursuant to title 38, chapter 4,
21 article 2.

22 E. For the purposes of this section, "advisory member" means a member
23 who gives advice to the other members of the commission at meetings of the
24 commission but who is not eligible to vote, is not a member for purposes of
25 determining whether a quorum is present and is not eligible to receive any
26 compensation by the commission.

27 Sec. 59. Section 41-1552.02, Arizona Revised Statutes, as transferred
28 and renumbered by this act, is amended to read:

29 41-1552.02. Duties

30 A. The commission is designated as this state's sole coordinator of
31 all aerospace and defense related commercial partnerships.

32 B. The commission shall:

33 1. Provide technical support to the ~~department of commerce~~ **AUTHORITY**,
34 local and regional industrial development organizations, local agencies and
35 other groups concerning infrastructure improvements and any other projects
36 designated by the governor.

37 2. Adopt rules it deems necessary or desirable to further the
38 objectives and programs of the commission.

39 3. Develop goals and objectives, establish guidelines, recommend
40 legislation and provide general direction regarding this state's interests in
41 aerospace and defense related commerce.

42 4. Make contracts and incur obligations within the general scope of
43 its activities and operations subject to the availability of monies.

44 5. Subject to section 35-149, accept, spend and account for grants,
45 monies and direct payments from public or private sources and other grants of

1 money or property to conduct programs that are consistent with the overall
2 purposes and objectives of the commission.

3 6. Have an official seal that shall be judicially noticed.

4 Sec. 60. Title 41, Arizona Revised Statutes, is amended by adding
5 chapter 18, to read:

6 CHAPTER 18

7 GREATER ARIZONA DEVELOPMENT AUTHORITY

8 ARTICLE 1. GENERAL PROVISIONS

9 Sec. 61. Transfer and renumber

10 Sections 41-1554 and 41-1554.01 through 41-1554.12, Arizona Revised
11 Statutes, are transferred and renumbered for placement in title 41, chapter
12 18, article 1, Arizona Revised Statutes, as added by this act, as sections
13 41-2251 through 41-2263, respectively.

14 Sec. 62. Repeal

15 The article heading of title 41, chapter 10, article 8, Arizona Revised
16 Statutes, is repealed.

17 Sec. 63. Section 41-2251, Arizona Revised Statutes, as transferred and
18 renumbered by this act, is amended to read:

19 41-2251. Definitions

20 In this article, unless the context otherwise requires:

21 1. "Authority" means the greater Arizona development authority.

22 2. "Board" means the board of directors of the authority AS
23 ESTABLISHED BY SECTION 41-2252.

24 3. "Financial assistance" means assistance provided by the authority
25 to eligible political subdivisions, special districts and Indian tribes
26 pursuant to section ~~41-1554.06~~ 41-2257.

27 4. "Fund" means the greater Arizona development authority revolving
28 fund established by section ~~41-1554.03~~ 41-2254.

29 5. "Indian tribe" means any Indian tribe, band, group or community
30 that is recognized by the United States secretary of the interior and that
31 exercises governmental authority within the limits of any Indian reservation
32 under the jurisdiction of the United States government, notwithstanding the
33 issuance of any patent and including rights-of-way running through the
34 reservation.

35 6. "Infrastructure" means any land, building or other improvement and
36 equipment or other personal property that will make up part of a facility
37 that is located in this state for public use and that is owned by a political
38 subdivision, special district or Indian tribe that retains ultimate
39 responsibility for its operation and maintenance.

40 7. "Loan" means bonds, leases, loans or other evidences of
41 indebtedness.

42 8. "Loan repayment agreement" means an agreement to repay a loan
43 entered into by a political subdivision, special district or Indian tribe.

44 9. "Pledged revenues" means any monies to be received by a political
45 subdivision, special district or Indian tribe, including property taxes,

1 other local taxes, fees, assessments or charges pledged by a political
2 subdivision, special district or Indian tribe as a source for repayment of a
3 loan repayment agreement.

4 10. "Political subdivision" means a county, city or town.

5 11. "Short-term assistance" means assistance provided by the authority
6 to political subdivisions, special districts and Indian tribes in connection
7 with the financing of infrastructure.

8 12. "Special district" means any of the following entities established
9 pursuant to title 48:

10 (a) Municipal improvement district.

11 (b) Fire district.

12 (c) County improvement district.

13 (d) Special road district.

14 (e) Sanitary district.

15 (f) Drainage or flood protection district.

16 (g) County flood control district.

17 (h) County jail district.

18 (i) Regional public transportation authority.

19 (j) Regional transportation authority.

20 13. "Technical assistance" means assistance provided pursuant to
21 section ~~41-1554.05~~ 41-2256.

22 14. "Technical assistance repayment agreement" means an agreement to
23 repay assistance provided pursuant to section ~~41-1554.05~~ 41-2256.

24 15. "Tribal subdivision" means any chapter, district or village that is
25 recognized by an Indian tribe by resolution or through tribal constitution
26 and that receives technical assistance.

27 Sec. 64. Section 41-2252, Arizona Revised Statutes, as transferred and
28 renumbered by this act, is amended to read:

29 ~~41-2252.~~ Greater Arizona development authority; board; staff;
30 conflict of interest prohibited; violation;
31 classification

32 A. The greater Arizona development authority is established. The
33 authority shall be governed by a board of directors consisting of the
34 following members:

35 1. The ~~director~~ CHIEF EXECUTIVE OFFICER of the ~~department of commerce~~
36 ARIZONA COMMERCE AUTHORITY or the director's designee who shall serve as the
37 chairperson.

38 2. The director of the department of environmental quality or the
39 director's designee.

40 3. The director of the department of transportation or the director's
41 designee.

42 4. The state treasurer or the state treasurer's designee.

43 5. Five members, one of whom is a representative of a tribal nation of
44 Arizona, appointed by the governor pursuant to section 38-211. All appointed

1 members shall reside in different counties, and no more than three members
2 may be members of the same political party.

3 B. Members appointed by the governor serve staggered five year terms.

4 C. Members of the board are not eligible to receive compensation for
5 their services UNDER THIS CHAPTER but are eligible for reimbursement of
6 expenses pursuant to title 38, chapter 4, article 2 FOR THEIR SERVICES UNDER
7 THIS CHAPTER.

8 D. Members of the board SERVING UNDER THIS CHAPTER are public officers
9 for purposes of title 38, chapter 3, article 8 and the authority is a public
10 body for purposes of title 38, chapter 3, article 3.1.

11 E. No appointed member may serve more than two consecutive terms,
12 except that service for a partial term of less than three years shall not be
13 counted toward the two term limitation.

14 F. The ~~department of commerce~~ WATER INFRASTRUCTURE FINANCE AUTHORITY
15 OF ARIZONA shall provide general administrative support, equipment and office
16 and meeting space to the GREATER ARIZONA DEVELOPMENT authority.

17 G. The ~~department of commerce~~ WATER INFRASTRUCTURE FINANCE AUTHORITY
18 OF ARIZONA may hire staff to provide administrative and technical assistance
19 on behalf of the authority. Earnings on the monies in the GREATER ARIZONA
20 DEVELOPMENT AUTHORITY REVOLVING fund may be used to pay for staff services.

21 H. Members of the board shall not participate in any direct
22 discussions or actions related to any project financed under this article in
23 which the member has any direct or indirect personal financial interest. For
24 purposes of this subsection, a member of the board who is an employee or
25 official of a participant in or applicant for a loan shall not be considered
26 to have a direct or indirect personal financial interest in a project by
27 virtue of the member's services alone. A violation of this subsection is a
28 class 1 misdemeanor.

29 Sec. 65. Section 41-2254, Arizona Revised Statutes, as transferred and
30 renumbered by this act, is amended to read:

31 41-2254. Greater Arizona development authority revolving fund

32 A. The greater Arizona development authority revolving fund is
33 established consisting of:

34 1. Monies appropriated by the legislature.

35 2. Monies received from the United States government to carry out
36 this article.

37 3. Monies received from political subdivisions, Indian tribes,
38 tribal subdivisions and special districts as loan repayments, technical
39 assistance repayments, interest, administrative fees and penalties.

40 4. Interest and other income received from investing monies in the
41 fund.

42 5. Gifts, grants and donations received from any public or private
43 source to carry out this article.

44 6. Any other monies received by the authority.

1 B. The board shall administer the fund in compliance with the
2 requirements of this article. The board shall separately account for
3 monies received from each source listed in subsection A of this
4 section. Monies received pursuant to subsection A, paragraph 1 of this
5 section shall not be used for any purpose except securing bonds issued by
6 the authority and providing assistance under technical assistance
7 repayment agreements if the amount used for providing this assistance is
8 not more than eight hundred thousand dollars. This subsection does not
9 limit the power of the authority to pledge other monies in the fund to
10 secure bonds issued by the authority or to provide assistance under
11 technical assistance repayment agreements.

12 C. The board may establish accounts and subaccounts as necessary to
13 properly account for and use monies received by the authority.

14 D. Monies in the fund may be used for securing bonds of the
15 authority.

16 E. Monies in the fund received pursuant to subsection A, paragraphs
17 2, 3, 4, 5 and 6 of this section may be used for:

18 1. Providing technical assistance to political subdivisions,
19 special districts, Indian tribes and tribal subdivisions.

20 2. Providing financial assistance to political subdivisions,
21 special districts and Indian tribes.

22 3. Paying the compensation and employment related expenses
23 associated with the employees hired pursuant to section ~~41-1554.01~~
24 ~~41-2252~~, subsection ~~G~~ E.

25 4. Paying the costs to operate the authority, to administer the
26 fund and to carry out the requirements of this article.

27 5. Paying the costs of professional assistance hired by the
28 authority pursuant to section ~~41-1554.02~~ 41-2253, subsection B, paragraph
29 6.

30 F. On notice from the board, the state treasurer shall invest and
31 divest monies in the fund as provided by section 35-313, and monies earned
32 from investment shall be credited to the fund.

33 G. If the monies pledged to secure the bonds become insufficient to
34 pay the principal and interest on the bonds, the board may direct the
35 state treasurer to divest monies in the fund as may be necessary and may
36 apply those proceeds to make current all payments then due on the
37 bonds. The state treasurer shall immediately notify the attorney general
38 and auditor general of the insufficiency. The auditor general shall audit
39 the circumstances surrounding the depletion of the fund and shall report
40 these findings to the attorney general. The attorney general shall
41 conduct an investigation and report these findings to the governor and the
42 legislature.

43 Sec. 66. Section 41-2256, Arizona Revised Statutes, as transferred and
44 renumbered by this act, is amended to read:

45 41-2256. Technical assistance; repayment agreements

- 1 A. The authority may provide technical assistance to political
2 subdivisions, special districts, Indian tribes and tribal subdivisions in
3 connection with the development or financing of infrastructure.
- 4 B. Technical assistance may include the following:
- 5 1. Assistance in selecting outside consultants.
6 2. Evaluation of design and construction options.
7 3. Financial advisory services.
8 4. Assistance in satisfying statutory requirements.
9 5. Short-term assistance.
- 10 C. Assistance provided under a technical assistance repayment
11 agreement:
- 12 1. Shall not be more than two hundred fifty thousand dollars for a
13 single project.
- 14 2. Shall be repaid not more than three years after the date the monies
15 for the assistance are advanced to the applicant.
- 16 3. Shall be in a form and under terms determined by the authority.
- 17 D. Short-term assistance represents an advance of financial
18 assistance. The authority shall not provide short-term assistance unless the
19 political subdivision, special district or Indian tribe has an approved
20 financial assistance application on file with the authority. A political
21 subdivision, special district or Indian tribe shall repay short-term
22 assistance pursuant to a technical assistance repayment agreement.
- 23 E. The authority shall establish an application process and method of
24 determining the allocation of technical assistance pursuant to section
25 ~~41-1554.04~~ 41-2255.
- 26 F. Before technical assistance may be provided, the board shall
27 approve the application for technical assistance.
- 28 G. The provision of technical assistance by the authority does not
29 create any liability for the authority or this state regarding the design,
30 construction or operation of any infrastructure project.
- 31 Sec. 67. Section 41-2501, Arizona Revised Statutes, is amended to
32 read:

1 41-2501. Applicability

2 A. This chapter applies only to procurements initiated after January
3 1, 1985 unless the parties agree to its application to procurements initiated
4 before that date.

5 B. This chapter applies to every expenditure of public monies,
6 including federal assistance monies except as otherwise specified in section
7 41-2637, by this state, acting through a state governmental unit as defined
8 in this chapter, under any contract, except that this chapter does not apply
9 to either grants as defined in this chapter, or contracts between this state
10 and its political subdivisions or other governments, except as provided in
11 chapter 24 of this title and in article 10 of this chapter. This chapter
12 also applies to the disposal of state materials. This chapter and rules
13 adopted under this chapter do not prevent any state governmental unit or
14 political subdivision from complying with the terms of any grant, gift,
15 bequest or cooperative agreement.

16 C. All political subdivisions and other local public agencies of this
17 state may adopt all or any part of this chapter and the rules adopted
18 pursuant to this chapter.

19 D. The Arizona board of regents, the legislative and judicial branches
20 of state government and the state compensation fund are not subject to this
21 chapter except as prescribed in subsection E of this section.

22 E. The Arizona board of regents and the judicial branch shall adopt
23 rules prescribing procurement policies and procedures for themselves and
24 institutions under their jurisdiction. The rules must be substantially
25 equivalent to the policies and procedures prescribed in this chapter.

26 F. The Arizona state lottery commission is exempt from this chapter
27 for procurement relating to the design and operation of the lottery or
28 purchase of lottery equipment, tickets and related materials. The executive
29 director of the Arizona state lottery commission shall adopt rules
30 substantially equivalent to the policies and procedures in this chapter for
31 procurement relating to the design and operation of the lottery or purchase
32 of lottery equipment, tickets or related materials. All other procurement
33 shall be as prescribed by this chapter.

34 G. The Arizona health care cost containment system administration is
35 exempt from this chapter for provider contracts pursuant to section 36-2904,
36 subsection A and contracts for goods and services, including program
37 contractor contracts pursuant to title 36, chapter 29, articles 2 and 3. All
38 other procurement, including contracts for the statewide administrator of the
39 program pursuant to section 36-2903, subsection B, shall be as prescribed by
40 this chapter.

41 H. Arizona industries for the blind is exempt from this chapter for
42 purchases of finished goods from members of national industries for the blind
43 and for purchases of raw materials for use in the manufacture of products for
44 sale pursuant to section 41-1972. All other procurement shall be as
45 prescribed by this chapter.

1 I. Arizona correctional industries is exempt from this chapter for
2 purchases of raw materials, components and supplies that are used in the
3 manufacture or production of goods or services for sale entered into pursuant
4 to section 41-1622. All other procurement shall be as prescribed by this
5 chapter.

6 J. The state transportation board and the director of the department
7 of transportation are exempt from this chapter other than section 41-2586 for
8 the procurement of construction or reconstruction, including engineering
9 services, of transportation facilities or highway facilities and any other
10 services that are directly related to land titles, appraisals, real property
11 acquisition, relocation, property management or building facility design and
12 construction for highway development and that are required pursuant to title
13 28, chapter 20.

14 K. The Arizona highways magazine is exempt from this chapter for
15 contracts for the production, promotion, distribution and sale of the
16 magazine and related products and for contracts for sole source creative
17 works entered into pursuant to section 28-7314, subsection A, paragraph 5.
18 All other procurement shall be as prescribed by this chapter.

19 L. The secretary of state is exempt from this chapter for contracts
20 entered into pursuant to section 41-1012 to publish and sell the
21 administrative code. All other procurement shall be as prescribed by this
22 chapter.

23 M. This chapter is not applicable to contracts for professional
24 witnesses if the purpose of such contracts is to provide for professional
25 services or testimony relating to an existing or probable judicial proceeding
26 in which this state is or may become a party or to contract for special
27 investigative services for law enforcement purposes.

28 N. The head of any state governmental unit, in relation to any
29 contract exempted by this section from this chapter, has the same authority
30 to adopt rules, procedures or policies as is delegated to the director
31 pursuant to this chapter.

32 O. Agreements negotiated by legal counsel representing this state in
33 settlement of litigation or threatened litigation are exempt from this
34 chapter.

35 P. This chapter is not applicable to contracts entered into by the
36 department of economic security:

37 1. With a provider licensed or certified by an agency of this state to
38 provide child day care services or with a provider of family foster care
39 pursuant to section 8-503 or 36-554.

40 2. With area agencies on aging created pursuant to the older Americans
41 act of 1965 (P.L. 89-73; 79 Stat. 218; 42 United States Code sections 3001
42 through 3058ee).

43 3. For services pursuant to title 36, chapter 29, article 2.

44 4. With an eligible entity as defined by Public Law 105-285, section
45 673(1)(a)(i), as amended, for designated community services block grant

1 program monies and any other monies given to the eligible entity that
2 accomplishes the purpose of Public Law 105-285, section 672.

3 Q. The department of health services may not require that persons with
4 whom it contracts follow this chapter for the purposes of subcontracts
5 entered into for the provision of the following:

6 1. Mental health services pursuant to section 36-189, subsection B.

7 2. Services for the seriously mentally ill pursuant to title 36,
8 chapter 5, article 10.

9 3. Drug and alcohol services pursuant to section 36-141.

10 4. Domestic violence services pursuant to title 36, chapter 30,
11 article 1.

12 R. The department of health services is exempt from this chapter for
13 contracts for services of physicians at the Arizona state hospital.

14 S. Contracts for goods and services approved by the board of trustees
15 of the public safety personnel retirement system are exempt from this
16 chapter.

17 T. The Arizona department of agriculture is exempt from this chapter
18 with respect to contracts for private labor and equipment to effect cotton or
19 cotton stubble plow-up pursuant to rules adopted under title 3, chapter 2,
20 article 1. On or before September 1 of each year, the director of the
21 Arizona department of agriculture shall establish and announce costs for each
22 acre of cotton or cotton stubble to be abated by private contractors.

23 U. The Arizona state parks board is exempt from this chapter for
24 purchases of guest supplies and items for resale such as food, linens, gift
25 items, sundries, furniture, china, glassware and utensils for the facilities
26 located in the Tonto natural bridge state park.

27 V. The Arizona state parks board is exempt from this chapter for the
28 purchase, production, promotion, distribution and sale of publications,
29 souvenirs and sundry items obtained and produced for resale.

30 W. The Arizona state schools for the deaf and the blind are exempt
31 from this chapter when purchasing products through a cooperative that is
32 organized and operates in accordance with state law if such products are not
33 available on a statewide contract and are related to the operation of the
34 schools or are products for which special discounts are offered for
35 educational institutions.

36 X. Expenditures of monies in the morale, welfare and recreational fund
37 established by section 26-153 are exempt from this chapter.

38 Y. Notwithstanding section 41-2534, the director of the state
39 department of corrections may contract with local medical providers in
40 counties with a population of less than four hundred thousand persons
41 according to the most recent United States decennial census for the following
42 purposes:

43 1. To acquire hospital and professional medical services for inmates
44 who are incarcerated in state department of corrections facilities that are
45 located in those counties.

1 2. To ensure the availability of emergency medical services to inmates
2 in all counties by contracting with the closest medical facility that offers
3 emergency treatment and stabilization.

4 Z. The department of environmental quality is exempt from this chapter
5 for contracting for procurements relating to the water quality assurance
6 revolving fund program established pursuant to title 49, chapter 2, article
7 5. The department shall engage in a source selection process that is similar
8 to the procedures prescribed by this chapter. The department may contract
9 for remedial actions with a single selection process. The exclusive remedy
10 for disputes or claims relating to contracting pursuant to this subsection is
11 as prescribed by article 9 of this chapter and the rules adopted pursuant to
12 that article. All other procurement by the department shall be as prescribed
13 by this chapter.

14 AA. The motor vehicle division of the department of transportation is
15 exempt from this chapter for third party authorizations pursuant to title 28,
16 chapter 13, only if all of the following conditions exist:

17 1. The division does not pay any public monies to an authorized third
18 party.

19 2. Exclusivity is not granted to an authorized third party.

20 3. The director has complied with the requirements prescribed in title
21 28, chapter 13 in selecting an authorized third party.

22 BB. This section does not exempt third party authorizations pursuant
23 to title 28, chapter 13 from any other applicable law.

24 CC. The state forester is exempt from this chapter for purchases and
25 contracts relating to wild land fire suppression and pre-positioning
26 equipment resources and for other activities related to combating wild land
27 fires and other unplanned risk activities, including fire, flood, earthquake,
28 wind and hazardous material responses. All other procurement by the state
29 forester shall be as prescribed by this chapter.

30 DD. The cotton research and protection council is exempt from this
31 chapter for procurements relating to its aflatoxin control program and for
32 contracts for research programs related to cotton production or protection.

33 EE. Expenditures of monies in the Arizona agricultural protection fund
34 established by section 3-3304 are exempt from this chapter.

35 FF. THE ARIZONA COMMERCE AUTHORITY IS EXEMPT FROM THIS CHAPTER, EXCEPT
36 ARTICLE 10 FOR THE PURPOSE OF COOPERATIVE PURCHASES. THE AUTHORITY SHALL
37 ADOPT POLICIES, PROCEDURES AND PRACTICES, IN CONSULTATION WITH THE DEPARTMENT
38 OF ADMINISTRATION, THAT ARE SIMILAR TO AND BASED ON THE POLICIES AND
39 PROCEDURES PRESCRIBED BY THIS CHAPTER FOR THE PURPOSE OF INCREASED PUBLIC
40 CONFIDENCE, FAIR AND EQUITABLE TREATMENT OF ALL PERSONS ENGAGED IN THE
41 PROCESS AND FOSTERING BROAD COMPETITION WHILE ACCOMPLISHING FLEXIBILITY TO
42 ACHIEVE THE AUTHORITY'S STATUTORY REQUIREMENTS. THE AUTHORITY SHALL MAKE ITS
43 POLICIES, PROCEDURES AND PRACTICES AVAILABLE TO THE PUBLIC. THE AUTHORITY
44 MAY EXEMPT SPECIFIC EXPENDITURES FROM THE POLICIES, PROCEDURES AND PRACTICES.

1 Sec. 68. Section 41-2706, Arizona Revised Statutes, is amended to
2 read:

3 41-2706. Applicability of chapter

4 A. This chapter applies to the solicitation of grants initiated after
5 August 6, 1999.

6 B. This chapter does not apply to:

7 1. Any grant program that was exempt from chapter 23, article 3 of
8 this title and for which administrative rules establishing grant solicitation
9 procedures were adopted pursuant to chapter 6 of this title before August 6,
10 1999.

11 2. The Arizona board of regents and schools, colleges, institutions
12 and universities under its control if the Arizona board of regents adopts
13 rules or policies governing the award of grants that encourage as much
14 competition as practicable.

15 3. Grants made by the cotton research and protection council for
16 research programs related to cotton production or protection.

17 4. Grants made by the Arizona iceberg lettuce research council for
18 research programs under section 3-526.02, subsection C, paragraph 3 or 5.

19 5. Grants made by the Arizona citrus research council for research
20 programs under section 3-468.02, subsection C, paragraph 3 or 5.

21 6. Grants made by the Arizona grain research and promotion council for
22 research projects and programs under section 3-584, subsection C,
23 paragraph 5.

24 7. Grants made under section 3-268, subsection C.

25 8. GRANTS MADE BY THE ARIZONA COMMERCE AUTHORITY FROM THE ARIZONA
26 COMPETES FUND PURSUANT TO CHAPTER 10, ARTICLE 5 OF THIS TITLE. WITH RESPECT
27 TO OTHER GRANTS, THE AUTHORITY SHALL ADOPT POLICIES, PROCEDURES AND
28 PRACTICES, IN CONSULTATION WITH THE DEPARTMENT OF ADMINISTRATION, THAT ARE
29 SIMILAR TO AND BASED ON THE POLICIES AND PROCEDURES PRESCRIBED BY THIS
30 CHAPTER FOR THE PURPOSE OF INCREASED PUBLIC CONFIDENCE, FAIR AND EQUITABLE
31 TREATMENT OF ALL PERSONS ENGAGED IN THE PROCESS AND FOSTERING BROAD
32 COMPETITION WHILE ACCOMPLISHING FLEXIBILITY TO ACHIEVE THE AUTHORITY'S
33 STATUTORY REQUIREMENTS. THE AUTHORITY SHALL MAKE ITS POLICIES, PROCEDURES
34 AND PRACTICES AVAILABLE TO THE PUBLIC.

35 Sec. 69. Section 41-2752, Arizona Revised Statutes, is amended to
36 read:

37 41-2752. State competition with private enterprise prohibited;
38 exceptions

39 A. A state agency shall not engage in the manufacturing, processing,
40 sale, offering for sale, rental, leasing, delivery, dispensing, distributing
41 or advertising of goods or services to the public that are also offered by
42 private enterprise unless specifically authorized by law other than
43 administrative law and executive orders.

44 B. A state agency shall not offer or provide goods or services to the
45 public for or through another state agency or a local agency, including by

1 intergovernmental or interagency agreement, in violation of this section or
2 section 41-2753.

3 C. The restrictions on activities that compete with private enterprise
4 contained in this section do not apply to:

5 1. The development, operation and management of state parks,
6 historical monuments and hiking or equestrian trails.

7 2. Correctional industries established and operated by the state
8 department of corrections if the prices charged for products sold by the
9 correctional industries are not less than the actual cost of producing and
10 marketing the product plus a reasonable allowance for overhead and
11 administrative costs.

12 3. The Arizona office of tourism.

13 4. The Arizona highways magazine, operated by the department of
14 transportation.

15 5. Printing and distributing information to the public if the agency
16 is otherwise authorized to do so, and printing or copying public records or
17 other material relating to the public agency's public business and recovering
18 through fees and charges the costs of such printing, copying and
19 distributing.

20 6. The department of public safety.

21 7. The construction, maintenance and operation of state transportation
22 facilities.

23 8. The development, distribution, maintenance, support, licensing,
24 leasing or sale of computer software by the department of transportation.

25 9. Agreements executed by the Arizona health care cost containment
26 system administration with other states to design, develop, install and
27 operate information technology systems and related services or other
28 administrative services pursuant to section 36-2925.

29 10. Agreements executed by the department of economic security with
30 other states to design, develop, install and operate support collection
31 technology systems and related services. The department shall deposit,
32 pursuant to sections 35-146 and 35-147, monies received pursuant to this
33 paragraph in the public assistance collections fund established by section
34 46-295.

35 11. Educational, vocational, treatment, training or work programs of
36 the department of juvenile corrections and contracts between the department
37 of juvenile corrections and this state, a political subdivision of this state
38 or a private entity in order to provide employment or vocational educational
39 experience.

40 12. The aflatoxin control technologies of the cotton research and
41 protection council.

42 13. The lease or sublease of lands or buildings by the department of
43 economic security pursuant to section 41-1958.

44 14. THE ARIZONA COMMERCE AUTHORITY.

1 D. The restrictions on activities that compete with private enterprise
2 contained in subsection A of this section do not apply to community colleges
3 and universities under the jurisdiction of a governing board.

4 Sec. 70. Repeal

5 Sections 41-3011.04 and 41-3014.17, Arizona Revised Statutes, are
6 repealed.

7 Sec. 71. Section 41-3015.01, Arizona Revised Statutes, is amended to
8 read:

9 41-3015.01. Solar energy advisory council; termination July 1,
10 2015

11 A. The solar energy advisory council terminates on July 1, 2015.

12 B. Section ~~41-1510~~ 41-111 is repealed on January 1, 2016.

13 Sec. 72. Title 41, chapter 27, article 2, Arizona Revised Statutes, is
14 amended by adding section 41-3016.29, to read:

15 41-3016.29. Arizona commerce authority; termination July 1,
16 2016

17 A. THE ARIZONA COMMERCE AUTHORITY TERMINATES ON JULY 1, 2016.

18 B. TITLE 41, CHAPTER 10 IS REPEALED ON JANUARY 1, 2017.

19 Sec. 73. Section 42-2003, Arizona Revised Statutes, is amended to
20 read:

21 42-2003. Authorized disclosure of confidential information

22 A. Confidential information relating to:

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

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

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

34 4. An estate may be disclosed to the personal representative of the
35 estate and to any heir, next of kin or beneficiary under the will of the
36 decedent if the department finds that the heir, next of kin or beneficiary
37 has a material interest which will be affected by the confidential
38 information.

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

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

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

3 B. Confidential information may be disclosed to:

4 1. Any employee of the department whose official duties involve tax
5 administration.

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

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

16 4. Other state tax officials whose official duties require the
17 disclosure for proper tax administration purposes if the information is
18 sought in connection with an investigation or any other proceeding conducted
19 by the official. Any disclosure is limited to information of a taxpayer who
20 is being investigated or who is a party to a proceeding conducted by the
21 official.

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

27 (a) The United States internal revenue service, alcohol and tobacco
28 tax and trade bureau of the United States treasury, United States bureau of
29 alcohol, tobacco, firearms and explosives of the United States department of
30 justice, United States drug enforcement agency and federal bureau of
31 investigation.

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

33 (c) An organization of states, federation of tax administrators or
34 multistate tax commission that operates an information exchange for tax
35 administration purposes.

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

39 (e) An agency, official or organization of an Indian tribal government
40 with responsibilities comparable to the responsibilities of the agencies,
41 officials or organizations identified in subdivision (a), (b) or (c) of this
42 paragraph.

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

- 1 7. Any person to the extent necessary for effective tax administration
2 in connection with:
- 3 (a) The processing, storage, transmission, destruction and
4 reproduction of the information.
- 5 (b) The programming, maintenance, repair, testing and procurement of
6 equipment for purposes of tax administration.
- 7 (c) The collection of the taxpayer's civil liability.
- 8 8. The office of administrative hearings relating to taxes
9 administered by the department pursuant to section 42-1101, but the
10 department shall not disclose any confidential information:
- 11 (a) Regarding income tax, withholding tax or estate tax.
- 12 (b) On any tax issue relating to information associated with the
13 reporting of income tax, withholding tax or estate tax.
- 14 9. The United States treasury inspector general for tax administration
15 for the purpose of reporting a violation of internal revenue code section
16 7213A (26 United States Code section 7213A), unauthorized inspection of
17 returns or return information.
- 18 10. The financial management service of the United States treasury
19 department for use in the treasury offset program.
- 20 11. The United States treasury department or its authorized agent for
21 use in the state income tax levy program and in the electronic federal tax
22 payment system.
- 23 12. The ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY for its use
24 in:
- 25 (a) Qualifying motion picture production companies for the tax
26 incentives provided for motion picture production under chapter 5 of this
27 title and sections 43-1075 and 43-1163.
- 28 (b) Qualifying applicants for the motion picture infrastructure
29 project tax credits under sections 43-1075.01 and 43-1163.01.
- 30 (c) Qualifying renewable energy operations for the tax incentives
31 under sections 42-12006, 43-1083.01 and 43-1164.01.
- 32 (d) Fulfilling its annual reporting responsibility pursuant to section
33 41-1511, subsections U and V and section 41-1517, subsections S and T.
- 34 13. A prosecutor for purposes of section 32-1164, subsection C.
- 35 14. The state fire marshal for use in determining compliance with and
36 enforcing title 41, chapter 16, article 3.1.
- 37 15. The department of transportation for its use in administering taxes
38 and surcharges prescribed by title 28.
- 39 C. Confidential information may be disclosed in any state or federal
40 judicial or administrative proceeding pertaining to tax administration
41 pursuant to the following conditions:
- 42 1. One or more of the following circumstances must apply:
- 43 (a) The taxpayer is a party to the proceeding.
- 44 (b) The proceeding arose out of, or in connection with, determining
45 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 website 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.

33 H. Confidential information relating to transaction privilege tax, use
34 tax, severance tax, jet fuel excise and use tax and rental occupancy tax may
35 be disclosed to any county, city or town tax official if the information
36 relates to a taxpayer who is or may be taxable by the county, city or town.
37 Any taxpayer information released by the department to the county, city or
38 town:

39 1. May only be used for internal purposes.

40 2. May not be disclosed to the public in any manner that does not
41 comply with confidentiality standards established by the department. The
42 county, city or town shall agree in writing with the department that any
43 release of confidential information that violates the confidentiality
44 standards adopted by the department will result in the immediate suspension

1 of any rights of the county, city or town to receive taxpayer information
2 under this subsection.

3 I. The department may disclose statistical information gathered from
4 confidential information if it does not disclose confidential information
5 attributable to any one taxpayer. The department may disclose statistical
6 information gathered from confidential information, even if it discloses
7 confidential information attributable to a taxpayer, to:

8 1. The state treasurer in order to comply with the requirements of
9 section 42-5029, subsection A, paragraph 3.

10 2. The joint legislative income tax credit review committee and the
11 joint legislative budget committee staff in order to comply with the
12 requirements of section 43-221.

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

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

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

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

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

33 O. This section does not prohibit the disclosure by the department of
34 any information or documents submitted to the department by a bingo licensee.
35 Before disclosing the information the department shall obtain the name and
36 address of the person requesting the information.

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

40 Q. Except as provided in section 42-2002, subsection D, the department
41 of revenue shall release confidential information as requested by the
42 department of economic security pursuant to section 42-1122 or 46-291.
43 Information disclosed under this subsection is limited to the same type of
44 information that the United States internal revenue service is authorized to
45 disclose under section 6103(l)(6) of the internal revenue code.

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

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

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

17 U. For proceedings before the department, the office of administrative
18 hearings, the board of tax appeals or any state or federal court involving
19 penalties that were assessed against a return preparer, an electronic return
20 preparer or a payroll service company pursuant to section 42-1103.02,
21 42-1125.01 or 43-419, confidential information may be disclosed only before
22 the judge or administrative law judge adjudicating the proceeding, the
23 parties to the proceeding and the parties' representatives in the proceeding
24 prior to its introduction into evidence in the proceeding. The confidential
25 information may be introduced as evidence in the proceeding only if the
26 taxpayer's name, the names of any dependents listed on the return, all social
27 security numbers, the taxpayer's address, the taxpayer's signature and any
28 attachments containing any of the foregoing information are redacted and if
29 either:

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

32 2. Such return or return information relates or may relate to a
33 transactional relationship between a person who is a party to the proceeding
34 and the taxpayer which directly affects the resolution of an issue in the
35 proceeding.

36 3. The method of payment of the taxpayer's withholding tax liability
37 or the method of filing the taxpayer's withholding tax return is an issue for
38 the period.

39 V. The department may disclose to the attorney general confidential
40 information received under section 44-7111 and requested by the attorney
41 general for purposes of determining compliance with and enforcing section
42 44-7111. The department and attorney general shall share with each other the
43 information received under section 44-7111, and may share the information
44 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 W. The department may provide the name and address of qualifying
4 hospitals and qualifying health care organizations, as defined in section
5 42-5001, to a business classified and reporting transaction privilege tax
6 under the utilities classification.

7 Sec. 74. Section 42-5029, Arizona Revised Statutes, is amended to
8 read:

9 42-5029. Remission and distribution of monies; definition

10 A. The department shall deposit, pursuant to sections 35-146 and
11 35-147, all revenues collected under this article and articles 4, 5 and 8 of
12 this chapter pursuant to section 42-1116, separately accounting for:

13 1. Payments of estimated tax under section 42-5014, subsection D.

14 2. Revenues collected pursuant to section 42-5070.

15 3. Revenues collected under this article and article 5 of this chapter
16 from and after June 30, 2000 from sources located on Indian reservations in
17 this state.

18 4. Revenues collected pursuant to section 42-5010, subsection G and
19 section 42-5155, subsection D.

20 B. The department shall credit payments of estimated tax to an
21 estimated tax clearing account and each month shall transfer all monies in
22 the estimated tax clearing account to a fund designated as the transaction
23 privilege and severance tax clearing account. The department shall credit
24 all other payments to the transaction privilege and severance tax clearing
25 account, separately accounting for the monies designated as distribution base
26 under sections 42-5010, 42-5164, 42-5205 and 42-5353. Each month the
27 department shall report to the state treasurer the amount of monies collected
28 pursuant to this article and articles 4, 5 and 8 of this chapter.

29 C. On notification by the department, the state treasurer shall
30 distribute the monies deposited in the transaction privilege and severance
31 tax clearing account in the manner prescribed by this section and by sections
32 42-5164, 42-5205 and 42-5353, after deducting warrants drawn against the
33 account pursuant to sections 42-1118 and 42-1254.

34 D. Of the monies designated as distribution base the department shall:

35 1. Pay twenty-five per cent to the various incorporated municipalities
36 in this state in proportion to their population to be used by the
37 municipalities for any municipal purpose.

38 2. Pay 38.08 per cent to the counties in this state by averaging the
39 following proportions:

40 (a) The proportion that the population of each county bears to the
41 total state population.

42 (b) The proportion that the distribution base monies collected during
43 the calendar month in each county under this article, section 42-5164,
44 subsection B, section 42-5205, subsection B and section 42-5353 bear to the
45 total distribution base monies collected under this article, section 42-5164,

1 subsection B, section 42-5205, subsection B and section 42-5353 throughout
2 the state for the calendar month.

3 3. Pay an additional 2.43 per cent to the counties in this state as
4 follows:

5 (a) Average the following proportions:

6 (i) The proportion that the assessed valuation used to determine
7 secondary property taxes of each county, after deducting that part of the
8 assessed valuation that is exempt from taxation at the beginning of the month
9 for which the amount is to be paid, bears to the total assessed valuations
10 used to determine secondary property taxes of all the counties after
11 deducting that portion of the assessed valuations that is exempt from
12 taxation at the beginning of the month for which the amount is to be paid.
13 Property of a city or town that is not within or contiguous to the municipal
14 corporate boundaries and from which water is or may be withdrawn or diverted
15 and transported for use on other property is considered to be taxable
16 property in the county for purposes of determining assessed valuation in the
17 county under this item.

18 (ii) The proportion that the distribution base monies collected during
19 the calendar month in each county under this article, section 42-5164,
20 subsection B, section 42-5205, subsection B and section 42-5353 bear to the
21 total distribution base monies collected under this article, section 42-5164,
22 subsection B, section 42-5205, subsection B and section 42-5353 throughout
23 the state for the calendar month.

24 (b) If the proportion computed under subdivision (a) of this paragraph
25 for any county is greater than the proportion computed under paragraph 2 of
26 this subsection, the department shall compute the difference between the
27 amount distributed to that county under paragraph 2 of this subsection and
28 the amount that would have been distributed under paragraph 2 of this
29 subsection using the proportion computed under subdivision (a) of this
30 paragraph and shall pay that difference to the county from the amount
31 available for distribution under this paragraph. Any monies remaining after
32 all payments under this subdivision shall be distributed among the counties
33 according to the proportions computed under paragraph 2 of this subsection.

34 4. After any distributions required by sections 42-5030, 42-5030.01,
35 42-5031, 42-5032 and 42-5032.01, and after making any transfer to the water
36 quality assurance revolving fund as required by section 49-282, subsection B,
37 credit the remainder of the monies designated as distribution base to the
38 state general fund. From this amount:

39 (a) The legislature shall annually appropriate to:

40 (i) The department of revenue sufficient monies to administer and
41 enforce this article and articles 5 and 8 of this chapter.

42 (ii) The department of economic security monies to be used for the
43 purposes stated in title 46, chapter 1.

44 (iii) The firearms safety and ranges fund established by section
45 17-273, fifty thousand dollars derived from the taxes collected from the

1 retail classification pursuant to section 42-5061 for the current fiscal
2 year.

3 (b) Subject to separate initial legislative authorization, each year
4 the state treasurer shall transfer to the tourism fund an amount equal to the
5 sum of the following:

6 (i) Three and one-half per cent of the gross revenues derived from the
7 transient lodging classification pursuant to section 42-5070 during the
8 preceding fiscal year.

9 (ii) Three per cent of the gross revenues derived from the amusement
10 classification pursuant to section 42-5073 during the preceding fiscal year.

11 (iii) Two per cent of the gross revenues derived from the restaurant
12 classification pursuant to section 42-5074 during the preceding fiscal year.

13 E. If approved by the qualified electors voting at a statewide general
14 election, all monies collected pursuant to section 42-5010, subsection G and
15 section 42-5155, subsection D shall be distributed each fiscal year pursuant
16 to this subsection. The monies distributed pursuant to this subsection are
17 in addition to any other appropriation, transfer or other allocation of
18 public or private monies from any other source and shall not supplant,
19 replace or cause a reduction in other school district, charter school,
20 university or community college funding sources. The monies shall be
21 distributed as follows:

22 1. If there are outstanding state school facilities revenue bonds
23 pursuant to title 15, chapter 16, article 7, each month one-twelfth of the
24 amount that is necessary to pay the fiscal year's debt service on outstanding
25 state school improvement revenue bonds for the current fiscal year shall be
26 transferred each month to the school improvement revenue bond debt service
27 fund established by section 15-2084. The total amount of bonds for which
28 these monies may be allocated for the payment of debt service shall not
29 exceed a principal amount of eight hundred million dollars exclusive of
30 refunding bonds and other refinancing obligations.

31 2. After any transfer of monies pursuant to paragraph 1 of this
32 subsection, twelve per cent of the remaining monies collected during the
33 preceding month shall be transferred to the technology and research
34 initiative fund established by section 15-1648 to be distributed among the
35 universities for the purpose of investment in technology and research-based
36 initiatives.

37 3. After the transfer of monies pursuant to paragraph 1 of this
38 subsection, three per cent of the remaining monies collected during the
39 preceding month shall be transferred to the workforce development account
40 established in each community college district pursuant to section 15-1472
41 for the purpose of investment in workforce development programs.

42 4. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
43 subsection, one-twelfth of the amount a community college that is owned,
44 operated or chartered by a qualifying Indian tribe on its own Indian
45 reservation would receive pursuant to section 15-1472, subsection D,

1 paragraph 2 if it were a community college district shall be distributed each
2 month to the treasurer or other designated depository of a qualifying Indian
3 tribe. Monies distributed pursuant to this paragraph are for the exclusive
4 purpose of providing support to one or more community colleges owned,
5 operated or chartered by a qualifying Indian tribe and shall be used in a
6 manner consistent with section 15-1472, subsection B. For the purposes of
7 this paragraph, "qualifying Indian tribe" has the same meaning as defined in
8 section 42-5031.01, subsection D.

9 5. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
10 subsection, one-twelfth of the following amounts shall be transferred each
11 month to the department of education for the increased cost of basic state
12 aid under section 15-971 due to added school days and associated teacher
13 salary increases enacted in 2000:

14 (a) In fiscal year 2001-2002, \$15,305,900.

15 (b) In fiscal year 2002-2003, \$31,530,100.

16 (c) In fiscal year 2003-2004, \$48,727,700.

17 (d) In fiscal year 2004-2005, \$66,957,200.

18 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
19 \$86,280,500.

20 6. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
21 subsection, seven million eight hundred thousand dollars is appropriated each
22 fiscal year, to be paid in monthly installments, to the department of
23 education to be used for school safety as provided in section 15-154 and two
24 hundred thousand dollars is appropriated each fiscal year, to be paid in
25 monthly installments to the department of education to be used for the
26 character education matching grant program as provided in section 15-154.01.

27 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
28 subsection, no more than seven million dollars may be appropriated by the
29 legislature each fiscal year to the department of education to be used for
30 accountability purposes as described in section 15-241 and title 15, chapter
31 9, article 8.

32 8. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
33 subsection, one million five hundred thousand dollars is appropriated each
34 fiscal year, to be paid in monthly installments, to the failing schools
35 tutoring fund established by section 15-241.

36 9. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
37 subsection, twenty-five million dollars shall be transferred each fiscal year
38 to the state general fund to reimburse the general fund for the cost of the
39 income tax credit allowed by section 43-1072.01.

40 10. After the payment of monies pursuant to paragraphs 1 through 9 of
41 this subsection, the remaining monies collected during the preceding month
42 shall be transferred to the classroom site fund established by section
43 15-977. The monies shall be allocated as follows in the manner prescribed by
44 section 15-977:

1 (a) Forty per cent shall be allocated for teacher compensation based
2 on performance.

3 (b) Twenty per cent shall be allocated for increases in teacher base
4 compensation and employee related expenses.

5 (c) Forty per cent shall be allocated for maintenance and operation
6 purposes.

7 F. The department shall credit the remainder of the monies in the
8 transaction privilege and severance tax clearing account to the state general
9 fund, subject to any distribution required by section 42-5030.01.

10 G. Notwithstanding subsection D of this section, if a court of
11 competent jurisdiction finally determines that tax monies distributed under
12 this section were illegally collected under this article or articles 5 and 8
13 of this chapter and orders the monies to be refunded to the taxpayer, the
14 department shall compute the amount of such monies that was distributed to
15 each city, town and county under this section. The department shall notify
16 the state treasurer of that amount plus the proportionate share of additional
17 allocated costs required to be paid to the taxpayer. Each city's, town's and
18 county's proportionate share of the costs shall be based on the amount of the
19 original tax payment each municipality and county received. Each month the
20 state treasurer shall reduce the amount otherwise distributable to the city,
21 town and county under this section by one thirty-sixth of the total amount to
22 be recovered from the city, town or county until the total amount has been
23 recovered, but the monthly reduction for any city, town or county shall not
24 exceed ten per cent of the full monthly distribution to that entity. The
25 reduction shall begin for the first calendar month after the final
26 disposition of the case and shall continue until the total amount, including
27 interest and costs, has been recovered.

28 H. On receiving a certificate of default from the greater Arizona
29 development authority pursuant to section ~~41-1554.06~~ 41-2257 or ~~41-1554.07~~
30 41-2258 and to the extent not otherwise expressly prohibited by law, the
31 state treasurer shall withhold from the next succeeding distribution of
32 monies pursuant to this section due to the defaulting political subdivision
33 the amount specified in the certificate of default and immediately deposit
34 the amount withheld in the greater Arizona development authority revolving
35 fund. The state treasurer shall continue to withhold and deposit the monies
36 until the greater Arizona development authority certifies to the state
37 treasurer that the default has been cured. In no event may the state
38 treasurer withhold any amount that the defaulting political subdivision
39 certifies to the state treasurer and the authority as being necessary to make
40 any required deposits then due for the payment of principal and interest on
41 bonds of the political subdivision that were issued before the date of the
42 loan repayment agreement or bonds and that have been secured by a pledge of
43 distributions made pursuant to this section.

44 I. Except as provided by sections 42-5033 and 42-5033.01, the
45 population of a county, city or town as determined by the most recent United

1 States decennial census plus any revisions to the decennial census certified
2 by the United States bureau of the census shall be used as the basis for
3 apportioning monies pursuant to subsection D of this section.

4 J. Except as otherwise provided by this subsection, on notice from the
5 department of revenue pursuant to section 42-6010, subsection B, the state
6 treasurer shall withhold from the distribution of monies pursuant to this
7 section to the affected city or town the amount of the penalty for business
8 location municipal tax incentives provided by the city or town to a business
9 entity that locates a retail business facility in the city or town. The
10 state treasurer shall continue to withhold monies pursuant to this subsection
11 until the entire amount of the penalty has been withheld. The state
12 treasurer shall credit any monies withheld pursuant to this subsection to the
13 state general fund as provided by subsection D, paragraph 4 of this section.
14 The state treasurer shall not withhold any amount that the city or town
15 certifies to the department of revenue and the state treasurer as being
16 necessary to make any required deposits or payments for debt service on bonds
17 or other long-term obligations of the city or town that were issued or
18 incurred before the location incentives provided by the city or town.

19 K. On notice from the auditor general pursuant to section 9-626,
20 subsection D, the state treasurer shall withhold from the distribution of
21 monies pursuant to this section to the affected city the amount computed
22 pursuant to section 9-626, subsection D. The state treasurer shall continue
23 to withhold monies pursuant to this subsection until the entire amount
24 specified in the notice has been withheld. The state treasurer shall credit
25 any monies withheld pursuant to this subsection to the state general fund as
26 provided by subsection D, paragraph 4 of this section.

27 L. For the purposes of this section, "community college district"
28 means a community college district that is established pursuant to sections
29 15-1402 and 15-1403 and that is a political subdivision of this state.

30 Sec. 75. Section 42-5159, Arizona Revised Statutes, is amended to
31 read:

32 42-5159. Exemptions

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

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

39 2. Tangible personal property the sale or use of which has already
40 been subjected to an excise tax at a rate equal to or exceeding the tax
41 imposed by this article under the laws of another state of the United States.
42 If the excise tax imposed by the other state is at a rate less than the tax
43 imposed by this article, the tax imposed by this article is reduced by the
44 amount of the tax already imposed by the other state.

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

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

8 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
9 which in this state is subject to the tax imposed under title 28, chapter 16,
10 article 1, use fuel which is sold to or used by a person holding a valid
11 single trip use fuel tax permit issued under section 28-5739, aviation fuel,
12 the sales, distribution or use of which in this state is subject to the tax
13 imposed under section 28-8344, and jet fuel, the sales, distribution or use
14 of which in this state is subject to the tax imposed under article 8 of this
15 chapter.

16 6. Tangible personal property brought into this state by an individual
17 who was a nonresident at the time the property was purchased for storage, use
18 or consumption by the individual if the first actual use or consumption of
19 the property was outside this state, unless the property is used in
20 conducting a business in this state.

21 7. Purchases of implants used as growth promotants and injectable
22 medicines, not already exempt under paragraph 16 of this subsection, for
23 livestock and poultry owned by, or in possession of, persons who are engaged
24 in producing livestock, poultry, or livestock or poultry products, or who are
25 engaged in feeding livestock or poultry commercially. For the purposes of
26 this paragraph, "poultry" includes ratites.

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

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

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

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

42 12. Materials that are purchased by or for publicly funded libraries
43 including school district libraries, charter school libraries, community
44 college libraries, state university libraries or federal, state, county or
45 municipal libraries for use by the public as follows:

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

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

3 13. Tangible personal property purchased by:

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

7 (b) A hospital operated by this state or a political subdivision of
8 this state.

9 (c) A licensed nursing care institution or a licensed residential care
10 institution or a residential care facility operated in conjunction with a
11 licensed nursing care institution or a licensed kidney dialysis center, which
12 provides medical services, nursing services or health related services and is
13 not used or held for profit.

14 (d) A qualifying health care organization, as defined in section
15 42-5001, if the tangible personal property is used by the organization solely
16 to provide health and medical related educational and charitable services.

17 (e) A qualifying health care organization as defined in section
18 42-5001 if the organization is dedicated to providing educational,
19 therapeutic, rehabilitative and family medical education training for blind,
20 visually impaired and multihandicapped children from the time of birth to age
21 twenty-one.

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

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

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

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

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

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

44 (i) A qualifying community health center as defined in section
45 42-5001.

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

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

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

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

22 15. Tangible personal property sold by:

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

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

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

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

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

43 18. Prescription eyeglasses and contact lenses.

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

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

1 21. Durable medical equipment which has a centers for medicare and
2 medicaid services common procedure code, is designated reimbursable by
3 medicare, is prescribed by a person who is licensed under title 32, chapter
4 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
5 used to serve a medical purpose, is generally not useful to a person in the
6 absence of illness or injury and is appropriate for use in the home.

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

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

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

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

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

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

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

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

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

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

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

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

5 (b) Public educational institutions.

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

9 33. Natural gas or liquefied petroleum gas used to propel a motor
10 vehicle.

11 34. Machinery, equipment, technology or related supplies that are only
12 useful to assist a person who is physically disabled as defined in section
13 46-191, has a developmental disability as defined in section 36-551 or has a
14 head injury as defined in section 41-3201 to be more independent and
15 functional.

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

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

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

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

40 39. Overhead materials or other tangible personal property that is used
41 in performing a contract between the United States government and a
42 manufacturer, modifier, assembler or repairer, including property used in
43 performing a subcontract with a government contractor who is a manufacturer,
44 modifier, assembler or repairer, to which title passes to the government

1 under the terms of the contract or subcontract. For the purposes of this
2 paragraph:

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

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

19 40. Through December 31, 1994, tangible personal property sold pursuant
20 to a personal property liquidation transaction, as defined in section
21 42-5061. From and after December 31, 1994, tangible personal property sold
22 pursuant to a personal property liquidation transaction, as defined in
23 section 42-5061, if the gross proceeds of the sales were included in the
24 measure of the tax imposed by article 1 of this chapter or if the personal
25 property liquidation was a casual activity or transaction.

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (b) "Curriculum design or enhancement" means planning, implementing or
31 reporting on courses of study, lessons, assignments or other learning
32 activities.

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

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

43 2. Machinery, or equipment, used directly in the process of extracting
44 ores or minerals from the earth for commercial purposes, including equipment
45 required to prepare the materials for extraction and handling, loading or

1 transporting such extracted material to the surface. "Mining" includes
2 underground, surface and open pit operations for extracting ores and
3 minerals.

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

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

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

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

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

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

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

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

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

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

42 11. Buses or other urban mass transit vehicles which are used directly
43 to transport persons or property for hire or pursuant to a governmentally
44 adopted and controlled urban mass transportation program and which are sold
45 to bus companies holding a federal certificate of convenience and necessity

1 or operated by any city, town or other governmental entity or by any person
2 contracting with such governmental entity as part of a governmentally adopted
3 and controlled program to provide urban mass transportation.

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

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

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

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

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

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

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

42 (b) "Soundstage complex" means a facility of multiple stages including
43 production offices, construction shops and related areas, prop and costume
44 shops, storage areas, parking for production vehicles and areas that are

1 leased to businesses that complement the production needs and orientation of
2 the overall facility.

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

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

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

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

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

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

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

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

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

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

44 19. Machinery or equipment, including related structural components,
45 that is employed in connection with manufacturing, processing, fabricating,

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

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

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

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

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

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

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

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

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

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

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

3 2. Janitorial equipment and hand tools.

4 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 1. "Aircraft" includes:

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

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

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

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

28 Sec. 76. Section 42-11127, Arizona Revised Statutes, is amended to
29 read:

30 42-11127. Exempt personal property

31 A. Pursuant to article IX, section 2, subsection (6), Constitution of
32 Arizona, personal property that is class two property pursuant to section
33 42-12002, paragraph 2, subdivision (a) or (b) that is used for agricultural
34 purposes or personal property that is class one property pursuant to section
35 42-12001 that is used in a trade or business as described in section
36 42-12001, paragraphs 8 through 11 or 13 is exempt from taxation up to a
37 maximum amount of fifty thousand dollars of full cash value for each
38 taxpayer.

39 B. On or before December 31 ~~OF~~ each year ~~THROUGH 2010~~, the department
40 shall increase the maximum amount of the exemption for the following tax year
41 ~~THROUGH 2011~~ based on the average annual percentage increase, if any, in the
42 GDP price deflator in the two most recent complete state fiscal years.

43 ~~C. In~~ ~~FOR THE PURPOSES OF~~ this ~~section~~ ~~SUBSECTION~~, "GDP price
44 deflator" means the average of the four implicit price deflators for the

1 gross domestic product reported by the United States department of commerce
2 or its successor for the four quarters of the state fiscal year.

3 C. ON OR BEFORE DECEMBER 31 OF EACH YEAR BEGINNING IN 2011, THE
4 DEPARTMENT SHALL INCREASE THE MAXIMUM AMOUNT OF THE EXEMPTION FOR THE
5 FOLLOWING TAX YEAR BEGINNING IN 2012 BASED ON THE AVERAGE ANNUAL PERCENTAGE
6 INCREASE, IF ANY, IN THE EMPLOYMENT COST INDEX IN THE TWO MOST RECENT
7 COMPLETE STATE FISCAL YEARS. FOR THE PURPOSES OF THIS SUBSECTION,
8 "EMPLOYMENT COST INDEX" MEANS THE AVERAGE OF THE FOUR EMPLOYMENT COST INDICES
9 REPORTED BY THE BUREAU OF LABOR STATISTICS OF THE UNITED STATES DEPARTMENT OF
10 LABOR OR ITS SUCCESSOR FOR THE FOUR QUARTERS OF THE STATE FISCAL YEAR.

11 Sec. 77. Section 42-12003, Arizona Revised Statutes, is amended to
12 read:

13 42-12003. Class three property; definition

14 A. For purposes of taxation, class three is established consisting of
15 real and personal property and improvements to the property that are used ~~for~~
16 ~~residential purposes~~ AS THE OWNER'S PRIMARY RESIDENCE OR LEASED OR RENTED TO
17 A RELATIVE OF THE OWNER, AS PROVIDED BY SECTION 42-12053, AND USED AS THE
18 RELATIVE'S PRIMARY RESIDENCE, that are not otherwise included in class one,
19 two, four, six, seven or eight and that are valued at full cash value. ONLY
20 AN OWNER'S OR A RELATIVE'S PRIMARY RESIDENCE MAY BE CLASSIFIED AS CLASS
21 THREE, EXCEPT THAT the homesite that is included in class three may include:

22 1. Up to ten acres on a single parcel of real property on which the
23 residential improvement is located.

24 2. More than ten, but not more than forty, acres on a single parcel of
25 real property on which the residential improvement is located if it is zoned
26 exclusively for residential purposes or contains legal restrictions or
27 physical conditions that prevent the division of the parcel.

28 B. For THE purposes of this section, "physical conditions" means
29 topography, mountains, washes, rivers, roads or any other configuration that
30 limits the residential usable land area.

31 Sec. 78. Section 42-12004, Arizona Revised Statutes, is amended to
32 read:

33 42-12004. Class four property

34 A. For purposes of taxation, class four is established consisting of:

35 1. REAL AND PERSONAL PROPERTY AND IMPROVEMENTS TO THE PROPERTY THAT
36 ARE USED FOR RESIDENTIAL PURPOSES, INCLUDING RESIDENTIAL PROPERTY THAT IS
37 OWNED IN FORECLOSURE BY A FINANCIAL INSTITUTION, THAT IS NOT OTHERWISE
38 INCLUDED IN ANOTHER CLASSIFICATION AND THAT IS VALUED AT FULL CASH
39 VALUE. THE HOMESITE THAT IS INCLUDED IN CLASS FOUR MAY INCLUDE:

40 (a) UP TO TEN ACRES ON A SINGLE PARCEL OF REAL PROPERTY ON WHICH THE
41 RESIDENTIAL IMPROVEMENT IS LOCATED.

42 (b) MORE THAN TEN, BUT NOT MORE THAN FORTY, ACRES ON A SINGLE PARCEL
43 OF REAL PROPERTY ON WHICH THE RESIDENTIAL IMPROVEMENT IS LOCATED IF IT IS
44 ZONED EXCLUSIVELY FOR RESIDENTIAL PURPOSES OR CONTAINS LEGAL RESTRICTIONS OR
45 PHYSICAL CONDITIONS THAT PREVENT THE DIVISION OF THE PARCEL. FOR THE

1 PURPOSES OF THIS PARAGRAPH, "PHYSICAL CONDITIONS" MEANS TOPOGRAPHY,
2 MOUNTAINS, WASHES, RIVERS, ROADS OR ANY OTHER CONFIGURATION THAT LIMITS THE
3 RESIDENTIAL USABLE LAND AREA.

4 ~~1-~~ 2. Real and personal property and improvements to the property
5 that are used solely as leased or rented property for residential purposes,
6 that are not included in class one, two, three, six, seven or eight and that
7 are valued at full cash value.

8 ~~2-~~ 3. Child care facilities that are licensed under title 36, chapter
9 7.1 and that are valued at full cash value.

10 ~~3-~~ 4. Real and personal property and improvements to property that
11 are used to operate nonprofit residential housing facilities that are
12 structured to house or care for persons who are handicapped or sixty-two
13 years of age or older and that are valued at full cash value.

14 ~~4-~~ 5. Real and personal property and improvements that are used to
15 operate licensed residential care institutions or licensed nursing care
16 institutions that provide medical services, nursing services or health
17 related services and that are structured to house or care for persons who are
18 handicapped or sixty-two years of age or older and that are valued at full
19 cash value.

20 ~~5-~~ 6. Real and personal property consisting of no more than six rooms
21 of owner-occupied residential property that are leased or rented to transient
22 lodgers at no more than a fifty per cent average annual occupancy rate,
23 together with furnishing no more than a breakfast meal, by the owner of the
24 property and that is valued at full cash value.

25 ~~6-~~ 7. Real and personal property consisting of residential dwellings
26 that are maintained for occupancy by agricultural employees as a condition of
27 employment or as a convenience to the employer, that is not included in class
28 three and that is valued at full cash value. The land associated with these
29 dwellings shall be valued as agricultural land pursuant to chapter 13,
30 article 3 of this title.

31 ~~7-~~ 8. Real property and improvements to property constituting common
32 areas that are valued pursuant to chapter 13, article 9 of this title.

33 ~~8-~~ 9. Real and personal property that is defined as timeshare
34 property by section 32-2197 and valued pursuant to chapter 13, article 10 of
35 this title, except for any property used for commercial, industrial or
36 transient occupancy purposes and included in class one to the extent of that
37 use.

38 B. Subsection A, paragraphs ~~3-and~~ 4 AND 5 of this section shall not be
39 construed to limit eligibility for exemption from taxation under chapter 11,
40 article 3 of this title.

41 Sec. 79. Section 42-12006, Arizona Revised Statutes, is amended to
42 read:

43 42-12006. Class six property

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

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

3 2. Real and personal property that is located within the area of a
4 foreign trade zone or subzone established under 19 United States Code section
5 81 and title 44, chapter 18, that is activated for foreign trade zone use by
6 the district director of the United States customs service pursuant to
7 19 Code of Federal Regulations section 146.6 and that is valued at full cash
8 value. Property that is classified under this paragraph shall not thereafter
9 be classified under paragraph ~~7~~ 6 of this section.

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

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

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

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

23 (d) Property that is classified under this paragraph shall not
24 thereafter be classified under paragraph ~~4 or 7~~ 6 of this section.

25 ~~4. Real and personal property and improvements that are located in an
26 enterprise zone, that are owned or used by a small manufacturing or small
27 commercial printing business that is certified by the department of commerce
28 pursuant to section 41-1525.01 and that are valued at full cash value,
29 subject to the following terms and conditions:~~

30 ~~(a) Property may not be classified under this paragraph for more than
31 five tax years.~~

32 ~~(b) Property that is classified under this paragraph shall not
33 thereafter be classified under paragraph 3 or 7 of this section.~~

34 ~~5.~~ 4. Real and personal property and improvements or a portion of
35 such property comprising ~~a qualified~~ AN environmental technology
36 manufacturing, producing or processing facility ~~as described in~~ THAT
37 QUALIFIED UNDER section 41-1514.02, valued at full cash value and subject to
38 the following terms and conditions:

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

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

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

4 (d) Property that is classified under this paragraph shall not
5 thereafter be classified under paragraph ~~7-~~ 6 of this section.

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

19 (a) Monitoring, assessing or evaluating the release or threatened
20 release.

21 (b) Excavating, removing, transporting, treating and disposing of
22 contaminated soil.

23 (c) Pumping and treating contaminated water.

24 (d) Treatment, containment or removal of contaminants in groundwater
25 or soil.

26 ~~7-~~ 6. Real and personal property and improvements constructed or
27 installed from and after December 31, 2004 through December 31, 2010 and
28 owned by a qualified business under section 41-1516 and used solely for the
29 purpose of harvesting, transporting or the initial processing of qualifying
30 forest products removed from qualifying projects as defined in section
31 41-1516. The classification under this paragraph is subject to the following
32 terms and conditions:

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

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

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

41 (d) Property that is classified under this paragraph shall not
42 thereafter be classified under paragraph 2, 3, ~~OR~~ 4 ~~or~~ 5 of this section.

43 ~~8-~~ 7. Real and personal property and improvements to the property
44 that are used specifically and solely to manufacture from and after December
45 31, 2006 through December 31, 2016 biodiesel fuel that is one hundred per

1 cent biodiesel and its by-products and that are valued at full cash value.
2 This paragraph applies only to the portion of property that is used
3 specifically for manufacturing and processing one hundred per cent biodiesel
4 fuel, or its related by-products, from raw feedstock obtained from off-site
5 sources, including necessary on-site storage facilities that are
6 intrinsically associated with the manufacturing process. Any other
7 commercial or industrial use disqualifies the entire property from
8 classification under this paragraph.

9 ~~9-~~ 8. Real and personal property and improvements that are certified
10 pursuant to section 41-1511, subsection C, paragraph 2 and that are used for
11 renewable energy manufacturing or headquarters operations as provided by
12 section 42-12057. This paragraph applies only to property that is used in
13 manufacturing and headquarters operations of renewable energy companies,
14 including necessary on-site research and development, testing and storage
15 facilities that are associated with the manufacturing process. Up to ten per
16 cent of the aggregate full cash value of the property may be derived from
17 uses that are ancillary to and intrinsically associated with the
18 manufacturing process or headquarters operation. Any additional ancillary
19 property is not qualified for classification under this paragraph. No new
20 properties may be classified pursuant to this paragraph from and after
21 December 31, 2014. Classification under this paragraph is limited to the
22 time periods determined by the ~~department of commerce~~ ARIZONA COMMERCE
23 AUTHORITY pursuant to section 41-1511, subsection C, paragraph 2, subdivision
24 (a) or (b). Property that is classified under this paragraph shall not
25 thereafter be classified under any other paragraph of this section.

26 Sec. 80. Section 42-12052, Arizona Revised Statutes, is amended to
27 read:

28 42-12052. Review and verification of class three property:
29 owner's affidavit and notice; civil penalty;
30 appeals

31 A. Each county assessor shall review assessment information, on a
32 continuing basis, to ensure proper classification of residential
33 dwellings. The assessor may enter into intergovernmental agreements with the
34 department for an exchange of information to ensure a coordinated and
35 comprehensive review and identification of property that may be rented while
36 classified as class three pursuant to section 42-12003.

37 B. BEGINNING IN 2012 AND EACH EVEN-NUMBERED YEAR THEREAFTER THE COUNTY
38 ASSESSOR SHALL INCLUDE WITH THE NOTICE OF FULL CASH VALUE SENT TO OWNERS OF
39 CLASS THREE PROPERTY PURSUANT TO SECTION 42-15101 AN AFFIDAVIT, IN A FORM
40 PRESCRIBED BY THE DEPARTMENT, ON WHICH THE OWNER MUST DECLARE, UNDER PENALTY
41 OF PERJURY, WHETHER THE PROPERTY IS THE OWNER'S PRIMARY RESIDENCE, OR LEASED
42 OR RENTED TO A RELATIVE OF THE OWNER, AS PROVIDED BY SECTION 42-12053, AND
43 USED AS THE RELATIVE'S PRIMARY RESIDENCE, IN THE CURRENT VALUATION YEAR. THE
44 OWNER MUST RETURN THE COMPLETED AFFIDAVIT FORM TO THE COUNTY ASSESSOR WITHIN
45 SIXTY DAYS. IF THE OWNER INDICATES ON THE AFFIDAVIT THAT THE PROPERTY IS NOT

1 THE OWNER'S OR RELATIVE'S PRIMARY RESIDENCE, IF THE OWNER INDICATES ON MORE
2 THAN ONE AFFIDAVIT THAT MORE THAN ONE PARCEL IS THE OWNER'S PRIMARY
3 RESIDENCE, OR IF THE OWNER FAILS TO RETURN THE AFFIDAVIT TIMELY TO THE
4 ASSESSOR, THE ASSESSOR SHALL RECLASSIFY THE PROPERTY AS CLASS FOUR PURSUANT
5 TO SECTION 42-12004 OR IN ANOTHER CLASSIFICATION ACCORDING TO THE PROPERTY'S
6 USE AND WITHIN FIFTEEN DAYS NOTIFY THE OWNER OF THE RECLASSIFICATION AND OF
7 THE OWNER'S THE RIGHT TO APPEAL THE RECLASSIFICATION. IF FOR ANY REASON AN
8 OWNER BELIEVES THAT RECLASSIFICATION PURSUANT TO THIS SUBSECTION IS
9 ERRONEOUS, THE OWNER MAY FILE A NOTICE OF CLAIM WITH THE ASSESSOR PURSUANT TO
10 SECTION 42-16254 TO RESOLVE THE CORRECT CLASSIFICATION.

11 ~~B-~~ C. If the assessor has reason to believe that a parcel of property
12 that is classified as class three pursuant to section 42-12003 IS NOT USED AS
13 THE OWNER'S PRIMARY RESIDENCE OR is being rented, the assessor shall notify
14 the owner, in a form prescribed by the department as provided by subsection
15 ~~H-~~ D of this section, and request that the owner respond as to whether the
16 property is occupied ~~by the owner~~ AS THE OWNER'S PRIMARY RESIDENCE, IS A
17 SECONDARY RESIDENCE or is used as a rental property. IF THE OWNER RESPONDS
18 THAT THE PROPERTY IS NOT THE OWNER'S PRIMARY RESIDENCE, OR if the owner fails
19 to respond to the assessor within thirty days after the notice is mailed, the
20 assessor shall mail the owner a final notice WITHIN THIRTY DAYS requesting
21 that the owner provide information as to whether or not the property is
22 ~~occupied by the owner~~ THE OWNER'S PRIMARY RESIDENCE, A SECONDARY RESIDENCE or
23 used as a rental property.

24 ~~C-~~ If the owner fails to respond to the assessor within fifteen days
25 after the final notice is mailed, the assessor shall:

26 1. Reclassify the property as class four. IN ADDITION TO OTHER APPEAL
27 PROCEDURES PROVIDED BY LAW, THE OWNER OF THE PROPERTY THAT IS RECLASSIFIED AS
28 CLASS FOUR UNDER THIS PARAGRAPH MAY APPEAL THE RECLASSIFICATION TO THE COUNTY
29 BOARD OF SUPERVISORS WITHIN THIRTY DAYS AFTER THE NOTICE OF CLASSIFICATION IS
30 MAILED. IF THE OWNER PROVES TO THE BOARD'S SATISFACTION THAT THE PROPERTY IS
31 OCCUPIED AS THE OWNER'S PRIMARY RESIDENCE, THE BOARD SHALL ORDER THE PROPERTY
32 TO BE RECLASSIFIED AS CLASS THREE PROPERTY PURSUANT TO SECTION 42-12003.

33 2. Notify the county treasurer who shall assess a civil penalty
34 against the property equal to twice the amount of ~~the property taxes that~~
35 ~~would have been levied against the property if the property had been~~
36 ~~classified as class four pursuant to section 42-12004~~ ADDITIONAL STATE AID
37 PAID PURSUANT TO SECTION 15-972 WITH RESPECT TO THE PROPERTY in the preceding
38 tax year.

39 ~~D-~~ The owner of the property shall pay a penalty under ~~subsection C,~~
40 THIS paragraph ~~2 of this section~~ to the county treasurer within thirty days
41 after the notice of the penalty is mailed.

42 ~~E-~~ The owner may appeal the penalty to the county board of supervisors
43 within the time required for payment. If the owner proves to the board's
44 satisfaction that the property is occupied by the owner, the board shall
45 waive the penalty, and the property shall be listed as class three pursuant

1 to section 42-12003. Until paid or waived, the penalty constitutes a lien
2 against the property.

3 ~~F. In addition to other appeal procedures provided by law, the owner~~
4 ~~of property that is reclassified as class four under subsection C, paragraph~~
5 ~~1 of this section may appeal the reclassification to the county board of~~
6 ~~supervisors within thirty days after the notice of classification is mailed.~~
7 ~~If the owner proves to the board's satisfaction that the owner occupies the~~
8 ~~property, the board shall order the property to be reclassified as class~~
9 ~~three property pursuant to section 42-12003.~~

10 ~~G.~~ The county treasurer shall deposit all revenue received from
11 penalties assessed under this ~~section~~ PARAGRAPH in the county general fund.

12 ~~H.~~ D. The department shall:

13 1. Prescribe all forms used to notify property owners under this
14 section. The forms shall contain information as to criteria for the
15 reclassification of property and the civil penalties that may result if the
16 owner fails to respond to the notice.

17 2. Monitor and review the procedures and practices used by assessors
18 and treasurers to accomplish the ~~review and~~ verification of class three
19 property and the assessment and collection of penalties prescribed by this
20 section and propose suggested improvements to establish uniform processes and
21 performance among the counties.

22 E. THE DEPARTMENT MAY INSPECT THE RECORDS OF COUNTY ASSESSORS AND
23 COUNTY TREASURERS TO DETERMINE COMPLIANCE WITH THE REQUIREMENTS OF THIS
24 SECTION AND THE ACCURACY OF THE CLASSIFICATION OF OWNER-OCCUPIED RESIDENTIAL
25 PROPERTY AND RENTAL PROPERTY.

26 Sec. 81. Section 42-12053, Arizona Revised Statutes, is amended to
27 read:

28 42-12053. Criteria for distinguishing residential property from
29 rental property and the owner's primary residence

30 A. For the purpose of classifying residential property under sections
31 42-12003, 42-12004 and 42-12052, a parcel is not considered rental property
32 and shall be classified as class three property, if either:

33 1. The property was not rented by the owner for more than three months
34 in the preceding twelve consecutive months and the owner does not intend to
35 rent it for more than three months during the next twelve consecutive months.

36 2. The owner rents the property to a member of the owner's family, who
37 must be:

38 (a) The owner's natural or adopted child or a descendant of the
39 owner's child.

40 (b) The owner's parent or an ancestor of the owner's parent.

41 (c) The owner's stepchild or stepparent.

42 (d) The owner's child-in-law or parent-in-law.

43 (e) The owner's natural or adopted sibling.

44 B. FOR THE PURPOSE OF CLASSIFYING OWNER-OCCUPIED RESIDENTIAL PROPERTY
45 UNDER SECTIONS 42-12003, 42-12004 AND 42-12052, THE DEPARTMENT SHALL ADOPT

1 STANDARD CRITERIA FOR USE IN DETERMINING WHETHER THE PROPERTY IS CONSIDERED
2 TO BE THE OWNER'S OR RELATIVE'S PRIMARY RESIDENCE, INCLUDING:

- 3 1. THE PERIOD OF OCCUPANCY EACH YEAR.
- 4 2. THE OWNER'S REGISTERED VOTING PRECINCT.
- 5 3. THE OWNER'S DRIVER LICENSE ADDRESS.
- 6 4. THE REGISTRATION ADDRESS OF THE OWNER'S MOTOR VEHICLES.
- 7 5. OTHER APPROPRIATE INDICATORS OF PRIMARY RESIDENCY.

8 Sec. 82. Section 42-12054, Arizona Revised Statutes, is amended to
9 read:

10 42-12054. Change in classification of owner-occupied residence

11 A. If a person purchases or converts property that is listed as class
12 one, paragraph 12, ~~OR~~ class two ~~or class four~~ pursuant to article 1 of this
13 chapter and occupies the property as a residence, the person may have the
14 classification reviewed for change to class three from the date of conversion
15 AND OCCUPANCY AS A PRIMARY RESIDENCE and may appeal from the decision
16 resulting from the review in the same manner as provided by law for review of
17 a valuation for ad valorem property taxes and appeal from that review.

18 B. IF A PERSON PURCHASES OR CONVERTS PROPERTY THAT IS LISTED AS CLASS
19 FOUR PURSUANT TO SECTION 42-12004 AND OCCUPIES THE PROPERTY AS THE PERSON'S
20 PRIMARY RESIDENCE, THE PERSON MAY HAVE THE CLASSIFICATION REVIEWED FOR CHANGE
21 TO CLASS THREE FROM THE DATE OF OCCUPANCY AND MAY APPEAL THE DECISION
22 RESULTING FROM THE REVIEW IN THE SAME MANNER AS PROVIDED BY LAW FOR REVIEW OF
23 A VALUATION FOR AD VALOREM PROPERTY TAXES AND APPEAL FROM THAT REVIEW.

24 ~~B.~~ C. If a person makes such a conversion OR OCCUPANCY or appeals the
25 classification after the county assessor has closed the rolls, the person may
26 petition the county board of supervisors to change the classification and
27 reduce the assessed valuation from the date of conversion OR OCCUPANCY.

28 ~~C.~~ D. The board of supervisors shall entertain the petition in the
29 same manner as a board of equalization hears a request for reduction in
30 valuation.

31 ~~D.~~ E. The petitioner may appeal the board of supervisors' decision in
32 the same manner as provided in section 42-16111, except that the petitioner
33 shall file the notice of appeal within fifteen days after the board's
34 finding.

35 ~~E.~~ F. If the board of supervisors finds that the property is in fact
36 being used for ~~residential purposes~~ THE OWNER'S PRIMARY RESIDENCE and should
37 be listed as class three property, it shall change the classification on the
38 roll and fix the assessed valuation from the date of ~~conversion~~
39 OCCUPANCY. The amount of taxes that is assessed against the property shall
40 be computed by applying the current tax rate to the original assessed
41 valuation prorated for the portion of the tax year before the property was
42 ~~converted~~ OCCUPIED plus the current tax rate applied to the reassessed value
43 of the property prorated for the balance of the year.

44 ~~F.~~ G. The board of supervisors shall notify the department, assessor
45 and county treasurer of the change in classification, the change in assessed

1 valuation and the amount of tax assessed. The department and the assessor
2 may appeal any such decision in the same manner as provided in section
3 42-16111. The assessor and treasurer shall note the change on their records,
4 and the treasurer may issue a future tax credit, endorsed by the board, to
5 the person whose property is liable for the tax. The tax credit shall be
6 used on the next or several succeeding property tax assessments that the
7 person may owe thereafter.

8 Sec. 83. Section 42-13054, Arizona Revised Statutes, is amended to
9 read:

10 42-13054. Taxable value of personal property; depreciated
11 values of personal property in class one and class
12 two (P)

13 A. The taxable value of personal property that is valued by the county
14 assessor is the result of acquisition cost less any appropriate depreciation
15 as prescribed by tables adopted by the department. The taxable value shall
16 not exceed the market value.

17 B. Except as provided in subsection C of this section and
18 notwithstanding any other statute, the assessor shall adjust the depreciation
19 schedules prescribed by the department as follows to determine the valuation
20 of personal property:

21 1. For personal property that is initially classified during tax year
22 1994 through tax year 2007 as class one, paragraph 8, 9, 10 or 13 pursuant to
23 section 42-12001 and personal property that is initially classified during
24 tax year 1995 through tax year 2007 as class two (P) pursuant to section
25 42-12002:

26 (a) For the first tax year of assessment, the assessor shall use
27 thirty-five per cent of the scheduled depreciated value.

28 (b) For the second tax year of assessment, the assessor shall use
29 fifty-one per cent of the scheduled depreciated value.

30 (c) For the third tax year of assessment, the assessor shall use
31 sixty-seven per cent of the scheduled depreciated value.

32 (d) For the fourth tax year of assessment, the assessor shall use
33 eighty-three per cent of the scheduled depreciated value.

34 (e) For the fifth and subsequent tax years of assessment, the assessor
35 shall use the scheduled depreciated value as prescribed in the department's
36 guidelines.

37 2. For personal property that is initially classified during ~~or after~~
38 tax year 2008 **THROUGH TAX YEAR 2011** as class one, paragraph 8, 9, 10 or 13
39 pursuant to section 42-12001 and personal property that is initially
40 classified during ~~or after~~ tax year 2008 **THROUGH TAX YEAR 2011** as class two
41 (P) pursuant to section 42-12002:

42 (a) For the first tax year of assessment, the assessor shall use
43 thirty per cent of the scheduled depreciated value.

44 (b) For the second tax year of assessment, the assessor shall use
45 forty-six per cent of the scheduled depreciated value.

1 (c) For the third tax year of assessment, the assessor shall use
2 sixty-two per cent of the scheduled depreciated value.

3 (d) For the fourth tax year of assessment, the assessor shall use
4 seventy-eight per cent of the scheduled depreciated value.

5 (e) For the fifth tax year of assessment, the assessor shall use
6 ninety-four per cent of the scheduled depreciated value.

7 (f) For the sixth and subsequent tax years of assessment, the assessor
8 shall use the scheduled depreciated value as prescribed in the department's
9 guidelines.

10 3. FOR PERSONAL PROPERTY THAT IS INITIALLY CLASSIFIED DURING OR AFTER
11 TAX YEAR 2012 AS CLASS ONE, PARAGRAPH 8, 9, 10 OR 13 PURSUANT TO SECTION
12 42-12001 AND PERSONAL PROPERTY THAT IS INITIALLY CLASSIFIED DURING OR AFTER
13 TAX YEAR 2012 AS CLASS TWO (P) PURSUANT TO SECTION 42-12002:

14 (a) FOR THE FIRST TAX YEAR OF ASSESSMENT, THE ASSESSOR SHALL USE
15 TWENTY-FIVE PER CENT OF THE SCHEDULED DEPRECIATED VALUE.

16 (b) FOR THE SECOND TAX YEAR OF ASSESSMENT, THE ASSESSOR SHALL USE
17 FORTY-ONE PER CENT OF THE SCHEDULED DEPRECIATED VALUE.

18 (c) FOR THE THIRD TAX YEAR OF ASSESSMENT, THE ASSESSOR SHALL USE
19 FIFTY-SEVEN PER CENT OF THE SCHEDULED DEPRECIATED VALUE.

20 (d) FOR THE FOURTH TAX YEAR OF ASSESSMENT, THE ASSESSOR SHALL USE
21 SEVENTY-THREE PER CENT OF THE SCHEDULED DEPRECIATED VALUE.

22 (e) FOR THE FIFTH TAX YEAR OF ASSESSMENT, THE ASSESSOR SHALL USE
23 EIGHTY-NINE PER CENT OF THE SCHEDULED DEPRECIATED VALUE.

24 (f) FOR THE SIXTH AND SUBSEQUENT TAX YEARS OF ASSESSMENT, THE ASSESSOR
25 SHALL USE THE SCHEDULED DEPRECIATED VALUE AS PRESCRIBED IN THE DEPARTMENT'S
26 GUIDELINES.

27 C. The additional depreciation prescribed in subsection B of this
28 section:

29 1. Does not apply to any property valued by the department.

30 2. Shall not reduce the valuation below the minimum value prescribed
31 by the department for property in use.

32 Sec. 84. Section 42-15001, Arizona Revised Statutes, is amended to
33 read:

34 42-15001. Assessed valuation of class one property

35 The assessed valuation of class one property described in section
36 42-12001 is the following percentage of its full cash value or limited
37 valuation, as applicable:

38 1. Twenty-five per cent through December 31, 2005.

39 2. Twenty-four and one-half per cent beginning from and after December
40 31, 2005 through December 31, 2006.

41 3. Twenty-four per cent beginning from and after December 31, 2006
42 through December 31, 2007.

43 4. Twenty-three per cent beginning from and after December 31, 2007
44 through December 31, 2008.

1 5. Twenty-two per cent beginning from and after December 31, 2008
2 through December 31, 2009.

3 6. Twenty-one per cent beginning from and after December 31, 2009
4 through December 31, 2010.

5 7. Twenty per cent beginning from and after December 31, 2010 THROUGH
6 DECEMBER 31, 2012.

7 8. NINETEEN AND ONE-HALF PER CENT BEGINNING FROM AND AFTER DECEMBER
8 31, 2012 THROUGH DECEMBER 31, 2013.

9 9. NINETEEN PER CENT BEGINNING FROM AND AFTER DECEMBER 31, 2013
10 THROUGH DECEMBER 31, 2014.

11 10. EIGHTEEN AND ONE-HALF PER CENT BEGINNING FROM AND AFTER DECEMBER
12 31, 2014 THROUGH DECEMBER 31, 2015.

13 11. EIGHTEEN PER CENT BEGINNING FROM AND AFTER DECEMBER 31, 2015.

14 Sec. 85. Section 42-15002, Arizona Revised Statutes, is amended to
15 read:

16 42-15002. Assessed valuation of class two property

17 The following percentages apply to the full cash value or limited
18 valuation, as applicable, as a basis for determining the assessed valuation
19 of class two property described in section 42-12002:

20 1. Class two (R): sixteen per cent THROUGH DECEMBER 31, 2015 AND
21 FIFTEEN PER CENT BEGINNING FROM AND AFTER DECEMBER 31, 2015.

22 2. Class two (P): sixteen per cent THROUGH DECEMBER 31, 2015, AND
23 FIFTEEN PER CENT BEGINNING FROM AND AFTER DECEMBER 31, 2015, of the value
24 exceeding the maximum amount of valuation of personal property that is exempt
25 from taxation pursuant to section 42-11127.

26 Sec. 86. Section 42-15102, Arizona Revised Statutes, is amended to
27 read:

28 42-15102. Notice information entered by assessor

29 A. The assessor shall include in the assessment notice:

30 1. The full cash value found by the assessor for the property for the
31 preceding valuation year.

32 2. The classification of the property pursuant to chapter 12 of this
33 title.

34 3. The mailing date of the notice.

35 4. The last date on which the owner may file an appeal from the
36 valuation or classification assigned to the property.

37 B. Except for property that is listed as class three property under
38 section 42-12003, OWNER-OCCUPIED RESIDENTIAL PROPERTY THAT IS LISTED AS CLASS
39 FOUR PROPERTY UNDER SECTION 42-12004, SUBSECTION A, PARAGRAPH 1 and single
40 family rented residential property that is listed as class four property
41 under section 42-12004, subsection A, paragraph ~~1~~ 2, the notice shall
42 separately list the full cash value of the land and the full cash value of
43 the improvement or improvements associated with the land.

1 Sec. 87. Section 42-15103, Arizona Revised Statutes, is amended to
2 read:

3 42-15103. Contents of notice form

4 The notice form shall:

5 1. Prominently display a statement:

6 (a) IN EVEN NUMBERED VALUATION YEARS INFORMING PROPERTY OWNERS THAT IF
7 THE PARCEL OF PROPERTY IS LISTED ON THE NOTICE AS CLASS THREE PURSUANT TO
8 SECTION 42-12003, THE OWNER MUST COMPLETE AND RETURN THE ENCLOSED AFFIDAVIT
9 TO THE COUNTY ASSESSOR DECLARING WHETHER THE PROPERTY IS THE OWNER'S
10 RESIDENCE, OR LEASED OR RENTED TO A RELATIVE OF THE OWNER, AS PROVIDED BY
11 SECTION 42-12053, AND USED AS THE RELATIVE'S PRIMARY RESIDENCE, FOR THE
12 CURRENT YEAR. THE STATEMENT SHALL INCLUDE THE FOLLOWING TEXT IN AT LEAST
13 TWELVE POINT TYPE:

14 IF YOUR PROPERTY QUALIFIES AS YOUR PRIMARY RESIDENCE, YOU MAY
15 RECEIVE A REDUCTION ON YOUR PROPERTY TAXES UP TO \$600.

16 (b) Informing property owners that if a parcel of property is used as
17 a rental unit and the property is listed on the notice as class three
18 pursuant to section 42-12003, the owner must notify the county assessor of
19 the rental use of the property or be subject to a civil penalty prescribed by
20 section 42-12052.

21 2. INCLUDE WITH EACH NOTICE FOR PROPERTY CLASSIFIED AS CLASS THREE AN
22 AFFIDAVIT FORM DESCRIBED BY SECTION 42-12052, SUBSECTION B, WITH SIMPLIFIED
23 INSTRUCTIONS, FOR THE OWNER TO DECLARE WHETHER THE PROPERTY IS THE OWNER'S
24 PRIMARY RESIDENCE.

25 ~~2-~~ 3. Include a form with instructions on the procedure and deadlines
26 for appealing the assessed valuation shown on the notice. The appeal form
27 for property that is listed as class three pursuant to section 42-12003 shall
28 contain simplified instructions and shall be separate from the appeal form
29 for other classes of property.

30 ~~3-~~ 4. Provide in a separate addendum a statement informing ~~property~~
31 owners of ~~all of the following~~ PROPERTY THAT IS USED FOR RESIDENTIAL RENTAL
32 PURPOSES THAT:

33 (a) ~~If a parcel of property is used for residential rental purposes,~~
34 The parcel must be listed on the notice as class four, and the owner must
35 register the residential rental property with the county assessor pursuant to
36 section 33-1902 or the owner may be subject to a penalty.

37 (b) If the owner is required to register the rental property with the
38 county assessor and fails to do so after receipt of this notice, the city or
39 town may impose a civil penalty payable to the city or town in the amount of
40 one hundred fifty dollars per day for each day of violation, and the city or
41 town may impose enhanced inspection and enforcement measures on the property.

42 (c) If the city or town in which the property is located requires the
43 lessor to pay transaction privilege tax on residential rent, a notice of
44 applicable requirements imposed by the city or town and that failure to pay

1 the applicable ~~sales~~ tax could result in a penalty or fine by the city or
2 town.

3 (d) ~~A notice that~~ Residential rental properties are required to comply
4 with the landlord tenant law pursuant to title 33, chapters 10 and 11.

5 Sec. 88. Section 42-16251, Arizona Revised Statutes, is amended to
6 read:

7 42-16251. Definitions

8 In this article, unless the context otherwise requires:

9 1. "Board" means the county board of equalization or the state board
10 of equalization, as appropriate.

11 2. "Court" means either the superior court or tax court.

12 3. "Error" means any mistake in assessing or collecting property taxes
13 resulting from:

14 (a) An imposition of an incorrect, erroneous or illegal tax rate that
15 resulted in assessing or collecting excessive taxes.

16 (b) An incorrect designation or description of the use **OR OCCUPANCY** of
17 property or its classification pursuant to chapter 12, article 1 of this
18 title.

19 (c) Applying the incorrect assessment ratio percentages prescribed by
20 chapter 15, article 1 of this title.

21 (d) Misreporting or failing to report property if a statutory duty
22 exists to report the property.

23 (e) Subject to the requirements of section 42-16255, subsection B, a
24 valuation or legal classification that is based on an error that is
25 exclusively factual in nature or due to a specific legal restriction that
26 affects the subject property and that is objectively verifiable without the
27 exercise of discretion, opinion or judgment and that is demonstrated by clear
28 and convincing evidence, such as:

29 (i) A mistake in the description of the size, use or ownership of
30 land, improvements or personal property.

31 (ii) Clerical or typographical errors in reporting or entering data
32 that was used directly to establish valuation.

33 (iii) A failure to timely capture on the tax roll a change in value or
34 legal classification caused by new construction, the destruction or
35 demolition of improvements, the splitting of one parcel of real property into
36 two or more new parcels or the consolidating of two or more parcels of real
37 property into one new parcel existing on the valuation date.

38 (iv) The existence or nonexistence of the property on the valuation
39 date.

40 (v) Any other objectively verifiable error that does not require the
41 exercise of discretion, opinion or judgment.

42 Error does not include a correction that results from a change in the law as
43 a result of a final nonappealable ruling by a court of competent jurisdiction
44 in a case that does not involve the property for which a correction is
45 claimed.

1 4. "Taxpayer" means the owner of real or personal property that is
2 liable for tax.

3 Sec. 89. Section 43-206, Arizona Revised Statutes, is amended to read:
4 43-206. Urban revenue sharing fund; allocation; distribution

5 A. There is established an urban revenue sharing fund. The fund
6 shall consist of an amount equal to fifteen per cent of the net proceeds of
7 the state income taxes for the fiscal year two years preceding the current
8 fiscal year. The fund shall be distributed to incorporated cities and towns
9 as provided in this section, except that a city or town shall receive at
10 least an amount equal to what a city or town with a population of fifteen
11 hundred or more persons would receive. The transfer of net proceeds
12 prescribed by section 49-282, subsection B does not affect the calculation of
13 net proceeds prescribed by this subsection.

14 B. Each city or town shall share in the urban revenue sharing fund in
15 the proportion that the population of each bears to the population of all.
16 Except as provided by sections 42-5033 and 42-5033.01, the population of a
17 city or town as determined by the most recent United States decennial census
18 plus any revisions to the decennial census certified by the United States
19 bureau of the census shall be used as the basis for apportioning monies
20 pursuant to this subsection.

21 C. The treasurer, upon instruction from the department, shall
22 transmit, no later than the tenth day of each month, to each city or town an
23 amount equal to one-twelfth of that city's or town's total entitlement for
24 the current fiscal year from the urban revenue sharing fund as determined by
25 the department.

26 D. A newly incorporated city or town shall share in the urban revenue
27 sharing fund beginning the first month of the first full fiscal year
28 following incorporation.

29 E. On receipt of a certificate of default from the greater Arizona
30 development authority pursuant to section ~~41-1554.06~~ 41-2257 or ~~41-1554.07~~
31 41-2258, the state treasurer, to the extent not otherwise expressly
32 prohibited by law, shall withhold from the next succeeding distribution of
33 monies pursuant to this section due to the city or town the amount specified
34 in the certificate of default and immediately deposit the amount withheld in
35 the greater Arizona development authority revolving fund. The state
36 treasurer shall continue to withhold and deposit the monies until the
37 authority certifies to the state treasurer that the default has been
38 cured. In no event shall the state treasurer withhold any amount that is
39 necessary, as certified by the defaulting political subdivision to the state
40 treasurer and the authority, to make any required deposits then due for the
41 payment of principal and interest on bonds of the political subdivision that
42 were issued prior to the date of the loan repayment agreement or bonds and
43 that have been secured by a pledge of distributions made pursuant to this
44 section.

1 Sec. 90. Title 43, chapter 4, article 1, Arizona Revised Statutes, is
2 amended by adding section 43-409, to read:

3 43-409. Job creation withholdings clearing account

4 A. THE JOB CREATION WITHHOLDINGS CLEARING ACCOUNT IS ESTABLISHED
5 CONSISTING OF THE SUM OF THIRTY-ONE MILLION FIVE HUNDRED THOUSAND DOLLARS OF
6 WITHHOLDING TAX REVENUES IN EACH FISCAL YEAR.

7 B. ON THE TWENTIETH DAY OF EACH MONTH THE STATE TREASURER SHALL CREDIT
8 THE FOLLOWING AMOUNTS FROM THE CLEARING ACCOUNT:

9 1. TO THE ARIZONA COMMERCE AUTHORITY FUND ESTABLISHED BY SECTION
10 41-1506, ONE-TWELFTH OF THE ANNUAL SUM OF TEN MILLION DOLLARS IN EACH FISCAL
11 YEAR.

12 2. TO THE ARIZONA COMPETES FUND ESTABLISHED BY SECTION 41-1545.01,
13 ONE-TWELFTH OF THE ANNUAL SUM OF TWENTY-ONE MILLION FIVE HUNDRED THOUSAND
14 DOLLARS IN EACH FISCAL YEAR.

15 Sec. 91. Section 43-1022, Arizona Revised Statutes, is amended to
16 read:

17 43-1022. Subtractions from Arizona gross income

18 In computing Arizona adjusted gross income, the following amounts shall
19 be subtracted from Arizona gross income:

20 1. The amount of exemptions allowed by section 43-1023.

21 2. Benefits, annuities and pensions in an amount totaling not more
22 than two thousand five hundred dollars received from one or more of the
23 following:

24 (a) The United States government service retirement and disability
25 fund, retired or retainer pay of the uniformed services of the United States,
26 the United States foreign service retirement and disability system and any
27 other retirement system or plan established by federal law.

28 (b) The Arizona state retirement system, the corrections officer
29 retirement plan, the public safety personnel retirement system, the elected
30 officials' retirement plan, an optional retirement program established by the
31 Arizona board of regents under section 15-1628, an optional retirement
32 program established by a community college district board under section
33 15-1451 or a retirement plan established for employees of a county, city or
34 town in this state.

35 3. A beneficiary's share of the fiduciary adjustment to the extent
36 that the amount determined by section 43-1333 decreases the beneficiary's
37 Arizona gross income.

38 4. The amount of any distributions from an individual retirement
39 account as provided for in section 408 of the internal revenue code or from a
40 qualified retirement plan of a self-employed individual as provided for in
41 section 401 of the internal revenue code to the extent that total adjustments
42 made pursuant to this paragraph in all tax years do not exceed the total of
43 all contributions made by the taxpayer to such plans prior to December 31,
44 1975, which were included in computing Arizona taxable income.

1 5. The amount of income on an installment receivable which is
2 recognized pursuant to the internal revenue code and which has already been
3 recognized on the death of the taxpayer for purposes of this title for tax
4 years ending before January 1, 1990.

5 6. Interest income received on obligations of the United States, less
6 any interest on indebtedness, or other related expenses, and deducted in
7 arriving at Arizona gross income, which were incurred or continued to
8 purchase or carry such obligations.

9 7. The amount of any income tax refunds which were received from
10 states other than Arizona and which were included as income in computing
11 federal adjusted gross income.

12 8. Annuity income included in federal adjusted gross income pursuant
13 to section 72 of the internal revenue code if the first payment with respect
14 to such annuity was received prior to December 31, 1978.

15 9. The excess of a partner's share of income required to be included
16 under section 702(a)(8) of the internal revenue code over the income required
17 to be included under chapter 14, article 2 of this title.

18 10. The excess of a partner's share of partnership losses determined
19 pursuant to chapter 14, article 2 of this title over the losses allowable
20 under section 702(a)(8) of the internal revenue code.

21 11. The amount by which the adjusted basis of property described in
22 this paragraph and computed pursuant to this title and the income tax act of
23 1954, as amended, exceeds the adjusted basis of such property computed
24 pursuant to the internal revenue code. This paragraph shall apply to all
25 property which is held for the production of income and which is sold or
26 otherwise disposed of during the taxable year other than depreciable property
27 used in a trade or business.

28 12. The amount allowed by section 43-1024 for amortization, by a
29 qualified defense contractor certified by the ~~department of commerce~~ ARIZONA
30 COMMERCE AUTHORITY under section 41-1508, of a capital investment for private
31 commercial activities.

32 13. The amount of gain included in federal adjusted gross income on the
33 sale or other disposition of a capital investment that a qualified defense
34 contractor has elected to amortize pursuant to section 43-1024.

35 14. The amount allowed by section 43-1025 for contributions during the
36 taxable year of agricultural crops to charitable organizations.

37 15. The portion of any wages or salaries paid or incurred by the
38 taxpayer for the taxable year that is equal to the amount of the federal work
39 opportunity credit, the empowerment zone employment credit, the credit for
40 employer paid social security taxes on employee cash tips and the Indian
41 employment credit that the taxpayer received under sections 45A, 45B, 51(a)
42 and 1396 of the internal revenue code.

43 16. The amount of prizes or winnings less than five thousand dollars in
44 a single taxable year from any of the state lotteries established and
45 operated pursuant to title 5, chapter 5, article 1, except that all such

1 winnings before March 22, 1983, including periodic distributions from such
2 winnings made after March 22, 1983, may be subtracted.

3 17. The amount of exploration expenses that is determined pursuant to
4 section 617 of the internal revenue code, that has been deferred in a taxable
5 year ending before January 1, 1990 and for which a subtraction has not
6 previously been made. The subtraction shall be made on a ratable basis as
7 the units of produced ores or minerals discovered or explored as a result of
8 this exploration are sold.

9 18. The amount included in federal adjusted gross income pursuant to
10 section 86 of the internal revenue code, relating to taxation of social
11 security and railroad retirement benefits.

12 19. To the extent not already excluded from Arizona gross income under
13 the internal revenue code, compensation received for active service as a
14 member of the reserves, the national guard or the armed forces of the United
15 States, including compensation for service in a combat zone as determined
16 under section 112 of the internal revenue code.

17 20. The amount of unreimbursed medical and hospital costs, adoption
18 counseling, legal and agency fees and other nonrecurring costs of adoption
19 not to exceed three thousand dollars. In the case of a husband and wife who
20 file separate returns, the subtraction may be taken by either taxpayer or may
21 be divided between them, but the total subtractions allowed both husband and
22 wife shall not exceed three thousand dollars. The subtraction under this
23 paragraph may be taken for the costs that are described in this paragraph and
24 that are incurred in prior years, but the subtraction may be taken only in
25 the year during which the final adoption order is granted.

26 21. The amount authorized by section 43-1027 for the taxable year
27 relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.

28 22. With respect to a medical savings account established pursuant to
29 section 43-1028:

30 (a) An eligible individual may subtract:

31 (i) The amount of contributions made by the individual's employer
32 during the taxable year to the individual's medical savings account pursuant
33 to section 43-1028 to the extent that the employer contributions are included
34 in the individual's federal adjusted gross income.

35 (ii) The amount deposited by the individual in the account during the
36 taxable year to the extent that the individual's contributions are included
37 in the individual's federal adjusted gross income.

38 (b) The individual's employer may subtract the amount of contributions
39 made by the employer to a medical savings account established on the
40 individual's behalf to the extent that the contributions are not deductible
41 under the internal revenue code.

42 23. The amount by which a net operating loss carryover or capital loss
43 carryover allowable pursuant to section 43-1029, subsection F exceeds the net
44 operating loss carryover or capital loss carryover allowable pursuant to
45 section 1341(b)(5) of the internal revenue code.

1 24. Any amount of qualified educational expenses that is distributed
2 from a qualified state tuition program determined pursuant to section 529 of
3 the internal revenue code and that is included in income in computing federal
4 adjusted gross income.

5 25. Any item of income resulting from an installment sale that has been
6 properly subjected to income tax in another state in a previous taxable year
7 and that is included in Arizona gross income in the current taxable year.

8 26. The amount authorized by section 43-1030 relating to holocaust
9 survivors.

10 27. The amount authorized by section 43-1031 for constructing an energy
11 efficient residence.

12 28. An amount equal to the depreciation allowable pursuant to section
13 167(a) of the internal revenue code for the taxable year computed as if the
14 election described in section 168(k)(2)(D)(iii) of the internal revenue code
15 had been made for each applicable class of property in the year the property
16 was placed in service.

17 29. With respect to property that is sold or otherwise disposed of
18 during the taxable year by a taxpayer that complied with section 43-1021,
19 paragraph 26 with respect to that property, the amount of depreciation that
20 has been allowed pursuant to section 167(a) of the internal revenue code to
21 the extent that the amount has not already reduced Arizona taxable income in
22 the current or prior taxable years.

23 30. With respect to property for which an adjustment was made under
24 section 43-1021, paragraph 27, an amount equal to one-fifth of the amount of
25 the adjustment pursuant to section 43-1021, paragraph 27 in the year in which
26 the amount was adjusted under section 43-1021, paragraph 27 and in each of
27 the following four years.

28 31. For taxable years beginning from and after December 31, 2007
29 through December 31, 2012, the amount contributed during the taxable year to
30 college savings plans established pursuant to section 529 of the internal
31 revenue code to the extent that the contributions were not deducted in
32 computing federal adjusted gross income. The amount subtracted shall not
33 exceed:

34 (a) Seven hundred fifty dollars for a single individual or a head of
35 household.

36 (b) One thousand five hundred dollars for a married couple filing a
37 joint return. In the case of a husband and wife who file separate returns,
38 the subtraction may be taken by either taxpayer or may be divided between
39 them, but the total subtractions allowed both husband and wife shall not
40 exceed one thousand five hundred dollars.

41 32. To the extent not already excluded from Arizona gross income under
42 the internal revenue code, the amount authorized by section 43-1032 for
43 displaced pupils choice grants.

44 33. The amount of any original issue discount that was deferred and not
45 allowed to be deducted in computing federal adjusted gross income or federal

1 taxable income in the current taxable year pursuant to section 108(i) of the
2 internal revenue code as added by section 1231 of the American recovery and
3 reinvestment act of 2009 (P.L. 111-5).

4 34. The amount of previously deferred discharge of indebtedness income
5 that is included in the computation of federal adjusted gross income or
6 federal taxable income in the current taxable year pursuant to section 108(i)
7 of the internal revenue code as added by section 1231 of the American
8 recovery and reinvestment act of 2009 (P.L. 111-5), to the extent that the
9 amount was previously added to Arizona gross income pursuant to section
10 43-1021, paragraph 33.

11 35. The portion of the net operating loss carryforward that would have
12 been allowed as a deduction in the current year pursuant to section 172 of
13 the internal revenue code if the election described in section 172(b)(1)(H)
14 of the internal revenue code had not been made in the year of the loss that
15 exceeds the actual net operating loss carryforward that was deducted in
16 arriving at federal adjusted gross income. This subtraction only applies to
17 taxpayers who made an election under section 172(b)(1)(H) of the internal
18 revenue code as amended by section 1211 of the American recovery and
19 reinvestment act of 2009 (P.L. 111-5) or as amended by section 13 of the
20 worker, homeownership, and business assistance act of 2009 (P.L. 111-92).

21 36. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2013, THE
22 AMOUNT OF ANY NET CAPITAL GAIN INCLUDED IN FEDERAL ADJUSTED GROSS INCOME FOR
23 THE TAXABLE YEAR DERIVED FROM INVESTMENT IN A QUALIFIED SMALL BUSINESS AS
24 DETERMINED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1518.

25 Sec. 92. Section 43-1024, Arizona Revised Statutes, is amended to
26 read:

27 43-1024. Amortization of private commercial capital investment
28 by qualified defense contractor

29 A. A qualified defense contractor that is certified by the ~~department~~
30 ~~of commerce~~ ARIZONA COMMERCE AUTHORITY under section 41-1508 may elect
31 pursuant to this section to amortize the cost of any new device, machinery,
32 equipment or other capital investment that is used exclusively for private
33 commercial activities in this state. The period of amortization allowed by
34 this section is equal to one-half of the time period allowed pursuant to the
35 internal revenue code for the same class of property. In computing Arizona
36 taxable income, the amortization is allowed as a subtraction ratably over the
37 period allowed by this section beginning with the month in which the device,
38 machinery, equipment or other capital investment is placed in exclusively
39 private commercial service in this state.

40 B. The taxpayer shall make the election under this section by an
41 appropriate statement in the income tax return for the initial taxable
42 year. The taxpayer may also elect to discontinue amortization with respect
43 to the remainder of the amortization period by an appropriate statement in
44 the income tax return for the taxable year in which the election to
45 discontinue is made.

1 C. In determining the adjusted basis for the purposes of subsection A
2 of this section, the device, machinery, equipment or other capital investment
3 shall include only an amount that is properly attributable to constructing,
4 installing or acquiring the device, machinery, equipment or other investment
5 as certified by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY. The
6 taxpayer shall use the adjusted basis determined pursuant to this section in
7 determining the gain on the sale or other disposition of a capital investment
8 that is amortized under this section.

9 D. The subtraction provided by this section is in lieu of any
10 allowance for exhaustion, wear and tear of the property allowed by section
11 167 or 179 of the internal revenue code.

12 Sec. 93. Section 43-1031, Arizona Revised Statutes, is amended to
13 read:

14 43-1031. Subtraction for constructing an energy efficient
15 residence

16 A. For taxable years beginning from and after December 31, 2001
17 through December 31, 2010, in computing Arizona adjusted gross income a
18 taxpayer may subtract five per cent of the sales price, excluding
19 commissions, taxes, interest, points and other brokerage, finance and escrow
20 charges, of one or more new single family residences, condominiums or town
21 houses that are sold by the taxpayer and that exceed the 1995 model energy
22 code by fifty per cent or more as determined by an approved rating program.
23 Rating programs shall meet the United States department of energy's home
24 energy rating system guidelines or other guidelines approved by the
25 ~~department of commerce~~ GOVERNOR'S energy office. The amount of the
26 subtraction shall not exceed five thousand dollars with respect to each new
27 single family residence, condominium or town house.

28 B. The ~~department of commerce~~ GOVERNOR'S energy office shall:

29 1. Annually review the threshold rating used to determine eligibility
30 for the subtraction.

31 2. If the number of homes receiving a subtraction in a single year
32 exceeds five per cent of the new homes built in this state as estimated by
33 the department of commerce, increase the qualifying rating by five per cent
34 for the next taxable year.

35 3. Provide an annual list to the department of revenue of the criteria
36 used to determine an energy efficiency rating that qualifies for a
37 subtraction pursuant to this section.

38 C. The taxpayer may elect to transfer a subtraction under this section
39 to the purchaser of the residence or to the financial institution that
40 secures a mortgage or deed of trust on the residence. If the taxpayer
41 transfers the subtraction, the taxpayer shall deliver to the purchaser or
42 financial institution a written statement that the taxpayer has elected not
43 to claim the subtraction and that the purchaser or financial institution may
44 claim the subtraction, subject to the conditions and limitations prescribed
45 by this section.

1 Sec. 94. Section 43-1042, Arizona Revised Statutes, is amended to
2 read:

3 43-1042. Itemized deductions

4 A. Except as provided by subsections B, D, E and G of this section, at
5 the election of the taxpayer, and in lieu of the standard deduction allowed
6 by section 43-1041, in computing taxable income the taxpayer may take the
7 amount of itemized deductions allowable for the taxable year pursuant to
8 subtitle A, chapter 1, subchapter B, parts VI and VII, but subject to the
9 limitations prescribed by sections 67, 68 and 274, of the internal revenue
10 code.

11 B. In lieu of the amount of the federal itemized deduction for
12 expenses paid for medical care allowed under section 213 of the internal
13 revenue code, the taxpayer may deduct the full amount of such expenses.

14 C. Notwithstanding subsection B of this section, expenses for medical
15 care that are paid or reimbursed from the taxpayer's medical savings account
16 pursuant to section 43-1028 shall not be deducted pursuant to this section.

17 D. A qualified defense contractor that is identified and certified by
18 the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY pursuant to section
19 41-1508 shall not claim both a deduction as provided by this section and a
20 credit under section 43-1078 with respect to the same property taxes paid.

21 E. A taxpayer shall not claim both a deduction provided by this
22 section and a credit allowed by this title with respect to the same
23 charitable contributions.

24 F. The taxpayer may add any interest expense paid by the taxpayer for
25 the taxable year that is equal to the amount of federal credit for interest
26 on certain home mortgages allowed by section 25 of the internal revenue code.

27 G. A taxpayer shall not claim any amount that was deducted pursuant to
28 section 164(b)(6) of the internal revenue code, as added by section 1008 of
29 the American recovery and reinvestment act of 2009 (P.L. 111-5), for
30 qualified motor vehicle taxes.

31 Sec. 95. Title 43, chapter 10, article 5, Arizona Revised Statutes, is
32 amended by adding section 43-1074, to read:

33 43-1074. Credit for new employment

34 A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR NET
35 INCREASES IN FULL-TIME EMPLOYEES HIRED IN QUALIFIED EMPLOYMENT POSITIONS AS
36 CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1525.

37 B. SUBJECT TO SUBSECTION E OF THIS SECTION, THE AMOUNT OF THE CREDIT
38 IS EQUAL TO THREE THOUSAND DOLLARS FOR EACH FULL-TIME EMPLOYEE HIRED FOR THE
39 FULL TAXABLE YEAR IN A QUALIFIED EMPLOYMENT POSITION IN EACH OF THE FIRST
40 THREE YEARS OF EMPLOYMENT, BUT NOT MORE THAN FOUR HUNDRED EMPLOYEES IN ANY
41 TAXABLE YEAR.

42 C. TO QUALIFY FOR A CREDIT UNDER THIS SECTION, THE TAXPAYER AND THE
43 EMPLOYMENT POSITIONS MUST MEET THE REQUIREMENTS PRESCRIBED BY SECTION
44 41-1525.

1 D. A CREDIT IS ALLOWED FOR EMPLOYMENT IN THE SECOND AND THIRD YEAR
2 ONLY FOR QUALIFIED EMPLOYMENT POSITIONS FOR WHICH A CREDIT WAS CLAIMED AND
3 ALLOWED IN THE FIRST YEAR.

4 E. THE NET INCREASE IN THE NUMBER OF QUALIFIED EMPLOYMENT POSITIONS IS
5 THE LESSER OF THE TOTAL NUMBER OF FILLED QUALIFIED EMPLOYMENT POSITIONS
6 CREATED DURING THE TAXABLE YEAR OR THE DIFFERENCE BETWEEN THE AVERAGE NUMBER
7 OF FULL-TIME EMPLOYEES IN THE CURRENT TAX YEAR AND THE AVERAGE NUMBER OF
8 FULL-TIME EMPLOYEES DURING THE IMMEDIATELY PRECEDING TAXABLE YEAR. THE NET
9 INCREASE IN THE NUMBER OF QUALIFIED EMPLOYMENT POSITIONS COMPUTED UNDER THIS
10 SUBSECTION MAY NOT EXCEED FOUR HUNDRED QUALIFIED EMPLOYMENT POSITIONS PER
11 TAXPAYER EACH YEAR.

12 F. A TAXPAYER WHO CLAIMS A CREDIT UNDER SECTION 43-1077, 43-1079 OR
13 43-1083.01 SHALL NOT CLAIM A CREDIT UNDER THIS SECTION WITH RESPECT TO THE
14 SAME EMPLOYMENT POSITIONS.

15 G. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE INCOME TAXES OTHERWISE DUE
16 ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO STATE INCOME TAXES DUE ON THE
17 CLAIMANT'S INCOME, THE AMOUNT OF THE CLAIM NOT USED AS AN OFFSET AGAINST THE
18 INCOME TAXES MAY BE CARRIED FORWARD AS A TAX CREDIT AGAINST SUBSEQUENT YEARS'
19 INCOME TAX LIABILITY FOR A PERIOD NOT EXCEEDING FIVE TAXABLE YEARS.

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

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

36 J. A FAILURE TO TIMELY REPORT AND CERTIFY TO THE ARIZONA COMMERCE
37 AUTHORITY THE INFORMATION PRESCRIBED BY SECTION 41-1525, SUBSECTION D, AND IN
38 THE MANNER PRESCRIBED BY SECTION 41-1525, SUBSECTION E DISQUALIFIES THE
39 TAXPAYER FROM THE CREDIT UNDER THIS SECTION. THE DEPARTMENT SHALL REQUIRE
40 WRITTEN EVIDENCE OF THE TIMELY REPORT TO THE ARIZONA COMMERCE AUTHORITY.

41 K. A TAX CREDIT UNDER THIS SECTION IS SUBJECT TO RECOVERY FOR A
42 VIOLATION DESCRIBED IN SECTION 41-1525, SUBSECTION G.

1 Sec. 96. Section 43-1074.01, Arizona Revised Statutes, as amended by
2 Laws 2010, chapter 289, section 2 and chapter 312, section 3, is amended to
3 read:

4 43-1074.01. Credit for increased research activities

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

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

12 (a) If the excess is two million five hundred thousand dollars or
13 less, the credit is equal to twenty-four per cent of that amount.

14 (b) If the excess is over two million five hundred thousand dollars,
15 the credit is equal to six hundred thousand dollars plus fifteen per cent of
16 any amount exceeding two million five hundred thousand dollars, except that:

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

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

23 (c) **FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2011, AN
24 ADDITIONAL CREDIT AMOUNT IS ALLOWED IF THE TAXPAYER MADE BASIC RESEARCH
25 PAYMENTS DURING THE TAXABLE YEAR TO A UNIVERSITY UNDER THE JURISDICTION OF
26 THE ARIZONA BOARD OF REGENTS. THE ADDITIONAL CREDIT AMOUNT IS EQUAL TO TEN
27 PER CENT OF THE BASIC RESEARCH PAYMENTS THAT CONSTITUTE EXCESS EXPENSES FOR
28 THE TAXABLE YEAR OVER THE BASE AMOUNT. THE DEPARTMENT SHALL NOT ALLOW CREDIT
29 AMOUNTS UNDER THIS SUBDIVISION AND SECTION 43-1168, SUBSECTION A, PARAGRAPH
30 1, SUBDIVISION (d) THAT EXCEED, IN THE AGGREGATE, A COMBINED TOTAL OF TEN
31 MILLION DOLLARS IN ANY CALENDAR YEAR. SUBJECT TO THAT LIMIT, ON APPLICATION
32 BY THE TAXPAYER, THE DEPARTMENT SHALL PREAPPROVE CREDIT AMOUNTS UNDER THIS
33 SUBDIVISION AND SECTION 43-1168, SUBSECTION A, PARAGRAPH 1, SUBDIVISION (d)
34 BASED ON PRIORITY PLACEMENT ESTABLISHED BY THE DATE THAT THE TAXPAYER FILED
35 THE APPLICATION. NOTWITHSTANDING SUBSECTIONS B AND C OF THIS SECTION, ANY
36 AMOUNT OF THE ADDITIONAL CREDIT UNDER THIS SUBDIVISION THAT EXCEEDS THE TAXES
37 OTHERWISE DUE UNDER THIS TITLE IS NOT REFUNDABLE, BUT MAY BE CARRIED FORWARD
38 TO THE NEXT FIVE CONSECUTIVE TAXABLE YEARS. FOR THE PURPOSES OF THIS
39 SUBDIVISION, "BASIC RESEARCH PAYMENTS" HAS THE SAME MEANING PRESCRIBED BY
40 SECTION 41(e) OF THE INTERNAL REVENUE CODE WITHOUT REGARD WHETHER THE
41 TAXPAYER IS OR IS NOT A CORPORATION.**

42 2. Qualified research includes only research conducted in this state
43 including research conducted at a university in this state and paid for by
44 the taxpayer.

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

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

7 5. The termination provisions of section 41 of the internal revenue
8 code do not apply.

9 B. Except as provided by subsection C of this section, if the
10 allowable credit under this section exceeds the taxes otherwise due under
11 this title on the claimant's income, or if there are no taxes due under this
12 title, the amount of the credit not used to offset taxes may be carried
13 forward to the next fifteen consecutive taxable years. The amount of credit
14 carryforward from taxable years beginning from and after December 31, 2000
15 through December 31, 2002 that may be used in any taxable year may not exceed
16 the taxpayer's tax liability under this title or five hundred thousand
17 dollars, whichever is less, minus the credit under this section for the
18 current taxable year's qualified research expenses. The amount of credit
19 carryforward from taxable years beginning from and after December 31, 2002
20 that may be used in any taxable year may not exceed the taxpayer's tax
21 liability under this title minus the credit under this section for the
22 current taxable year's qualified research expenses. A taxpayer who carries
23 forward any amount of credit under this subsection may not thereafter claim a
24 refund of any amount of the credit under subsection C of this section.

25 C. For taxable years beginning from and after December 31, 2009, if a
26 taxpayer who claims a credit under this section employs fewer than one
27 hundred fifty persons in the taxpayer's trade or business and if the
28 allowable credit under this section 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, in lieu of carrying the excess amount of credit forward to subsequent
31 taxable years under subsection B of this section, the taxpayer may elect to
32 receive a refund as follows:

33 1. The taxpayer must apply to the department of commerce for
34 qualification for the refund pursuant to section 41-1507 and submit a copy of
35 the department of commerce's certificate of qualification to the department
36 of revenue with the taxpayer's income tax return.

37 2. The amount of the refund is limited to seventy-five per cent of the
38 amount by which the allowable credit under this section exceeds the
39 taxpayer's tax liability under this title for the taxable year. The
40 remainder of the excess amount of the credit is waived.

41 3. The refund shall be paid in the manner prescribed by section
42 42-1118.

43 4. The refund is subject to setoff under section 42-1122.

1 5. If the department determines that a credit refunded pursuant to
2 this subsection is incorrect or invalid, the excess credit issued may be
3 treated as a tax deficiency pursuant to section 42-1108.

4 D. A taxpayer that claims a credit for increased research and
5 development activity under this section shall not claim a credit under
6 section 43-1085.01 for the same expenses.

7 Sec. 97. Section 43-1074.01, Arizona Revised Statutes, as amended by
8 Laws 2010, chapter 289, section 3 and chapter 312, section 4, is amended to
9 read:

10 43-1074.01. Credit for increased research activities

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

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

18 (a) If the excess is two million five hundred thousand dollars or
19 less, the credit is equal to twenty per cent of that amount.

20 (b) If the excess is over two million five hundred thousand dollars,
21 the credit is equal to five hundred thousand dollars plus eleven per cent of
22 any amount exceeding two million five hundred thousand dollars, except that:

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

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

29 (c) FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2011, AN
30 ADDITIONAL CREDIT AMOUNT IS ALLOWED IF THE TAXPAYER MADE BASIC RESEARCH
31 PAYMENTS DURING THE TAXABLE YEAR TO A UNIVERSITY UNDER THE JURISDICTION OF
32 THE ARIZONA BOARD OF REGENTS. THE ADDITIONAL CREDIT AMOUNT IS EQUAL TO TEN
33 PER CENT OF THE BASIC RESEARCH PAYMENTS THAT CONSTITUTE EXCESS EXPENSES FOR
34 THE TAXABLE YEAR OVER THE BASE AMOUNT. THE DEPARTMENT SHALL NOT ALLOW CREDIT
35 AMOUNTS UNDER THIS SUBDIVISION AND SECTION 43-1168, SUBSECTION A, PARAGRAPH
36 1, SUBDIVISION (d) THAT EXCEED, IN THE AGGREGATE, A COMBINED TOTAL OF TEN
37 MILLION DOLLARS IN ANY CALENDAR YEAR. SUBJECT TO THAT LIMIT, ON APPLICATION
38 BY THE TAXPAYER, THE DEPARTMENT SHALL PREAPPROVE CREDIT AMOUNTS UNDER THIS
39 SUBDIVISION AND SECTION 43-1168, SUBSECTION A, PARAGRAPH 1, SUBDIVISION (d)
40 BASED ON PRIORITY PLACEMENT ESTABLISHED BY THE DATE THAT THE TAXPAYER FILED
41 THE APPLICATION. NOTWITHSTANDING SUBSECTIONS B AND C OF THIS SECTION, ANY
42 AMOUNT OF THE ADDITIONAL CREDIT UNDER THIS SUBDIVISION THAT EXCEEDS THE TAXES
43 OTHERWISE DUE UNDER THIS TITLE IS NOT REFUNDABLE, BUT MAY BE CARRIED FORWARD
44 TO THE NEXT FIVE CONSECUTIVE TAXABLE YEARS. FOR THE PURPOSES OF THIS
45 SUBDIVISION, "BASIC RESEARCH PAYMENTS" HAS THE SAME MEANING PRESCRIBED BY

1 SECTION 41(e) OF THE INTERNAL REVENUE CODE WITHOUT REGARD WHETHER THE
2 TAXPAYER IS OR IS NOT A CORPORATION.

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

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

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

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

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

30 C. For taxable years beginning from and after December 31, 2009, if a
31 taxpayer who claims a credit under this section employs fewer than one
32 hundred fifty persons in the taxpayer's trade or business and if the
33 allowable credit under this section exceeds the taxes otherwise due under
34 this title on the claimant's income, or if there are no taxes due under this
35 title, in lieu of carrying the excess amount of credit forward to subsequent
36 taxable years under subsection B of this section, the taxpayer may elect to
37 receive a refund as follows:

38 1. The taxpayer must apply to the department of commerce for
39 qualification for the refund pursuant to section 41-1507 and submit a copy of
40 the department of commerce's certificate of qualification to the department
41 of revenue with the taxpayer's income tax return.

42 2. The amount of the refund is limited to seventy-five per cent of the
43 amount by which the allowable credit under this section exceeds the
44 taxpayer's tax liability under this title for the taxable year. The
45 remainder of the excess amount of the credit is waived.

1 3. The refund shall be paid in the manner prescribed by section
2 42-1118.

3 4. The refund is subject to setoff under section 42-1122.

4 5. If the department determines that a credit refunded pursuant to
5 this subsection is incorrect or invalid, the excess credit issued may be
6 treated as a tax deficiency pursuant to section 42-1108.

7 D. A taxpayer that claims a credit for increased research and
8 development activity under this section shall not claim a credit under
9 section 43-1085.01 for the same expenses.

10 Sec. 98. Section 43-1074.02, Arizona Revised Statutes, is amended to
11 read:

12 43-1074.02. Credit for investment in qualified small businesses

13 A. For taxable years beginning from and after December 31, 2006
14 through December 31, ~~2014~~ 2019, a credit is allowed against the taxes imposed
15 by this title for investment made after June 30, 2006 in qualified small
16 businesses. The amount of the credit is the amount determined and authorized
17 by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY as provided by
18 section 41-1518.

19 B. To claim the credit under this section, the taxpayer shall attach
20 to its tax return a copy of the ~~department of commerce~~ ARIZONA COMMERCE
21 AUTHORITY certification provided pursuant to section 41-1518. No credit is
22 allowed under this section unless the taxpayer provides the certification.

23 C. The basis of any investment with respect to which the taxpayer has
24 claimed a credit under this section shall be reduced by the amount of the
25 credit claimed with respect to that investment.

26 D. If the allowable tax credit exceeds the taxes due under this title
27 on the claimant's income, or if there are no taxes due under this title, the
28 amount of the claim not used to offset the taxes under this title may be
29 carried forward to the next three consecutive taxable years as a credit
30 against subsequent years' income tax liability.

31 E. Individuals who are co-owners of a business, including partners in
32 a partnership and shareholders of an S corporation as defined in section 1361
33 of the internal revenue code, may each claim only their individual pro rata
34 shares of the credit allowed under this section based on their ownership
35 interests. The total of the credits allowed all such owners may not exceed
36 the amount that would have been allowed a sole owner.

37 F. If the department of revenue determines that there has been a
38 misrepresentation on an application submitted to the ~~department of commerce~~
39 ARIZONA COMMERCE AUTHORITY under section 41-1518, the department of revenue
40 shall deny the credit if the misrepresentation relates to whether the
41 applicant was a qualified investor or made a qualified investment. If the
42 misrepresentation relates to whether the investment was made to:

43 1. A qualified small business, the department of revenue shall deny
44 the credit only if the applicant knew or should have known at any time before
45 the certification that the representation was false.

1 2. A bioscience enterprise or a business that maintains its principal
2 place of business in a rural county in this state, the department of revenue
3 shall decrease the amount of the credit that would have been allowed only if
4 the applicant knew or should have known at any time before the certification
5 that the representation was false.

6 Sec. 99. Section 43-1076, Arizona Revised Statutes, is amended to
7 read:

8 43-1076. Credit for employment by a healthy forest enterprise

9 A. For taxable years beginning from and after December 31, 2004
10 through December 31, 2014, a credit is allowed against the taxes imposed by
11 this title for net increases in qualified employment positions by a qualified
12 business that is certified by the ~~department of commerce~~ ARIZONA COMMERCE
13 AUTHORITY as a healthy forest enterprise pursuant to section 41-1516.

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

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

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

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

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

26 1. The business must employ at least three new full-time employees in
27 qualified employment positions in the first taxable year in which the credit
28 is claimed.

29 2. All of the employees with respect to whom a credit is claimed must
30 reside in this state on the date of hire.

31 3. A qualified employment position must meet all of the following
32 requirements:

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

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

41 (c) 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 (d) 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

1 ninety days of the taxable year shall be considered a new employee during the
2 next taxable year. A qualified employment position that is filled during the
3 last ninety days of the taxable year is considered to be a new qualified
4 employment position for the next taxable year.

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

7 4. The employer shall provide health insurance coverage for employees
8 as follows:

9 (a) The employer shall pay:

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

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

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

27 (b) An employer shall not reduce the amount of health insurance
28 coverage provided to employees before certification by the ~~department of~~
29 ~~commerce~~ ARIZONA COMMERCE AUTHORITY.

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

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

41 F. 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 employees.

44 G. If the allowable tax credit exceeds the income taxes otherwise due
45 on the claimant's income, or if there are no state income taxes due on the

1 claimant's income, the amount of the claim not used as an offset against
2 income taxes may be carried forward as a tax credit against subsequent years'
3 income tax liability for the period not to exceed five taxable years,
4 provided the business maintains its certification under section 41-1516.

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

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

21 J. If, within five taxable years after first receiving a credit
22 pursuant to this section, the certification of qualification of a business is
23 terminated or revoked under section 41-1516 other than for reasons beyond the
24 control of the business as determined by the ~~department of commerce~~ ARIZONA
25 COMMERCE AUTHORITY, the credits allowed the business pursuant to this section
26 are subject to recapture pursuant to this subsection. This subsection
27 applies only in the case of the termination or revocation of a certification
28 of qualification. This subsection does not apply if, in any taxable year, a
29 taxpayer otherwise does not qualify for or fails to claim the credit under
30 this section. The recapture of credits under this subsection is computed by
31 increasing the amount of taxes imposed in the year following the year in
32 which the qualification of the business was terminated or revoked by an
33 amount determined by multiplying the full amount of all credits previously
34 allowed under this section by a percentage determined as follows:

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

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

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

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

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

7 Sec. 100. Section 43-1077, Arizona Revised Statutes, is amended to
8 read:

9 43-1077. Credit for employment by qualified defense contractor

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

11 1. Net increases in employment under United States department of
12 defense contracts during the taxable year, as computed under subsection D of
13 this section, by a qualified defense contractor who is certified by the
14 ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY under section 41-1508.

15 2. Net increases in private commercial employment during the taxable
16 year, as computed under subsection E of this section, by a qualified defense
17 contractor who is certified by the ~~department of commerce~~ ARIZONA COMMERCE
18 AUTHORITY under section 41-1508 due to full-time equivalent employee
19 positions transferred during the taxable year by the taxpayer from
20 exclusively defense related activities to employment by the taxpayer in
21 exclusively private commercial activities.

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

24 1st year	\$2,500
25 2nd year	\$2,000
26 3rd year	\$1,500
27 4th year	\$1,000
28 5th year	\$ 500

29 C. If the allowable tax credit exceeds the taxes otherwise due under
30 this title on the claimant's income, or if there are no taxes due under this
31 title, the taxpayer may carry the amount of the claim not used to offset the
32 taxes under this title forward until taxable years beginning from and after
33 December 31, 2011 as a credit against subsequent years' income tax liability,
34 regardless of continuing certification as a qualified defense contractor.

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

37 1. Establish an employment baseline for the taxpayer based on a
38 multiyear forecast of employment on United States department of defense
39 contracts that was submitted to the department of defense before June 1,
40 1992. The annual average employment forecast for the first year the taxpayer
41 qualified is the baseline. If the taxpayer did not make such a forecast
42 before June 1, 1992, the baseline is the average annual employment as
43 reported to the department of economic security during the preceding taxable
44 year. If a taxpayer qualifies in the same year it relocates into this state,
45 the taxpayer's baseline is zero.

1 ARIZONA COMMERCE AUTHORITY under section 41-1508, on property in this state
2 that is classified as class one, paragraphs 12 and 13 pursuant to section
3 42-12001.

4 B. The amount of the credit is determined as follows:

5 1. Multiply the amount paid as taxes on property classified as class
6 one, paragraphs 12 and 13 pursuant to section 42-12001 in this state during
7 the taxable year by a percentage based on net new defense related employment,
8 determined by subtracting the employment baseline determined pursuant to
9 section 43-1077, subsection D, paragraph 1, from average annual employment as
10 reported to the department of economic security for the taxable year, as
11 follows:

<u>New employment</u>	<u>Credit percentage</u>
More than 900	40%
601 - 900	30%
301 - 600	20%
1 - 300	10%

17 2. Multiply the amount determined under paragraph 1 of this subsection
18 by a percentage determined by dividing the taxpayer's total gross income from
19 United States department of defense contracts apportioned to this state by
20 the taxpayer's total gross income from all sources apportioned to this state.

21 C. If the allowable tax credit exceeds the taxes otherwise due under
22 this title on the claimant's income, or if there are no taxes due under this
23 title, the taxpayer may carry the amount of the claim not used to offset the
24 taxes under this title forward until taxable years beginning from and after
25 December 31, 2011 as a credit against subsequent years' income tax liability,
26 regardless of continuing certification as a qualified defense contractor.

27 D. The credit allowed by this section is in lieu of a deduction for
28 property taxes under section 43-1042 with respect to the same taxes paid.

29 E. 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 may not exceed the amount that would have been
34 allowed for a sole owner of the business.

35 Sec. 102. Section 43-1079, Arizona Revised Statutes, is amended to
36 read:

37 43-1079. Credit for increased employment in military reuse
38 zones; definition

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

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

3 1st year of employment	\$ 500
4 2nd year of employment	\$1,000
5 3rd year of employment	\$1,500
6 4th year of employment	\$2,000
7 5th year of employment	\$2,500

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

9 1st year of employment	\$1,000
10 2nd year of employment	\$1,500
11 3rd year of employment	\$2,000
12 4th year of employment	\$2,500
13 5th year of employment	\$3,000

14 B. 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 amount of the claim not used to offset the taxes under this title
17 may be carried forward as a credit against subsequent years' income tax
18 liability for the period, not to exceed five taxable years, if the business
19 remains in the military reuse zone.

20 C. The net increase in the number of employees for purposes of this
21 section shall be determined by comparing the taxpayer's average employment in
22 the military reuse zone during the taxable year with the taxpayer's previous
23 year's fourth quarter employment in the zone, based on the taxpayer's report
24 to the department of economic security for unemployment insurance purposes
25 but considering only employment in the zone.

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

32 E. A credit is not allowed under this section with respect to an
33 employee whose place of employment is relocated by the taxpayer from a
34 location in this state to the military reuse zone, unless the employee is
35 engaged in aviation or aerospace services or in manufacturing, assembling or
36 fabricating aviation or aerospace products and the taxpayer maintains at
37 least the same number of employees in this state but outside the zone.

38 F. A taxpayer who claims a credit under section 43-1074, 43-1077 or
39 43-1083.01 may not claim a credit under this section with respect to the same
40 employees.

41 G. For the purposes of this section, "dislocated military base
42 employee" means a civilian who previously had permanent full-time civilian
43 employment on the military facility as of the date the closure of the
44 facility was finally determined under federal law, as certified by the
45 ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY.

1 Sec. 103. Section 43-1083.01, Arizona Revised Statutes, is amended to
2 read:

3 43-1083.01. Credit for renewable energy industry

4 A. For taxable years beginning from and after December 31, 2009
5 through December 31, 2014, a credit is allowed against the taxes imposed by
6 this title for qualified investment and employment in expanding or locating
7 qualified renewable energy operations in this state. To qualify for the
8 credit, the taxpayer must invest in renewable energy manufacturing, or in new
9 regional, national or global renewable energy business headquarters, in this
10 state and produce new full-time employment positions where the job duties are
11 performed at the location of the qualifying investment. The taxpayer must
12 meet the employee compensation and employee health benefit requirements
13 prescribed by section 41-1511.

14 B. The amount of the credit is computed as follows:

15 1. Ten per cent of the taxpayer's total capital investment in projects
16 meeting the following minimum employment requirements:

17 (a) For qualifying renewable energy manufacturing operations, at least
18 one and one-half new full-time employment positions for each five hundred
19 thousand dollar increment of capital investment.

20 (b) For qualifying renewable energy business headquarters, at least
21 one new full-time employment position for each two hundred thousand dollar
22 increment of capital investment.

23 2. For other qualifying renewable energy investment, ten per cent of
24 the amount computed as follows:

25 (a) Five hundred thousand dollars for each one and one-half new
26 full-time employment positions in new renewable energy manufacturing
27 operations.

28 (b) Two hundred thousand dollars for each new full-time employment
29 position at a new renewable energy 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 amount of the credit shall not exceed the postapproval amount
33 determined by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY under
34 section 41-1511, subsection P.

35 4. The credit amount computed under paragraph 1 or 2 of this
36 subsection is apportioned, and the taxpayer shall claim the credit in five
37 equal annual installments in each of five consecutive taxable years.

38 C. To claim the credit the taxpayer must:

39 1. Conduct a business that qualifies under section 41-1511.

40 2. Receive preapproval and postapproval from the ~~department of~~
41 ~~commerce~~ ARIZONA COMMERCE AUTHORITY pursuant to section 41-1511.

42 3. Submit a copy of a current and valid certification of qualification
43 issued to the taxpayer by the ~~department of commerce~~ ARIZONA COMMERCE
44 AUTHORITY.

1 D. To be counted for the purposes of the credit, an employee must have
2 been employed at the qualifying facility for at least ninety days during the
3 taxable year in a permanent full-time employment position of at least one
4 thousand seven hundred fifty hours per year. An employee who is hired during
5 the last ninety days of the taxable year shall be considered a new employee
6 during the next taxable year. To be counted for the purposes of the credit
7 during the first taxable year of employment, the employee must not have been
8 previously employed by the taxpayer within twelve months before the current
9 date of hire. The terms of employment must comply in all cases with the
10 requirements of section 41-1511 and certification by the ~~department of~~
11 ~~commerce~~ ARIZONA COMMERCE AUTHORITY.

12 E. Co-owners of a business, including partners in a partnership,
13 members of a limited liability company and shareholders of an S corporation,
14 as defined in section 1361 of the internal revenue code, may each claim only
15 the pro rata share of the credit allowed under this section based on the
16 ownership interest. The total of the credits allowed all owners of the
17 business may not exceed the amount that would have been allowed for a sole
18 owner of the business.

19 F. If the allowable tax credit for a taxable year exceeds the income
20 taxes otherwise due on the claimant's income, or if there are no state income
21 taxes due on the claimant's income, the amount of the claim not used as an
22 offset against income taxes shall be paid to the taxpayer in the same manner
23 as a refund under section 42-1118. Refunds made pursuant to this subsection
24 are subject to setoff under section 42-1122. If the department determines
25 that a refund is incorrect or invalid, the excess refund may be treated as a
26 tax deficiency pursuant to section 42-1108.

27 G. Except as provided by subsection H of this section, if, within five
28 taxable years after first receiving a credit pursuant to this section, the
29 certification of qualification of a business is terminated or revoked under
30 section 41-1511, other than for reasons beyond the control of the business as
31 determined by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY, the
32 taxpayer is disqualified from credits under this section in subsequent
33 taxable years. On a determination that the taxpayer has committed fraud or
34 relocated outside of this state within five taxable years of first receiving
35 a credit pursuant to this section, the credits allowed the taxpayer in all
36 taxable years pursuant to this section are subject to recapture pursuant to
37 this subsection. This subsection applies only in the case of the termination
38 or revocation of a certification of qualification under section
39 41-1511. This subsection does not apply if, in any taxable year, a taxpayer
40 otherwise does not qualify for or fails to claim the credit under this
41 section. The recapture of credits is computed by increasing the amount of
42 taxes imposed in the year following the year of termination or revocation by
43 the full amount of all credits previously allowed under this section.

1 H. A taxpayer who claims a credit under section 43-1074, 43-1077 or
2 43-1079 may not claim a credit under this section with respect to the same
3 full-time employment positions.

4 I. The department of revenue shall adopt rules and prescribe forms and
5 procedures as necessary for the purposes of this section. The department of
6 revenue and the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY shall
7 collaborate in adopting rules as necessary to avoid duplication and
8 contradictory requirements while accomplishing the intent and purposes of
9 this section.

10 J. For the purposes of this section, renewable energy operations are
11 limited to manufacturers of, and headquarters for, systems and components
12 that are used or useful in manufacturing renewable energy equipment for the
13 generation, storage, testing and research and development, transmission or
14 distribution of electricity from renewable resources, including specialized
15 crates necessary to package the renewable energy equipment manufactured at
16 the facility.

17 Sec. 104. Repeal

18 Section 43-1088.01, Arizona Revised Statutes, is repealed.

19 Sec. 105. Section 43-1111, Arizona Revised Statutes, is amended to
20 read:

21 43-1111. Tax rates for corporations

22 There shall be levied, collected and paid for each taxable year upon
23 the entire Arizona taxable income of every corporation, unless exempt under
24 section 43-1126 or 43-1201 or as otherwise provided in this title or by law,
25 taxes in an amount of ~~6.968 per cent of net income or fifty dollars,~~
26 ~~whichever is greater.~~ THE GREATER OF FIFTY DOLLARS OR:

27 1. FOR TAXABLE YEARS BEGINNING THROUGH DECEMBER 31, 2013, 6.968 PER
28 CENT OF NET INCOME.

29 2. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2013
30 THROUGH DECEMBER 31, 2014, 6.5 PER CENT OF NET INCOME.

31 3. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2014
32 THROUGH DECEMBER 31, 2015, 6.0 PER CENT OF NET INCOME.

33 4. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2015
34 THROUGH DECEMBER 31, 2016, 5.5 PER CENT OF NET INCOME.

35 5. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2016, 4.9
36 PER CENT OF NET INCOME.

37 Sec. 106. Section 43-1139, Arizona Revised Statutes, is amended to
38 read:

39 43-1139. Allocation of business income

40 A. Except as provided in subsection B of this section, the taxpayer
41 shall elect to apportion all business income to this state for taxable years
42 beginning from and after:

43 1. December 31, 2006 through December 31, 2007 by either:

1 (a) Multiplying the income by a fraction, the numerator of which is
2 the property factor plus the payroll factor plus two times the sales factor,
3 and the denominator of which is four.

4 (b) Multiplying the income by a fraction, the numerator of which is
5 two times the property factor plus two times the payroll factor plus six
6 times the sales factor, and the denominator of which is ten.

7 2. December 31, 2007 through December 31, 2008 by either:

8 (a) Multiplying the income by a fraction, the numerator of which is
9 the property factor plus the payroll factor plus two times the sales factor,
10 and the denominator of which is four.

11 (b) Multiplying the income by a fraction, the numerator of which is
12 one and one-half times the property factor plus one and one-half times the
13 payroll factor plus seven times the sales factor, and the denominator of
14 which is ten.

15 3. December 31, 2008 THROUGH DECEMBER 31, 2013 by either:

16 (a) Multiplying the income by a fraction, the numerator of which is
17 the property factor plus the payroll factor plus two times the sales factor,
18 and the denominator of which is four.

19 (b) Multiplying the income by a fraction, the numerator of which is
20 the property factor plus the payroll factor plus eight times the sales
21 factor, and the denominator of which is ten.

22 4. DECEMBER 31, 2013 THROUGH DECEMBER 31, 2014 BY EITHER:

23 (a) MULTIPLYING THE INCOME BY A FRACTION, THE NUMERATOR OF WHICH IS
24 THE PROPERTY FACTOR PLUS THE PAYROLL FACTOR PLUS TWO TIMES THE SALES FACTOR,
25 AND THE DENOMINATOR OF WHICH IS FOUR.

26 (b) MULTIPLYING THE INCOME BY A FRACTION, THE NUMERATOR OF WHICH IS
27 SEVEN AND ONE-HALF TIMES THE PROPERTY FACTOR PLUS SEVEN AND ONE-HALF TIMES
28 THE PAYROLL FACTOR PLUS EIGHTY-FIVE TIMES THE SALES FACTOR, AND THE
29 DENOMINATOR OF WHICH IS ONE HUNDRED.

30 5. DECEMBER 31, 2014 THROUGH DECEMBER 31, 2015 BY EITHER:

31 (a) MULTIPLYING THE INCOME BY A FRACTION, THE NUMERATOR OF WHICH IS
32 THE PROPERTY FACTOR PLUS THE PAYROLL FACTOR PLUS TWO TIMES THE SALES FACTOR,
33 AND THE DENOMINATOR OF WHICH IS FOUR.

34 (b) MULTIPLYING THE INCOME BY A FRACTION, THE NUMERATOR OF WHICH IS
35 FIVE TIMES THE PROPERTY FACTOR PLUS FIVE TIMES THE PAYROLL FACTOR PLUS NINETY
36 TIMES THE SALES FACTOR, AND THE DENOMINATOR OF WHICH IS ONE HUNDRED.

37 6. DECEMBER 31, 2015 THROUGH DECEMBER 31, 2016 BY EITHER:

38 (a) MULTIPLYING THE INCOME BY A FRACTION, THE NUMERATOR OF WHICH IS
39 THE PROPERTY FACTOR PLUS THE PAYROLL FACTOR PLUS TWO TIMES THE SALES FACTOR,
40 AND THE DENOMINATOR OF WHICH IS FOUR.

41 (b) MULTIPLYING THE INCOME BY A FRACTION, THE NUMERATOR OF WHICH IS
42 TWO AND ONE-HALF TIMES THE PROPERTY FACTOR PLUS TWO AND ONE-HALF TIMES THE
43 PAYROLL FACTOR PLUS NINETY-FIVE TIMES THE SALES FACTOR, AND THE DENOMINATOR
44 OF WHICH IS ONE HUNDRED.

45 7. DECEMBER 31, 2016 BY EITHER:

1 (a) MULTIPLYING THE INCOME BY A FRACTION, THE NUMERATOR OF WHICH IS
2 THE PROPERTY FACTOR PLUS THE PAYROLL FACTOR PLUS TWO TIMES THE SALES FACTOR,
3 AND THE DENOMINATOR OF WHICH IS FOUR.

4 (b) MULTIPLYING THE INCOME BY THE SALES FACTOR.

5 B. All business income of a taxpayer engaged in air commerce shall be
6 apportioned to this state by multiplying the income by a fraction, the
7 numerator of which is the revenue aircraft miles flown within this state for
8 flights beginning or ending in this state and the denominator of which is the
9 total revenue aircraft miles flown by the taxpayer's aircraft everywhere.
10 This subsection applies to each taxpayer, including a combined group filing a
11 combined return or an affiliated group electing to file a consolidated return
12 under section 43-947, if fifty per cent or more of that taxpayer's gross
13 income is derived from air commerce. For the purposes of this subsection:

14 1. "Air commerce" means transporting persons or property for hire by
15 aircraft in interstate, intrastate or international transportation.

16 2. "Revenue aircraft miles flown" has the same meaning prescribed by
17 the United States department of transportation uniform system of accounts and
18 reports for large certificated air carriers (14 Code of Federal Regulations
19 part 241).

20 Sec. 107. Title 43, chapter 11, article 6, Arizona Revised Statutes,
21 is amended by adding section 43-1161, to read:

22 43-1161. Credit for new employment

23 A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR NET
24 INCREASES IN FULL-TIME EMPLOYEES HIRED IN QUALIFIED EMPLOYMENT POSITIONS AS
25 CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1525.

26 B. SUBJECT TO SUBSECTION E OF THIS SECTION, THE AMOUNT OF THE CREDIT
27 IS EQUAL TO THREE THOUSAND DOLLARS FOR EACH FULL-TIME EMPLOYEE HIRED FOR THE
28 FULL TAXABLE YEAR IN A QUALIFIED EMPLOYMENT POSITION IN EACH OF THE FIRST
29 THREE YEARS OF EMPLOYMENT, BUT NOT MORE THAN FOUR HUNDRED EMPLOYEES IN ANY
30 TAXABLE YEAR.

31 C. TO QUALIFY FOR A CREDIT UNDER THIS SECTION, THE TAXPAYER AND THE
32 EMPLOYMENT POSITIONS MUST MEET THE REQUIREMENTS PRESCRIBED BY SECTION
33 41-1525.

34 D. A CREDIT IS ALLOWED FOR EMPLOYMENT IN THE SECOND AND THIRD YEAR
35 ONLY FOR QUALIFIED EMPLOYMENT POSITIONS FOR WHICH A CREDIT WAS CLAIMED AND
36 ALLOWED IN THE FIRST YEAR.

37 E. THE NET INCREASE IN THE NUMBER OF QUALIFIED EMPLOYMENT POSITIONS IS
38 THE LESSER OF THE TOTAL NUMBER OF FILLED QUALIFIED EMPLOYMENT POSITIONS
39 CREATED DURING THE TAXABLE YEAR OR THE DIFFERENCE BETWEEN THE AVERAGE NUMBER
40 OF FULL-TIME EMPLOYEES IN THE CURRENT TAX YEAR AND THE AVERAGE NUMBER OF
41 FULL-TIME EMPLOYEES DURING THE IMMEDIATELY PRECEDING TAXABLE YEAR. THE NET
42 INCREASE IN THE NUMBER OF QUALIFIED EMPLOYMENT POSITIONS COMPUTED UNDER THIS
43 SUBSECTION MAY NOT EXCEED FOUR HUNDRED QUALIFIED EMPLOYMENT POSITIONS PER
44 TAXPAYER EACH YEAR.

1 F. A TAXPAYER WHO CLAIMS A CREDIT UNDER SECTION 43-1164.01, 43-1165 OR
2 43-1167 SHALL NOT CLAIM A CREDIT UNDER THIS SECTION WITH RESPECT TO THE SAME
3 EMPLOYMENT POSITIONS.

4 G. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE INCOME TAXES OTHERWISE DUE
5 ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO STATE INCOME TAXES DUE ON THE
6 CLAIMANT'S INCOME, THE AMOUNT OF THE CLAIM NOT USED AS AN OFFSET AGAINST THE
7 INCOME TAXES MAY BE CARRIED FORWARD AS A TAX CREDIT AGAINST SUBSEQUENT YEARS'
8 INCOME TAX LIABILITY FOR A PERIOD NOT EXCEEDING FIVE TAXABLE YEARS.

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

14 I. IF THE BUSINESS IS SOLD OR CHANGES OWNERSHIP THROUGH
15 REORGANIZATION, STOCK PURCHASE OR MERGER, THE NEW TAXPAYER MAY CLAIM FIRST
16 YEAR CREDITS ONLY FOR THE QUALIFIED EMPLOYMENT POSITIONS THAT IT CREATED AND
17 FILLED WITH AN ELIGIBLE EMPLOYEE AFTER THE PURCHASE OR REORGANIZATION WAS
18 COMPLETE. IF A PERSON PURCHASES A TAXPAYER THAT HAD QUALIFIED FOR FIRST OR
19 SECOND YEAR CREDITS OR CHANGES OWNERSHIP THROUGH REORGANIZATION, STOCK
20 PURCHASE OR MERGER, THE NEW TAXPAYER MAY CLAIM THE SECOND OR THIRD YEAR
21 CREDITS IF IT MEETS OTHER ELIGIBILITY REQUIREMENTS OF THIS SECTION. CREDITS
22 FOR WHICH A TAXPAYER QUALIFIED BEFORE THE CHANGES DESCRIBED IN THIS
23 SUBSECTION ARE TERMINATED AND LOST AT THE TIME THE CHANGES ARE IMPLEMENTED.

24 J. A FAILURE TO TIMELY REPORT AND CERTIFY TO THE ARIZONA COMMERCE
25 AUTHORITY THE INFORMATION PRESCRIBED BY SECTION 41-1525, SUBSECTION D, AND IN
26 THE MANNER PRESCRIBED BY SECTION 41-1525, SUBSECTION E DISQUALIFIES THE
27 TAXPAYER FROM THE CREDIT UNDER THIS SECTION. THE DEPARTMENT SHALL REQUIRE
28 WRITTEN EVIDENCE OF THE TIMELY REPORT TO THE ARIZONA COMMERCE AUTHORITY.

29 K. A TAX CREDIT UNDER THIS SECTION IS SUBJECT TO RECOVERY FOR A
30 VIOLATION DESCRIBED IN SECTION 41-1525, SUBSECTION G.

31 Sec. 108. Section 43-1162, Arizona Revised Statutes, is amended to
32 read:

33 43-1162. Credit for employment by a healthy forest enterprise

34 A. For taxable years beginning from and after December 31, 2004
35 through December 31, 2014, a credit is allowed against the taxes imposed by
36 this title for net increases in qualified employment positions by a qualified
37 business that is certified by the ~~department of commerce~~ ARIZONA COMMERCE
38 AUTHORITY as a healthy forest enterprise pursuant to section 41-1516.

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

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

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

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

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

8 1. The business must employ at least three new full-time employees in
9 qualified employment positions in the first taxable year in which the credit
10 is claimed.

11 2. All of the employees with respect to whom a credit is claimed must
12 reside in this state on the date of hire.

13 3. A qualified employment position must meet all of the following
14 requirements:

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

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

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

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

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

34 4. The employer shall provide health insurance coverage for employees
35 as follows:

36 (a) The employer shall pay:

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

43 (ii) At least forty per cent of the premium or membership cost in the
44 fourth year the taxpayer claims a credit under this section. If the taxpayer
45 is self-insured, the taxpayer must pay at least forty per cent of a

1 predetermined fixed cost per employee for an insurance program that is
2 payable whether or not the employee has filed claims.

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

9 (b) An employer shall not reduce the amount of health insurance
10 coverage provided to employees before certification by the ~~department of~~
11 ~~commerce~~ ARIZONA COMMERCE AUTHORITY.

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

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

23 F. A taxpayer who claims a credit under section 43-1161, 43-1165 or
24 43-1167 may not claim a credit under this section with respect to the same
25 employees.

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

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

37 I. If a qualified business changes ownership through reorganization,
38 stock purchase or merger, the new taxpayer may claim first year credits only
39 for one or more qualified employment positions that it created and filled
40 with an eligible employee after the purchase or reorganization was
41 complete. If a person purchases a business that had qualified for first or
42 second year credits or changes ownership through reorganization, stock
43 purchase or merger, the new taxpayer may claim the second or third year
44 credits if it meets the other eligibility requirements of this section.

1 Credits for which a taxpayer qualified before the changes described in this
2 subsection are terminated and lost at the time the changes are implemented.

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

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

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

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

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

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

33 Sec. 109. Section 43-1164.01, Arizona Revised Statutes, is amended to
34 read:

35 43-1164.01. Credit for renewable energy industry

36 A. For taxable years beginning from and after December 31, 2009
37 through December 31, 2014, a credit is allowed against the taxes imposed by
38 this title for qualified investment and employment in expanding or locating
39 qualified renewable energy operations in this state. To qualify for the
40 credit, the taxpayer must invest in renewable energy manufacturing, or in new
41 regional, national or global renewable energy business headquarters, in this
42 state and produce new full-time employment positions where the job duties are
43 performed at the location of the qualifying investment. The taxpayer must
44 meet the employee compensation and employee health benefit requirements
45 prescribed by section 41-1511.

- 1 B. The amount of the credit is computed as follows:
- 2 1. Ten per cent of the taxpayer's total capital investment in projects
- 3 meeting the following minimum employment requirements:
- 4 (a) For qualifying renewable energy manufacturing operations, at least
- 5 one and one-half new full-time employment positions for each five hundred
- 6 thousand dollar increment of capital investment.
- 7 (b) For qualifying renewable energy business headquarters, at least
- 8 one new full-time employment position for each two hundred thousand dollar
- 9 increment of capital investment.
- 10 2. For other qualifying renewable energy investment, ten per cent of
- 11 the amount computed as follows:
- 12 (a) Five hundred thousand dollars for each one and one-half new
- 13 full-time employment positions in new renewable energy manufacturing
- 14 operations.
- 15 (b) Two hundred thousand dollars for each new full-time employment
- 16 position at a new renewable energy business headquarters.
- 17 (c) The amount of credit under this paragraph shall not exceed ten per
- 18 cent of the amount of the taxpayer's total capital investment.
- 19 3. The amount of the credit shall not exceed the postapproval amount
- 20 determined by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY under
- 21 section 41-1511, subsection P.
- 22 4. The credit amount computed under paragraph 1 or 2 of this
- 23 subsection is apportioned, and the taxpayer shall claim the credit in five
- 24 equal annual installments in each of five consecutive taxable years.
- 25 C. To claim the credit the taxpayer must:
- 26 1. Conduct a business that qualifies under section 41-1511.
- 27 2. Receive preapproval and postapproval from the ~~department of~~
- 28 ~~commerce~~ ARIZONA COMMERCE AUTHORITY pursuant to section 41-1511.
- 29 3. Submit a copy of a current and valid certification of qualification
- 30 issued to the taxpayer by the ~~department of commerce~~ ARIZONA COMMERCE
- 31 AUTHORITY.
- 32 D. To be counted for the purposes of the credit, an employee must have
- 33 been employed at the qualifying facility for at least ninety days during the
- 34 taxable year in a permanent full-time employment position of at least one
- 35 thousand seven hundred fifty hours per year. An employee who is hired during
- 36 the last ninety days of the taxable year shall be considered a new employee
- 37 during the next taxable year. To be counted for the purposes of the credit
- 38 during the first taxable year of employment, the employee must not have been
- 39 previously employed by the taxpayer within twelve months before the current
- 40 date of hire. The terms of employment must comply in all cases with the
- 41 requirements of section 41-1511 and certification by the ~~department of~~
- 42 ~~commerce~~ ARIZONA COMMERCE AUTHORITY.
- 43 E. Co-owners of a business, including corporate partners in a
- 44 partnership and members of a limited liability company, may each claim only
- 45 the pro rata share of the credit allowed under this section based on the

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

4 F. If the allowable tax credit for a taxable year exceeds the income
5 taxes otherwise due on the claimant's income, or if there are no state income
6 taxes due on the claimant's income, the amount of the claim not used as an
7 offset against income taxes shall be paid to the taxpayer in the same manner
8 as a refund under section 42-1118. Refunds made pursuant to this subsection
9 are subject to setoff under section 42-1122. If the department determines
10 that a refund is incorrect or invalid, the excess refund may be treated as a
11 tax deficiency pursuant to section 42-1108.

12 G. Except as provided by subsection H of this section, if, within five
13 taxable years after first receiving a credit pursuant to this section, the
14 certification of qualification of a business is terminated or revoked under
15 section 41-1511, other than for reasons beyond the control of the business as
16 determined by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY, the
17 taxpayer is disqualified from credits under this section in subsequent
18 taxable years. On a determination that the taxpayer has committed fraud or
19 relocated outside of this state within five taxable years of first receiving
20 a credit pursuant to this section, the credits allowed the taxpayer in all
21 taxable years pursuant to this section are subject to recapture pursuant to
22 this subsection. This subsection applies only in the case of the termination
23 or revocation of a certification of qualification under section
24 41-1511. This subsection does not apply if, in any taxable year, a taxpayer
25 otherwise does not qualify for or fails to claim the credit under this
26 section. The recapture of credits is computed by increasing the amount of
27 taxes imposed in the year following the year of termination or revocation by
28 the full amount of all credits previously allowed under this section.

29 H. 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 I. The department of revenue shall adopt rules and prescribe forms and
33 procedures as necessary for the purposes of this section. The department of
34 revenue and the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY shall
35 collaborate in adopting rules as necessary to avoid duplication and
36 contradictory requirements while accomplishing the intent and purposes of
37 this section.

38 J. For the purposes of this section, renewable energy operations are
39 limited to manufacturers of, and headquarters for, systems and components
40 that are used or useful in manufacturing renewable energy equipment for the
41 generation, storage, testing and research and development, transmission or
42 distribution of electricity from renewable resources, including specialized
43 crates necessary to package the renewable energy equipment manufactured at
44 the facility.

1 Sec. 110. Section 43-1165, Arizona Revised Statutes, is amended to
2 read:

3 43-1165. Credit for employment by qualified defense contractor

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

5 1. Net increases in employment under United States department of
6 defense contracts during the taxable year, as computed under subsection D of
7 this section, by a qualified defense contractor that is certified by the
8 ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY under section 41-1508.

9 2. Net increases in private commercial employment during the taxable
10 year, as computed under subsection E of this section, by a qualified defense
11 contractor that is certified by the ~~department of commerce~~ ARIZONA COMMERCE
12 AUTHORITY under section 41-1508 due to full-time equivalent employee
13 positions transferred during the taxable year by the taxpayer from
14 exclusively defense related activities to employment by the taxpayer in
15 exclusively private commercial activities.

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

18 1st year	\$2,500
19 2nd year	\$2,000
20 3rd year	\$1,500
21 4th year	\$1,000
22 5th year	\$ 500

23 C. If the allowable tax credit exceeds the taxes otherwise due under
24 this title on the claimant's income, or if there are no taxes due under this
25 title, the taxpayer may carry the amount of the claim not used to offset the
26 taxes under this title forward until taxable years beginning from and after
27 December 31, 2011 as a credit against subsequent years' income tax liability,
28 regardless of continuing certification as a qualified defense contractor.

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

31 1. Establish an employment baseline for the taxpayer based on a
32 multiyear forecast of employment on United States department of defense
33 contracts that was submitted to the department of defense before June 1,
34 1992. The annual average employment forecast for the first year the taxpayer
35 qualified is the baseline. If the taxpayer did not make such a forecast
36 before June 1, 1992, the baseline is the average annual employment as
37 reported to the department of economic security during the preceding taxable
38 year. If a taxpayer qualifies in the same year it relocates into this state,
39 the taxpayer's baseline is zero.

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

43 3. For each succeeding year of the credit, the taxpayer's net increase
44 in average employment is the increase in employment reported to the

1 department of economic security for the taxable year over the preceding
2 taxable year's average employment.

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

5 1. Prorate employment during the taxable year according to the date of
6 transfer from defense to private commercial activities or the date of
7 transfer from private commercial activities to defense.

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

12 F. The taxpayer shall account for qualifying full-time equivalent
13 employee positions on a first-in first-out basis. If a decrease in
14 qualifying employment occurs, the taxpayer shall subtract the decrease from
15 the earliest qualifying positions.

16 G. A credit is not allowed under both subsection A, paragraphs 1 and 2
17 of this section with respect to the same employee position. A full-time
18 equivalent employee position may be considered for purposes of computing the
19 credit under either subsection A, paragraph 1 or 2 of this section, but not
20 both.

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

25 I. A taxpayer that claims a credit under section 43-1161, 43-1164.01
26 or 43-1167 may not claim a credit under this section with respect to the same
27 employee positions.

28 J. Co-owners of a business, including corporate partners in a
29 partnership, may each claim only the pro rata share of the credit allowed
30 under this section based on the ownership interest. The total of the credits
31 allowed all such owners may not exceed the amount that would have been
32 allowed for a sole owner of the business.

33 Sec. 111. Section 43-1166, Arizona Revised Statutes, is amended to
34 read:

35 43-1166. Credit for property taxes paid by qualified defense
36 contractor

37 A. A credit is allowed against the taxes imposed by this title equal
38 to a portion of the amount paid as taxes during the taxable year by a
39 qualified defense contractor that is certified by the ~~department of commerce~~
40 ARIZONA COMMERCE AUTHORITY under section 41-1508 on property in this state
41 that is classified as class one, paragraphs 12 and 13 pursuant to section
42 42-12001.

43 B. The amount of the credit is determined as follows:

44 1. Multiply the amount paid as taxes on property classified as class
45 one, paragraphs 12 and 13 pursuant to section 42-12001 in this state during

1 the taxable year by a percentage based on net new defense related employment,
2 determined by subtracting the employment baseline determined pursuant to
3 section 43-1165, subsection D, paragraph 1 from average annual employment as
4 reported to the department of economic security for the taxable year, as
5 follows:

<u>New employment</u>	<u>Credit percentage</u>
6 More than 900	40%
7 601 - 900	30%
8 301 - 600	20%
9 1 - 300	10%

10
11 2. Multiply the amount determined under paragraph 1 of this subsection
12 by a percentage determined by dividing the taxpayer's total gross income from
13 United States department of defense contracts apportioned to this state by
14 the taxpayer's total gross income from all sources apportioned to this state.

15 C. If the allowable tax credit exceeds the taxes otherwise due under
16 this title on the claimant's income, or if there are no taxes due under this
17 title, the taxpayer may carry the amount of the claim not used to offset the
18 taxes under this title forward until taxable years beginning from and after
19 December 31, 2011 as a credit against subsequent years' income tax liability,
20 regardless of continuing certification as a qualified defense contractor.

21 D. Co-owners of a business, including corporate partners in a
22 partnership, may each claim only the pro rata share of the credit allowed
23 under this section based on the ownership interest. The total of the credits
24 allowed all such owners may not exceed the amount that would have been
25 allowed for a sole owner of the business.

26 Sec. 112. Section 43-1167, Arizona Revised Statutes, is amended to
27 read:

28 43-1167. Credit for increased employment in military reuse
29 zones: definition

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

37 1. With respect to each employee other than a dislocated military base
38 employee:

39 1st year of employment	\$ 500
40 2nd year of employment	\$1,000
41 3rd year of employment	\$1,500
42 4th year of employment	\$2,000
43 5th year of employment	\$2,500

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

45 1st year of employment	\$1,000
---------------------------	---------

1	2nd year of employment	\$1,500
2	3rd year of employment	\$2,000
3	4th year of employment	\$2,500
4	5th year of employment	\$3,000

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

11 C. The net increase in the number of employees for purposes of this
12 section shall be determined by comparing the taxpayer's average employment in
13 the military reuse zone during the taxable year with the taxpayer's previous
14 year's fourth quarter employment in the zone, based on the taxpayer's report
15 to the department of economic security for unemployment insurance purposes
16 but considering only employment in the zone.

17 D. 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 E. A credit is not allowed under this section with respect to an
23 employee whose place of employment is relocated by the taxpayer from a
24 location in this state to the military reuse zone unless the employee is
25 engaged in aviation or aerospace services or in manufacturing, assembling or
26 fabricating aviation or aerospace products and the taxpayer maintains at
27 least the same number of employees in this state but outside the zone.

28 F. A taxpayer who claims a credit under section 43-1161, 43-1164.01 or
29 43-1165 may not claim a credit under this section with respect to the same
30 employees.

31 G. For the purposes of this section, "dislocated military base
32 employee" means a civilian who previously had permanent full-time civilian
33 employment on the military facility as of the date the closure of the
34 facility was finally determined under federal law, as certified by the
35 ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY.

36 Sec. 113. Section 43-1168, Arizona Revised Statutes, as amended by
37 Laws 2010, chapter 289, section 6 and chapter 312, section 7, is amended to
38 read:

39 43-1168. Credit for increased research activities

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

- 43 1. The amount of the credit is computed as follows:
44 (a) Add:

1 (i) The excess, if any, of the qualified research expenses for the
2 taxable year over the base amount as defined in section 41(c) of the internal
3 revenue code.

4 (ii) The basic research payments determined under section 41(e)(1)(A)
5 of the internal revenue code.

6 (b) If the sum computed under subdivision (a) is two million five
7 hundred thousand dollars or less, the credit is equal to twenty-four per cent
8 of that amount.

9 (c) If the sum computed under subdivision (a) is over two million five
10 hundred thousand dollars, the credit is equal to six hundred thousand dollars
11 plus fifteen per cent of any amount exceeding two million five hundred
12 thousand dollars, except that:

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

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

19 (d) FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2011, AN
20 ADDITIONAL CREDIT AMOUNT IS ALLOWED IF THE TAXPAYER MADE BASIC RESEARCH
21 PAYMENTS DURING THE TAXABLE YEAR TO A UNIVERSITY UNDER THE JURISDICTION OF
22 THE ARIZONA BOARD OF REGENTS. THE ADDITIONAL CREDIT AMOUNT IS EQUAL TO TEN
23 PER CENT OF THE BASIC RESEARCH PAYMENTS THAT CONSTITUTE EXCESS EXPENSES FOR
24 THE TAXABLE YEAR OVER THE BASE AMOUNT. THE DEPARTMENT SHALL NOT ALLOW CREDIT
25 AMOUNTS UNDER THIS SUBDIVISION AND SECTION 43-1074.01, SUBSECTION A,
26 PARAGRAPH 1, SUBDIVISION (c) THAT EXCEED, IN THE AGGREGATE, A COMBINED TOTAL
27 OF TEN MILLION DOLLARS IN ANY CALENDAR YEAR. SUBJECT TO THAT LIMIT, ON
28 APPLICATION BY THE TAXPAYER, THE DEPARTMENT SHALL PREAPPROVE CREDIT AMOUNTS
29 UNDER THIS SUBDIVISION AND SECTION 43-1074.01, SUBSECTION A, PARAGRAPH 1,
30 SUBDIVISION (c) BASED ON PRIORITY PLACEMENT ESTABLISHED BY THE DATE THAT THE
31 TAXPAYER FILED THE APPLICATION. NOTWITHSTANDING SUBSECTIONS B AND D OF THIS
32 SECTION, ANY AMOUNT OF THE ADDITIONAL CREDIT UNDER THIS SUBDIVISION THAT
33 EXCEEDS THE TAXES OTHERWISE DUE UNDER THIS TITLE IS NOT REFUNDABLE, BUT MAY
34 BE CARRIED FORWARD TO THE NEXT FIVE CONSECUTIVE TAXABLE YEARS.

35 2. Qualified research includes only research conducted in this state
36 including research conducted at a university in this state and paid for by
37 the taxpayer.

38 3. If two or more taxpayers, including corporate partners in a
39 partnership, share in the eligible expenses, each taxpayer is eligible to
40 receive a proportionate share of the credit.

41 4. The credit under this section applies only to expenses incurred
42 from and after December 31, 1993.

43 5. The termination provisions of section 41 of the internal revenue
44 code do not apply.

1 B. Except as provided by subsection D of this section, if the
2 allowable credit under this section exceeds the taxes otherwise due under
3 this title on the claimant's income, or if there are no taxes due under this
4 title, the amount of the credit not used to offset taxes may be carried
5 forward to the next fifteen consecutive taxable years. The amount of credit
6 carryforward from taxable years beginning from and after December 31, 2000
7 through December 31, 2002 that may be used under this subsection in any
8 taxable year may not exceed the taxpayer's tax liability under this title or
9 five hundred thousand dollars, whichever is less, minus the credit under this
10 section for the current taxable year's qualified research expenses. The
11 amount of credit carryforward from taxable years beginning from and after
12 December 31, 2002 that may be used under this subsection in any taxable year
13 may not exceed the taxpayer's tax liability under this title minus the credit
14 under this section for the current taxable year's qualified research
15 expenses. A taxpayer that carries forward any amount of credit under this
16 subsection may not thereafter claim a refund of any amount of the credit
17 under subsection D of this section.

18 C. If a taxpayer has qualified research expenses that are carried
19 forward from taxable years beginning before January 1, 2001, the amount of
20 the expenses carried forward shall be converted to a credit carryforward by
21 multiplying the amount of the qualified expenses carried forward by twenty
22 per cent. A credit carryforward determined under this subsection may be
23 carried forward to not more than fifteen years from the year in which the
24 expenses were incurred. The amount of credit carryforward from taxable years
25 beginning before January 1, 2001 that may be used under this subsection in
26 any taxable year may not exceed the taxpayer's tax liability under this title
27 or five hundred thousand dollars, whichever is less, minus the credit under
28 this section for the current taxable year's qualified research expenses. The
29 total amount of credit carryforward from taxable years beginning before
30 January 1, 2003 that may be used in any taxable year under subsection B and
31 this subsection may not exceed the taxpayer's tax liability under this title
32 or five hundred thousand dollars, whichever is less, minus the credit under
33 this section for the current taxable year's qualified research expenses.

34 D. For taxable years beginning from and after December 31, 2009, if a
35 taxpayer who claims a credit under this section employs fewer than one
36 hundred fifty persons in the taxpayer's trade or business and if the
37 allowable credit under this section exceeds the taxes otherwise due under
38 this title on the claimant's income, or if there are no taxes due under this
39 title, in lieu of carrying the excess amount of credit forward to subsequent
40 taxable years under subsection B of this section, the taxpayer may elect to
41 receive a refund as follows:

42 1. The taxpayer must apply to the department of commerce for
43 qualification for the refund pursuant to section 41-1507 and submit a copy of
44 the department of commerce's certificate of qualification to the department
45 of revenue with the taxpayer's income tax return.

1 2. The amount of the refund is limited to seventy-five per cent of the
2 amount by which the allowable credit under this section exceeds the
3 taxpayer's tax liability under this title for the taxable year. The
4 remainder of the excess amount of the credit is waived.

5 3. The refund shall be paid in the manner prescribed by section
6 42-1118.

7 4. The refund is subject to setoff under section 42-1122.

8 5. If the department determines that a credit refunded pursuant to
9 this subsection is incorrect or invalid, the excess credit issued may be
10 treated as a tax deficiency pursuant to section 42-1108.

11 E. A taxpayer that claims a credit for increased research and
12 development activity under this section shall not claim a credit under
13 section 43-1164.02 for the same expenses.

14 Sec. 114. Section 43-1168, Arizona Revised Statutes, as amended by
15 Laws 2010, chapter 289, section 7 and chapter 312, section 8, is amended to
16 read:

17 43-1168. Credit for increased research activity

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

21 1. The amount of the credit is computed as follows:

22 (a) Add:

23 (i) The excess, if any, of the qualified research expenses for the
24 taxable year over the base amount as defined in section 41(c) of the internal
25 revenue code.

26 (ii) The basic research payments determined under section 41(e)(1)(A)
27 of the internal revenue code.

28 (b) If the sum computed under subdivision (a) is two million five
29 hundred thousand dollars or less, the credit is equal to twenty per cent of
30 that amount.

31 (c) If the sum computed under subdivision (a) is over two million five
32 hundred thousand dollars, the credit is equal to five hundred thousand
33 dollars plus eleven per cent of any amount exceeding two million five hundred
34 thousand dollars, except that:

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

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

41 (d) **FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2011, AN
42 ADDITIONAL CREDIT AMOUNT IS ALLOWED IF THE TAXPAYER MADE BASIC RESEARCH
43 PAYMENTS DURING THE TAXABLE YEAR TO A UNIVERSITY UNDER THE JURISDICTION OF
44 THE ARIZONA BOARD OF REGENTS. THE ADDITIONAL CREDIT AMOUNT IS EQUAL TO TEN
45 PER CENT OF THE BASIC RESEARCH PAYMENTS THAT CONSTITUTE EXCESS EXPENSES FOR**

1 THE TAXABLE YEAR OVER THE BASE AMOUNT. THE DEPARTMENT SHALL NOT ALLOW CREDIT
2 AMOUNTS UNDER THIS SUBDIVISION AND SECTION 43-1074.01, SUBSECTION A,
3 PARAGRAPH 1, SUBDIVISION (c) THAT EXCEED, IN THE AGGREGATE, A COMBINED TOTAL
4 OF TEN MILLION DOLLARS IN ANY CALENDAR YEAR. SUBJECT TO THAT LIMIT, ON
5 APPLICATION BY THE TAXPAYER, THE DEPARTMENT SHALL PREAPPROVE CREDIT AMOUNTS
6 UNDER THIS SUBDIVISION AND SECTION 43-1074.01, SUBSECTION A, PARAGRAPH 1,
7 SUBDIVISION (c) BASED ON PRIORITY PLACEMENT ESTABLISHED BY THE DATE THAT THE
8 TAXPAYER FILED THE APPLICATION. NOTWITHSTANDING SUBSECTIONS B AND D OF THIS
9 SECTION, ANY AMOUNT OF THE ADDITIONAL CREDIT UNDER THIS SUBDIVISION THAT
10 EXCEEDS THE TAXES OTHERWISE DUE UNDER THIS TITLE IS NOT REFUNDABLE, BUT MAY
11 BE CARRIED FORWARD TO THE NEXT FIVE CONSECUTIVE TAXABLE YEARS.

12 2. Qualified research includes only research conducted in this state
13 including research conducted at a university in this state and paid for by
14 the taxpayer.

15 3. If two or more taxpayers, including corporate partners in a
16 partnership, share in the eligible expenses, each taxpayer is eligible to
17 receive a proportionate share of the credit.

18 4. The credit under this section applies only to expenses incurred
19 from and after December 31, 1993.

20 5. The termination provisions of section 41 of the internal revenue
21 code do not apply.

22 B. Except as provided by subsection D of this section, if the
23 allowable credit under this section exceeds the taxes otherwise due under
24 this title on the claimant's income, or if there are no taxes due under this
25 title, the amount of the credit not used to offset taxes may be carried
26 forward to the next fifteen consecutive taxable years. The amount of credit
27 carryforward from taxable years beginning from and after December 31, 2000
28 through December 31, 2002 that may be used under this subsection in any
29 taxable year may not exceed the taxpayer's tax liability under this title or
30 five hundred thousand dollars, whichever is less, minus the credit under this
31 section for the current taxable year's qualified research expenses. The
32 amount of credit carryforward from taxable years beginning from and after
33 December 31, 2002 that may be used under this subsection in any taxable year
34 may not exceed the taxpayer's tax liability under this title minus the credit
35 under this section for the current taxable year's qualified research
36 expenses. A taxpayer that carries forward any amount of credit under this
37 subsection may not thereafter claim a refund of any amount of the credit
38 under subsection D of this section.

39 C. If a taxpayer has qualified research expenses that are carried
40 forward from taxable years beginning before January 1, 2001, the amount of
41 the expenses carried forward shall be converted to a credit carryforward by
42 multiplying the amount of the qualified expenses carried forward by twenty
43 per cent. A credit carryforward determined under this subsection may be
44 carried forward to not more than fifteen years from the year in which the
45 expenses were incurred. The amount of credit carryforward from taxable years

1 beginning before January 1, 2001 that may be used under this subsection in
2 any taxable year may not exceed the taxpayer's tax liability under this title
3 or five hundred thousand dollars, whichever is less, minus the credit under
4 this section for the current taxable year's qualified research expenses. The
5 total amount of credit carryforward from taxable years beginning before
6 January 1, 2003 that may be used in any taxable year under subsection B and
7 this subsection may not exceed the taxpayer's tax liability under this title
8 or five hundred thousand dollars, whichever is less, minus the credit under
9 this section for the current taxable year's qualified research expenses.

10 D. For taxable years beginning from and after December 31, 2009, if a
11 taxpayer who claims a credit under this section employs fewer than one
12 hundred fifty persons in the taxpayer's trade or business and if the
13 allowable credit under this section exceeds the taxes otherwise due under
14 this title on the claimant's income, or if there are no taxes due under this
15 title, in lieu of carrying the excess amount of credit forward to subsequent
16 taxable years under subsection B of this section, the taxpayer may elect to
17 receive a refund as follows:

18 1. The taxpayer must apply to the department of commerce for
19 qualification for the refund pursuant to section 41-1507 and submit a copy of
20 the department of commerce's certificate of qualification to the department
21 of revenue with the taxpayer's income tax return.

22 2. The amount of the refund is limited to seventy-five per cent of the
23 amount by which the allowable credit under this section exceeds the
24 taxpayer's tax liability under this title for the taxable year. The
25 remainder of the excess amount of the credit is waived.

26 3. The refund shall be paid in the manner prescribed by section
27 42-1118.

28 4. The refund is subject to setoff under section 42-1122.

29 5. If the department determines that a credit refunded pursuant to
30 this subsection is incorrect or invalid, the excess credit issued may be
31 treated as a tax deficiency pursuant to section 42-1108.

32 E. A taxpayer that claims a credit for increased research and
33 development activity under this section shall not claim a credit under
34 section 43-1164.02 for the same expenses.

35 Sec. 115. Repeal

36 Section 43-1179, Arizona Revised Statutes, is repealed.

37 Sec. 116. Section 44-1375.02, Arizona Revised Statutes, is amended to
38 read:

39 44-1375.02. Standards

40 A. Except as provided in subsection C, the following standards apply
41 beginning January 1, 2008:

42 1. Automatic commercial icemakers shall meet the requirements of
43 section 1605.3 of the California Code of Regulations, title 20: division 2,
44 chapter 4, article 4, in effect on August 12, 2005.

1 2. Commercial clothes washers shall meet the requirements of section
2 1605.3 of the California Code of Regulations, title 20: division 2, chapter
3 4, article 4, in effect on August 12, 2005.

4 3. Commercial prerinse spray valves shall have a flow rate equal to or
5 less than 1.6 gallons per minute.

6 4. Commercial refrigerators, freezers and refrigerator freezers shall
7 meet the requirements of section 1605.3 of the California Code of
8 Regulations, title 20: division 2, chapter 4, article 4, in effect on August
9 12, 2005, except that pulldown refrigerators with transparent doors shall
10 meet a requirement five per cent less stringent than shown in the California
11 regulations.

12 5. Illuminated exit signs shall have an input power demand of five
13 watts or less per illuminated face and shall either have a power factor of at
14 least 0.70 or meet the power factor product specification of the energy star
15 program requirements, whichever is higher.

16 6. Large packaged air conditioning equipment shall meet a minimum
17 energy efficiency ratio of 10.0 for air conditioning without an integrated
18 heating component or with electric resistance heating integrated into the
19 unit, 9.8 for air conditioning with heating other than electric resistance
20 integrated into the unit, 9.5 for air conditioning heat pumps without an
21 integrated heating component or with electric resistance heating integrated
22 into the unit and 9.3 for air conditioning heat pump equipment with heating
23 other than electric resistance integrated into the unit. Large packaged air
24 conditioning heat pumps shall meet a minimum coefficient of performance in
25 the heating mode of 3.2 measured at a high temperature rating of forty-seven
26 degrees Fahrenheit.

27 7. Through December 31, 2010, low voltage dry type distribution
28 transformers shall meet the class 1 efficiency levels for low voltage
29 distribution transformers specified in table 4-2 of the guide for determining
30 energy efficiency for distribution transformers, published by the national
31 electrical manufacturers association (NEMA standard TP-1-2002), in effect on
32 August 12, 2005.

33 8. Metal halide lamp fixtures designed to be operated with lamps rated
34 greater than or equal to one hundred fifty watts but less than or equal to
35 five hundred watts shall not contain a probe start metal halide lamp ballast.

36 9. Single voltage external AC to DC power supplies shall meet the tier
37 one energy efficiency requirements of section 1605.3 of the California Code
38 of Regulations, title 20: division 2, chapter 4, article 4, in effect on
39 August 12, 2005. This standard applies to single voltage AC to DC power
40 supplies that are sold individually and to those that are sold as a component
41 of or in conjunction with another product.

42 10. Torchiere shall not use more than one hundred ninety watts. A
43 torchiere shall be deemed to use more than one hundred ninety watts if any
44 commercially available lamp or combination of lamps can be inserted in its

1 socket and cause the torchiere to draw more than one hundred ninety watts
2 when operated at full brightness.

3 11. Traffic signal modules shall meet the product specification of the
4 energy star program requirements for traffic signals developed by the United
5 States environmental protection agency that took effect in February 2001,
6 shall have a power factor of at least 0.90 and shall be installed with
7 compatible, electrically connected signal control interface devices and
8 conflict monitoring systems.

9 12. Unit heaters shall be equipped with an intermittent ignition device
10 and shall have either power venting or an automatic flue damper.

11 B. Beginning January 1, 2012, the following standards apply:

12 1. Portable electric spas shall not have a normalized standby power
13 greater than five times the spa's fill volume in gallons raised to the
14 two-thirds power.

15 2. Residential pool pumps and residential pool pump motors shall
16 comply with both of the following:

17 (a) Motors shall not be split-phase or capacitor start-induction run
18 type motors, except for the following:

19 (i) The low-speed section of two-speed motors may be capacitor
20 start-induction run type.

21 (ii) Forty-eight-frame motors designed for use with aboveground pools
22 are exempt from this requirement.

23 (b) Motors with a total horsepower capacity of one or more shall have
24 the capability of operating at two or more speeds with a low speed having a
25 rotation rate that is no more than one-half of the motor's maximum rotation
26 rate and shall be operated with a pump control with the capability of
27 operating the pump at two or more speeds. Residential pool pump motor
28 controls that are sold for use with a two or more speed motor shall have a
29 default circulation speed setting no more than one-half of the motor's
30 maximum rotation rate. Any high speed override capability shall be for a
31 temporary period not to exceed one twenty-four hour cycle without resetting
32 to the default setting.

33 C. The standards prescribed by subsection A apply beginning January 1,
34 2010, if the product is a commercial refrigerator, freezer or refrigerator
35 freezer or large packaged air conditioning equipment.

36 D. Beginning on May 31, 2008, and every three years thereafter, the
37 ~~department of commerce~~ GOVERNOR'S energy office shall conduct a comparative
38 review and assessment of the standards prescribed by subsection A and energy
39 efficiency standards adopted in other states. The ~~department of commerce~~
40 energy office shall:

41 1. Submit a report of its findings and recommendations to the speaker
42 of the house of representatives and president of the senate.

43 2. Provide a copy of the report to the ~~director of the Arizona state~~
44 ~~library, archives and public records~~ SECRETARY OF STATE.

1 3. Securities issued by a savings and loan association subject to
2 supervision by an agency of this state.

3 4. Insurance or endowment policies, variable contracts, annuity
4 contracts or optional annuity contracts issued by a person subject to the
5 supervision of and licensed by the insurance commissioner, the bank
6 commissioner or any agency of the United States, any state or the District of
7 Columbia performing like functions.

8 5. Securities issued or guaranteed either as to principal, interest or
9 dividend by a railroad or public utility if the issuance of its securities is
10 regulated by an agency of the United States, a state, territory or insular
11 possession of the United States, an agency of the District of Columbia or an
12 agency of the Dominion of Canada or any province of the Dominion of Canada,
13 and also equipment trust certificates in respect to equipment conditionally
14 sold or leased to a railroad or public utility, if other securities issued by
15 such railroad or public utility would be exempt under this paragraph.

16 6. Securities issued by a person that is organized and operated
17 exclusively for religious, educational, benevolent, fraternal, charitable or
18 reformatory purposes and not for pecuniary profit, and no part of the net
19 earnings of which inures to the benefit of any person, private stockholder or
20 individual and securities issued by or any interest or participation in any
21 pooled income fund, collective trust fund, collective investment fund or
22 similar fund that is excluded from the definition of an investment company
23 under section 3(c)(10)(B) of the investment company act of 1940. The
24 exemption prescribed in this paragraph does not apply to any of the
25 following, unless excluded from the definition of an investment company under
26 section 3(c)(10)(B) of the investment company act of 1940:

27 (a) Securities made liens upon revenue producing property subject to
28 taxation.

29 (b) Securities issued by a nonprofit organization that is engaged in,
30 intends to engage in, controls, finances or lends funds or property to other
31 entities engaged in the construction, operation, maintenance or management of
32 a hospital, sanitarium, rest home, clinic, medical hotel, mortuary, cemetery,
33 mausoleum or other similar facilities.

34 (c) Interest bearing or noninterest bearing debt securities.

35 (d) Securities whose terms include significant features that are
36 common to debt securities and that the commission finds are the functional
37 equivalent of debt securities.

38 7. Securities listed or approved for listing upon the issuance thereof
39 upon the New York stock exchange, the American stock exchange, the midwest
40 stock exchange or any other national securities exchange that is registered
41 under the securities exchange act of 1934 and that is designated by the
42 commission as provided in this paragraph, and securities designated or
43 approved for designation on notice of issuance on the national market system
44 of a national securities association registered under the securities exchange
45 act of 1934, and all securities senior or equal in rank to any securities so

1 listed or approved for listing, designated or approved for designation or
2 represented by subscription rights or warrants that have been so listed,
3 designated or approved and any warrant or right to purchase or subscribe to
4 any of the foregoing. In addition to the securities exchanges prescribed in
5 this paragraph, the commission may by order designate any registered national
6 securities exchange if it finds that it would be in the public interest for
7 securities listed on the exchange to be exempt. The commission may at any
8 time by order withdraw a designation of an exchange or association made under
9 this paragraph.

10 8. Commercial paper that arises out of a current transaction or the
11 proceeds of which have been or are to be used for current transactions, that
12 evidences an obligation to pay cash within nine months of the date of
13 issuance or sale, exclusive of days of grace, or any renewal of such paper
14 that is likewise limited, or any guarantee of such paper or of any such
15 renewal.

16 9. Securities issued or guaranteed by any foreign government with
17 which the United States is at the time of the sale maintaining diplomatic
18 relations, or securities issued or guaranteed by a political subdivision of
19 such foreign government having the power of taxation, if none of the
20 securities of the foreign government or political subdivision are in default
21 either as to principal or interest, and which securities when offered for
22 sale in this state are acknowledged as valid obligations by the foreign
23 government or political subdivision and registered under the securities act
24 of 1933.

25 10. Notes or bonds secured by a mortgage or deed of trust on real
26 estate or chattels, or a contract or agreement for the sale of real estate or
27 chattels, if the entire mortgage, contract or agreement together with all
28 notes or bonds secured thereby is sold or offered for sale as a unit, except
29 for real property investment contracts.

30 11. Mortgage related securities, as defined in section 3(a)(41) of the
31 securities exchange act of 1934.

32 B. Issuers of securities that are exempt under subsection A,
33 paragraphs 6, 7 and 9 of this section, within thirty days after the first
34 sale of the securities in this state, shall pay to the commission a fee of
35 two hundred dollars for each offering, and the commission shall deposit the
36 fees in the ~~commerce and economic development commission~~ ARIZONA COMPETES
37 fund established ~~in~~ BY section ~~41-1505.10~~ 41-1545.01.

38 C. Any securities that are offered and sold pursuant to section 4(5)
39 of the securities act of 1933 or that are mortgage related securities as the
40 term is defined in section 3(a)(41) of the securities exchange act of 1934
41 are not preempted by federal law. These instruments, commonly referred to as
42 private mortgage backed securities, may be exempt from the registration
43 requirements of this chapter if the transaction or the securities are
44 otherwise exempt under this chapter. This subsection specifically overrides

1 the preemption of state law contained in section 106(c) of the secondary
2 mortgage market enhancement act of 1984 (P.L. 98-440).

3 D. Noncompliance with the requirements in subsection B of this section
4 to pay fees shall not result in the loss of the exemption allowed by this
5 section.

6 Sec. 119. Section 44-1861, Arizona Revised Statutes, is amended to
7 read:

8 44-1861. Fees; deposit; abandonment

9 A. By the affirmative vote of at least four commissioners, the
10 commission may establish by rule an annual fee for the registration of a
11 dealer or a salesman. The fee shall be remitted on or before the last
12 working day of December, and the commission shall deposit the fee, pursuant
13 to sections 35-146 and 35-147, in the securities regulatory and enforcement
14 fund established by section 44-2039.

15 B. The registration fee for any dealer who deals exclusively in
16 securities of which the dealer is the issuer is one hundred dollars.

17 C. For registration of securities by description, there shall be paid
18 to the commission a nonrefundable registration fee of one-tenth of one per
19 cent of the aggregate offering price of the securities that are to be sold in
20 this state, but in no event shall the registration fee be less than two
21 hundred dollars nor more than two thousand dollars. The amount by which a
22 registration fee exceeds one thousand five hundred dollars shall be allocated
23 to the ~~commerce and economic development commission~~ ARIZONA COMPETES fund
24 established by section ~~41-1505.10~~ 41-1545.01.

25 D. By the affirmative vote of at least four commissioners, the
26 commission may establish by rule a transfer fee for a salesman transferring
27 the salesman's registration from one registered dealer to another registered
28 dealer. The commission shall deposit the fee, pursuant to sections 35-146
29 and 35-147, in the securities regulatory and enforcement fund established by
30 section 44-2039.

31 E. The initial filing of a form required for safe harbor exemptions
32 provided for in the securities act of 1933 (15 United States Code section
33 77(a) et seq.) pursuant to the rules of the commission shall be accompanied
34 by a filing fee of two hundred fifty dollars, of which fifty dollars shall be
35 allocated to the ~~commerce and economic development commission~~ ARIZONA
36 COMPETES fund established by section ~~41-1505.10~~ 41-1545.01. The final filing
37 of the form, if separate from the initial filing, shall be accompanied by a
38 filing fee of one hundred dollars that is allocated to the ~~commerce and~~
39 ~~economic development commission~~ ARIZONA COMPETES fund established by section
40 ~~41-1505.10~~ 41-1545.01.

41 F. For a name change of securities registered by qualification or
42 description, a filing fee of one hundred dollars is payable to the
43 commission.

1 G. For filing a notice required by the commission by rule pursuant to
2 section 44-1845, a filing fee of one hundred dollars is payable to the
3 commission.

4 H. For filing a petition pursuant to section 44-1846, a filing fee of
5 two hundred fifty dollars is payable to the commission.

6 I. Except as provided in subsections A, C, D, E and P of this section,
7 section 44-1843 and section 44-1892, paragraph 3, all fees collected under
8 this chapter shall be deposited in the state general fund.

9 J. An issuer who sells securities in this state in excess of the
10 aggregate amount of securities registered in this state, while the
11 registration is still effective, may apply to register the excess securities
12 by paying three times the difference between the initial registration fee
13 paid and the registration fee required under subsection C of this section or
14 section 44-1892, paragraph 3. Registration of the excess securities, if
15 granted, is effective retroactively to the date of the existing registration.

16 K. An application for registration of securities or registration of a
17 dealer or salesman or an incomplete notice filing is deemed abandoned if
18 both:

19 1. The application or notice filing has been on file with the
20 commission for at least six months or the applicant or notice filer has
21 failed to respond to a request for information for at least two months after
22 the date of the request.

23 2. The applicant or notice filer has failed to respond to the
24 commission's notice of warning of abandonment within sixty calendar days
25 after the date of the warning.

26 L. The commission shall retain fees collected in connection with
27 abandoned applications or notice filings for deposit in the state general
28 fund.

29 M. The nonrefundable filing fee for a request for a no-action letter
30 from the securities division is two hundred dollars.

31 N. The nonrefundable filing fee for an application for registration
32 pursuant to section 44-1902 is two hundred fifty dollars.

33 O. The fee for submitting fingerprint cards to the department of
34 public safety is the fee required by that department.

35 P. Any securities exchange established in this state shall pay to the
36 commission on or before March 15 of each calendar year an exchange
37 registration fee in an amount equal to two-tenths of one cent for each share,
38 bond or option or any other single unit of a security that is exchanged
39 during each preceding calendar year. The commission shall deposit the fee,
40 pursuant to sections 35-146 and 35-147, in the securities regulatory and
41 enforcement fund established by section 44-2039 for the purpose of regulating
42 the securities exchange. The commission, by rule, may exempt any sale of
43 securities or any class of sales of securities from the fee imposed by this
44 subsection if it finds that an exemption is consistent with the public
45 interest and the equal regulation of the market and brokers and dealers.

1 B. An open-end company that renews its notice filing in accordance
2 with section 44-3322, subsection B shall pay both of the following
3 nonrefundable notice filing fees no later than the expiration of the current
4 notice period:

5 1. For sales to be made during the current fiscal year, the open-end
6 company may elect to pay either a minimum fee of two hundred dollars or a
7 maximum fee of three thousand five hundred dollars. If paying the maximum
8 fee, an open-end company is not required to file a sales report at the time
9 of its next renewal notice filing.

10 2. A fee for sales that occurred during the prior fiscal year, as
11 those sales are reported pursuant to section 44-3323, subsection C. The fee
12 is equal to one-tenth of one per cent of the aggregate dollar amount of
13 securities actually sold in this state during the prior fiscal year minus two
14 hundred dollars, but in no event more than three thousand three hundred
15 dollars. If the maximum fee was previously paid for the prior fiscal year,
16 the open-end company is not required to pay any additional fees under this
17 paragraph.

18 C. An open-end company that does not renew its notice filing in
19 accordance with section 44-3322, subsection B and that did not previously pay
20 the maximum fee for the notice period shall pay a nonrefundable notice filing
21 fee no later than two months after the expiration of its current notice
22 period for sales that occurred during the prior fiscal year and during the
23 two month period from the end of the prior fiscal year to the expiration of
24 the notice period, as those sales are reported pursuant to section 44-3323,
25 subsection D. The fee is equal to one-tenth of one per cent of the aggregate
26 dollar amount of securities actually sold in this state during the prior
27 fiscal year and during the two month period from the end of the prior fiscal
28 year to the expiration of the notice period minus two hundred dollars, but in
29 no event more than three thousand three hundred dollars. If the maximum fee
30 was previously paid for the prior fiscal year, the open-end company is not
31 required to pay any additional fees under this subsection.

32 D. When filing its initial notice filing, a unit investment trust
33 shall pay a nonrefundable notice filing fee for sales to be made during the
34 initial notice period. The unit investment trust may elect to pay either a
35 minimum fee of two hundred dollars or a maximum fee of three thousand five
36 hundred dollars. If paying the maximum fee, the unit investment trust is not
37 required to file a sales report at the end of the expiration of the notice
38 period.

39 E. A unit investment trust that elects to renew its notice filing in
40 accordance with section 44-3322, subsection C shall pay both of the following
41 nonrefundable notice filing fees:

42 1. For sales to be made during the renewal notice period, a unit
43 investment trust may elect to pay either a minimum fee of two hundred dollars
44 or a maximum fee of three thousand five hundred dollars. The fee shall be
45 paid no later than the expiration date of the current notice period. If

1 paying the maximum fee, a unit investment trust is not required to file a
2 sales report within two months after the expiration of the renewal notice
3 period.

4 2. A fee for sales that occurred during the expiring notice period, as
5 those sales are reported pursuant to section 44-3323, subsection E. The fee
6 shall be equal to one-tenth of one per cent of the aggregate dollar amount of
7 securities actually sold in this state by the unit investment trust during
8 the prior notice period minus two hundred dollars, but in no event more than
9 three thousand three hundred dollars. The fee shall be paid no later than
10 two months after the expiration date of the prior notice period. If the
11 maximum fee was previously paid for the expiring notice period, the unit
12 investment trust is not required to pay any additional fees under this
13 paragraph.

14 F. A unit investment trust that does not renew its notice filing in
15 accordance with section 44-3322, subsection C and that did not previously pay
16 the maximum fee for the notice period shall pay, within two months after the
17 expiration of the notice period, a nonrefundable notice filing fee for sales
18 that occurred during the prior notice period as such sales are reported
19 pursuant to section 44-3323, subsection F. The fee is equal to one-tenth of
20 one per cent of the aggregate dollar amount of securities actually sold in
21 this state by the unit investment trust during the prior notice period minus
22 two hundred dollars, but in no event more than three thousand three hundred
23 dollars. If the maximum fee was previously paid for the expiring notice
24 period, the unit investment trust is not required to pay any additional fees
25 under this subsection.

26 G. An issuer that fails to timely file any sales report required by
27 section 44-3323 shall pay a late filing fee in the amount of two hundred
28 dollars. An issuer that fails to timely pay any notice filing fees required
29 pursuant to this section shall pay the required notice filing fee together
30 with a late payment fee equal to one-half of the amount of the required
31 notice filing fee.

32 H. The fees collected pursuant to this section shall be deposited as
33 follows:

34 1. Eighty per cent in the securities regulatory and enforcement fund
35 established by section 44-2039.

36 2. Ten per cent in the ~~commerce and economic development commission~~
37 ARIZONA COMPETES fund established by section ~~41-1505.10~~ 41-1545.01.

38 3. Ten per cent in the investment management regulatory and
39 enforcement fund established by section 44-3298.

40 Sec. 124. Section 44-3325, Arizona Revised Statutes, is amended to
41 read:

42 44-3325. Notice filings by closed-end companies

43 A. Securities that are issued by a closed-end company may be offered
44 for sale and sold in this state if the commission receives all of the
45 following from the closed-end company:

1 1. The documents that are filed with the SEC and that are required by
2 the commission.

3 2. A consent to service of process.

4 3. A notice filing fee calculated pursuant to this section.

5 B. A notice filing is effective and renewable on the filing date with
6 the commission or the effective date with the SEC, whichever occurs last, and
7 the notice filing is effective for one year from that date.

8 C. A closed-end company shall include with the company's notice filing
9 a notice filing fee of one-tenth of one per cent of the aggregate offering
10 price of securities sold in this state, but the fee shall not be less than
11 two hundred dollars and not more than two thousand dollars. The amount by
12 which a notice filing fee exceeds one thousand five hundred dollars shall be
13 allocated to the ~~commerce and economic development commission~~ ARIZONA
14 COMPETES fund established by section ~~41-1505.10~~ 41-1545.01.

15 D. A closed-end company shall file a report of all sales of securities
16 to persons in this state during the period of the notice filing. The
17 closed-end company shall file the report with the commission within sixty
18 days after the termination date of the offering within this state or the
19 expiration date of the notice filing, whichever occurs first. A closed-end
20 company that fails to timely file a report of sales shall pay a late filing
21 fee of two hundred dollars.

22 Sec. 125. Section 49-554, Arizona Revised Statutes, is amended to
23 read:

24 49-554. Technical assistance review

25 A. The department of environmental quality, with the assistance of the
26 ~~department of commerce~~ GOVERNOR'S energy office and state universities, shall
27 develop a program to:

28 1. Expedite testing and certification of technological developments
29 related to improving air quality through a reduction in vehicle emissions.

30 2. Develop incentives to encourage development and innovation of
31 technologies that improve air quality through a reduction in vehicle
32 emissions.

33 3. Establish a board with technical expertise to assist developers of
34 promising technologies with the emission certification processes of the
35 California air resources board and the United States environmental protection
36 agency. The board shall:

37 (a) Perform an initial evaluation of the technology including a review
38 of existing test data.

39 (b) Develop procedures to apply those technologies in this state that
40 have been certified by the California air resources board, the United States
41 environmental protection agency or this state.

42 (c) Recommend a program of incentives to encourage private entities to
43 use technologies that have been reviewed and approved by the board.

1 (d) Recommend legislation requiring the use of approved technologies
2 by the state and political subdivisions.

3 (e) Recommend a credit trading and banking program to encourage
4 innovative solutions to the reduction of emissions from all sources.

5 B. The department may enter into intergovernmental agreements and
6 memorandums of understanding to accomplish the purposes of this section.

7 Sec. 126. Laws 2000, chapter 383, section 10, as amended by Laws 2002,
8 chapter 264, section 4 and Laws 2007, chapter 293, section 3, is amended to
9 read:

10 Sec. 10. Delayed repeal; reversion

11 A. Section 23-730.02, Arizona Revised Statutes, and title 23, chapter
12 4, article 5.2, Arizona Revised Statutes, are repealed from and after
13 December 31, ~~2011~~ 2016.

14 B. Title 41, chapter 10, article 4, Arizona Revised Statutes, is
15 repealed from and after December 31, ~~2011~~ 2016, at which time any unexpended
16 or unencumbered monies in the Arizona job training fund attributable to the
17 job training employer tax imposed pursuant to section 23-769, Arizona Revised
18 Statutes, revert to the unemployment compensation fund established by section
19 23-701, Arizona Revised Statutes, and any unexpended or unencumbered monies
20 in the Arizona job training fund not attributable to the job training
21 employer tax imposed pursuant to section 23-769, Arizona Revised Statutes,
22 revert to the state general fund.

23 Sec. 127. Computation of additional state aid to education

24 A. Beginning in tax year 2013 through tax year 2016, on or before
25 August 1 of each tax year the department of revenue shall adjust the
26 percentages described in section 15-972, subsection B, paragraphs 1 and 2,
27 Arizona Revised Statutes, as amended by this act, used in calculating
28 additional state aid to education to offset the effect on the statewide
29 effective tax rate of properties classified by law as class three due to the
30 changes in assessed valuation of properties classified by law as class one
31 and class two prescribed by this act, as compared to the respective
32 assessment ratios on December 31, 2012. For the purposes of this subsection,
33 the statewide effective tax rate is the total primary property tax levied
34 from the preceding tax year divided by the primary net assessed value based
35 on the department of revenue's abstract of the assessment roll for the
36 current tax year.

37 B. The adjusted percentages determined by the department of revenue
38 for the 2016 tax year shall continue in effect for the purposes of
39 calculating additional state aid to education until further changed by law.

40 Sec. 128. Succession; Arizona commerce authority

41 A. As provided by this act, the Arizona commerce authority succeeds to
42 the authority, powers, duties and responsibilities of the department of
43 commerce as provided by law.

1 B. This act does not alter the effect of any actions that were taken
2 or impair the valid obligations of the department of commerce in existence
3 before July 1, 2011.

4 C. Administrative rules and orders that were adopted by the department
5 of commerce continue in effect until superseded by administrative action by
6 the Arizona commerce authority. Until administrative action is taken by the
7 authority, any reference to the department of commerce in the department's
8 rules and orders is considered to refer to the Arizona commerce authority.

9 D. All administrative matters, contracts and judicial and
10 quasi-judicial actions, whether completed, pending or in process, of the
11 department of commerce on July 1, 2011 are transferred to and retain the same
12 status with the Arizona commerce authority.

13 E. All certificates, licenses, registrations, permits and other
14 indicia of qualification and authority that were issued by the department of
15 commerce retain their validity for the duration of their terms of validity as
16 provided by law.

17 F. All tangible and intangible property and assets, including economic
18 development assets, all data and investigative findings and all appropriated
19 monies that remain unexpended and unencumbered on July 1, 2011 of the
20 department of commerce are transferred to the Arizona commerce authority.

21 Sec. 129. Succession; governor's energy office

22 A. As provided by this act, the governor's energy office succeeds to
23 the authority, powers, duties and responsibilities of the department of
24 commerce energy office as provided by law.

25 B. This act does not alter the effect of any actions that were taken
26 or impair the valid obligations of the department of commerce energy office
27 in existence before July 1, 2011.

28 C. All personnel, all tangible and intangible property and assets and
29 all data and findings of the department of commerce energy office are
30 transferred to the governor's energy office.

31 Sec. 130. Effect on preexisting tax credits

32 A. This act does not affect the validity of tax benefits granted under
33 prior law.

34 B. Any certification or other approval issued under prior law by the
35 department of commerce before the expiration of any tax incentive qualifies
36 the taxpayer, who is otherwise eligible, for the intended tax benefits. No
37 provision of this act may be interpreted to terminate tax incentives that
38 were not claimed by qualified taxpayers before the effective date of this
39 act.

40 C. Taxpayers who qualified for tax incentives under sections 41-1517
41 and 41-1517.01, title 41, chapter 10, article 2, section 42-12006, paragraph
42 4 and sections 43-1074, 43-1075, 43-1075.01, 43-1161, 43-1163 and 43-1163.01,
43 Arizona Revised Statutes, in effect before the effective date of this act,
44 may use any applicable amounts of those credits, including allowed

1 carryovers, against income tax liabilities for subsequent taxable years as
2 provided by law in effect before the effective date of this act.

3 Sec. 131. Interim chief executive officer of Arizona commerce
4 authority

5 A. Notwithstanding section 41-1503, Arizona Revised Statutes, as added
6 by this act, before July 1, 2011 the governor shall appoint an interim chief
7 executive officer in anticipation of the establishment of the Arizona
8 commerce authority.

9 B. The interim chief executive officer shall consider and review the
10 termination of the department of commerce and the succession of the authority
11 to the programs administered and transferred to the authority by this act and
12 begin the organization of the authority to make the transition as orderly as
13 possible and minimize any disruption in the affected programs and
14 functions. For these purposes, the interim chief executive officer may take
15 preparatory action before July 1, 2011 relating to:

- 16 1. Employment of initial employees as of July 1, 2011.
- 17 2. Assessment of the needs for office space for the authority.
- 18 3. The identification and placement of transferred equipment and other
19 property.

20 4. Contracts, including intergovernmental agreements pursuant to title
21 11, chapter 7, article 3, Arizona Revised Statutes, to be executed on or
22 after July 1, 2011.

23 C. The department of commerce shall:

- 24 1. Cooperate with and assist the interim chief executive officer and
25 allow access to records, data and other information necessary and convenient
26 for the transition.
- 27 2. Provide the interim chief executive officer with office space and
28 clerical and other staff support.
- 29 3. Assist in identifying potential problems and complications arising
30 from establishing the authority and assist in resolving these difficulties.

31 D. Personal and employee related expenses of the interim chief
32 executive officer shall be paid from monies available to the authority
33 beginning July 1, 2011.

34 E. The term of the interim chief executive officer ends from and after
35 September 30, 2011, or on the employment of a permanent chief executive
36 officer by the board of directors pursuant to section 41-1503, Arizona
37 Revised Statutes, whichever occurs first.

38 Sec. 132. Initial members of Arizona commerce authority board
39 of directors and rural business development advisory
40 council

41 A. Notwithstanding section 41-1502, subsection B, Arizona Revised
42 Statutes, as added by this act, providing for three-year terms of office, the
43 initial members of the Arizona commerce authority board of directors shall be
44 appointed as follows:

1 1. Five members shall be appointed by the governor to terms of office
2 expiring January 21, 2013. On the expiration of the terms of these members,
3 replacement members shall be appointed as follows:

4 (a) Three members shall be appointed by the governor to full terms of
5 office.

6 (b) One member shall be appointed by the president of the senate to a
7 full term of office.

8 (c) One member shall be appointed by the speaker of the house of
9 representatives to a full term of office.

10 2. Six members shall be appointed by the governor to terms of office
11 expiring January 20, 2014. On the expiration of the terms of these members,
12 replacement members shall be appointed as follows:

13 (a) Four members shall be appointed by the governor to full terms of
14 office.

15 (b) One member shall be appointed by the president of the senate to a
16 full term of office.

17 (c) One member shall be appointed by the speaker of the house of
18 representatives to a full term of office.

19 3. Six members shall be appointed by the governor to terms of office
20 expiring January 19, 2015. On the expiration of the terms of these members,
21 replacement members shall be appointed as follows:

22 (a) Two members shall be appointed by the governor to full terms of
23 office.

24 (b) Two members shall be appointed by the president of the senate to
25 full terms of office.

26 (c) Two members shall be appointed by the speaker of the house of
27 representatives to full terms of office.

28 B. Notwithstanding section 41-1505, subsections B and C, Arizona
29 Revised Statutes, as added by this act, the initial members of the rural
30 business development advisory council shall be appointed as follows:

31 1. Five county-representative members, chosen by lot, shall be
32 appointed by the governor to terms of office expiring January 21, 2013. On
33 the expiration of the terms of these members, replacement members shall be
34 appointed as follows:

35 (a) Three members shall be appointed by the governor to full terms of
36 office.

37 (b) One member shall be appointed by the president of the senate to a
38 full term of office.

39 (c) One member shall be appointed by the speaker of the house of
40 representatives to a full term of office.

41 2. Five county-representative members, chosen by lot, shall be
42 appointed by the governor to terms of office expiring January 20, 2014. On
43 the expiration of the terms of these members, replacement members shall be
44 appointed as follows:

1 (a) Three members shall be appointed by the governor to full terms of
2 office.

3 (b) One member shall be appointed by the president of the senate to a
4 full term of office.

5 (c) One member shall be appointed by the speaker of the house of
6 representatives to a full term of office.

7 3. Five county-representative members, chosen by lot, plus the
8 representative of an economic development organization and the member
9 representing Indian tribes, shall be appointed by the governor to terms of
10 office expiring January 19, 2015. On the expiration of the terms of the
11 county-representative members, replacement members shall be appointed as
12 follows:

13 (a) Three members shall be appointed by the governor to full terms of
14 office.

15 (b) One member shall be appointed by the president of the senate to a
16 full term of office.

17 (c) One member shall be appointed by the speaker of the house of
18 representatives to a full term of office.

19 C. All subsequent members shall be appointed as provided by law.

20 Sec. 133. Purpose

21 Pursuant to section 41-2955, subsection B, Arizona Revised Statutes,
22 the purpose of the Arizona commerce authority is to facilitate the beneficial
23 economic growth and development of this state and to promote prosperity
24 through the development and protection of the legitimate interests of Arizona
25 business, industry and commerce within and outside this state.

26 Sec. 134. Purpose; income tax credits

27 Pursuant to section 43-223, Arizona Revised Statutes, the purpose of
28 sections 43-1074 and 43-1161, Arizona Revised Statutes, as added by this act,
29 is to encourage the creation of quality jobs by employers in this state.

30 Sec. 135. Reimbursement of county assessors' costs

31 A. In fiscal year 2012-2013, the legislature shall reimburse by
32 appropriation the costs incurred in 2012 by county assessors in reclassifying
33 residential property as class four as provided by this act.

34 B. The department of revenue shall prescribe the record keeping and
35 reporting requirements to establish the payment amounts for each county
36 assessor. Each county assessor must report the costs incurred to the
37 governor's office of strategic planning and budgeting, to the joint
38 legislative budget committee and to the department of revenue for inclusion,
39 after verification, in the 2012-2013 general fund budget.

40 Sec. 136. Conforming changes; definition

41 A. The legislative council staff shall prepare proposed legislation
42 conforming the Arizona Revised Statutes to the provisions of this act for
43 consideration in the fiftieth legislature, second regular session.

1 B. Until such legislation is enacted and becomes effective, any
2 reference in Arizona Revised Statutes to the department of commerce is
3 considered to refer to the Arizona commerce authority.

4 Sec. 137. Effective date

5 A. Except as otherwise provided by this section, and except for the
6 appointment of the interim chief executive officer, this act is effective
7 from and after June 30, 2011.

8 B. Sections 5-554, 5-555 and 5-572, Arizona Revised Statutes, as
9 amended by this act, are effective from and after June 30, 2012.

10 C. Section 43-1074.01, Arizona Revised Statutes, as amended by Laws
11 2010, chapter 289, section 3 and chapter 312, section 4 and this act, is
12 effective for taxable years beginning from and after December 31, 2017.

13 D. Section 43-1168, Arizona Revised Statutes, as amended by Laws 2010,
14 chapter 289, section 7 and chapter 312, section 8 and this act, is effective
15 for taxable years beginning from and after December 31, 2017.