

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

HOUSE BILL 2670

AN ACT

AMENDING TITLE 41, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1520; AMENDING SECTIONS 42-5063, 42-5159, 42-6012, 43-1083.04 AND 43-1164.05, ARIZONA REVISED STATUTES; RELATING TO BUSINESS TAX INCENTIVES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 41, chapter 10, article 1, Arizona Revised Statutes,
3 is amended by adding section 41-1520, to read:

4 41-1520. International operations center; utility relief;
5 definitions

6 A. FROM AND AFTER JUNE 30, 2015, UTILITY RELIEF IS ALLOWED FOR THE
7 OWNER OR OPERATOR OF AN INTERNATIONAL OPERATIONS CENTER THAT IS CERTIFIED
8 PURSUANT TO THIS SECTION.

9 B. TO QUALIFY FOR THE UTILITY RELIEF, THE OWNER OR OPERATOR MUST
10 SUBMIT TO THE AUTHORITY AN APPLICATION IN A FORM PRESCRIBED BY THE AUTHORITY
11 THAT INCLUDES ALL OF THE FOLLOWING:

12 1. THE OWNER'S OR OPERATOR'S NAME, ADDRESS AND TELEPHONE NUMBER.

13 2. THE ADDRESS OF THE SITE WHERE THE FACILITY IS OR WILL BE LOCATED,
14 INCLUDING, IF APPLICABLE, INFORMATION SUFFICIENT TO IDENTIFY THE SPECIFIC
15 PORTION OR PORTIONS OF THE FACILITY COMPRISING THE INTERNATIONAL OPERATIONS
16 CENTER.

17 C. WITHIN SIXTY DAYS AFTER RECEIVING A COMPLETE AND CORRECT
18 APPLICATION, THE AUTHORITY SHALL REVIEW THE APPLICATION AND EITHER ISSUE A
19 WRITTEN CERTIFICATION THAT THE INTERNATIONAL OPERATIONS CENTER QUALIFIES FOR
20 THE UTILITY RELIEF OR PROVIDE WRITTEN REASONS FOR ITS DENIAL. A FAILURE TO
21 APPROVE OR DENY THE APPLICATION WITHIN SIXTY DAYS AFTER THE DATE OF SUBMITTAL
22 CONSTITUTES CERTIFICATION OF THE INTERNATIONAL OPERATIONS CENTER, AND THE
23 AUTHORITY SHALL ISSUE WRITTEN CERTIFICATION TO THE OWNER OR OPERATOR WITHIN
24 FOURTEEN DAYS. THE AUTHORITY SHALL SEND A COPY OF THE CERTIFICATION TO THE
25 DEPARTMENT OF REVENUE.

26 D. THE OWNER OR OPERATOR OF THE INTERNATIONAL OPERATIONS CENTER MUST
27 ACHIEVE BOTH OF THE FOLLOWING INVESTMENT REQUIREMENTS AFTER TAKING INTO
28 ACCOUNT THE COMBINED INVESTMENTS MADE BY THE OWNER OR OPERATOR:

29 1. A MINIMUM ANNUAL INVESTMENT OF ONE HUNDRED MILLION DOLLARS IN NEW
30 CAPITAL ASSETS, INCLUDING COSTS OF LAND, BUILDINGS AND INTERNATIONAL
31 OPERATIONS CENTER EQUIPMENT IN EACH OF TEN CONSECUTIVE TAXABLE YEARS OF THE
32 OWNER OR OPERATOR. INVESTMENTS GREATER THAN ONE HUNDRED MILLION DOLLARS IN
33 ANY TAXABLE YEAR MAY BE CARRIED FORWARD AS A CREDIT TOWARD THE INVESTMENT
34 REQUIREMENT IN FUTURE YEARS.

35 2. ON OR BEFORE THE TENTH ANNIVERSARY OF CERTIFICATION, A MINIMUM
36 INVESTMENT OF AT LEAST ONE BILLION TWO HUNDRED FIFTY MILLION DOLLARS IN NEW
37 CAPITAL ASSETS, INCLUDING COSTS OF LAND, BUILDINGS AND INTERNATIONAL
38 OPERATIONS CENTER EQUIPMENT.

39 E. WITHIN THIRTY DAYS AFTER THE END OF EACH TAXABLE YEAR FOLLOWING
40 CERTIFICATION, AND THE TENTH ANNIVERSARY OF CERTIFICATION, THE OWNER OR
41 OPERATOR SHALL FURNISH THE AUTHORITY WRITTEN INFORMATION DEMONSTRATING
42 WHETHER THE CERTIFIED INTERNATIONAL OPERATIONS CENTER HAS OR HAS NOT
43 SATISFIED THE INVESTMENT REQUIREMENTS PRESCRIBED IN SUBSECTION D OF THIS
44 SECTION. UNTIL THE INVESTMENT REQUIREMENTS PRESCRIBED IN SUBSECTION D OF
45 THIS SECTION ARE MET, THE OWNER OR OPERATOR SHALL KEEP DETAILED RECORDS OF

1 ALL CAPITAL INVESTMENT IN THE INTERNATIONAL OPERATIONS CENTER, INCLUDING
2 COSTS OF LAND, BUILDINGS AND INTERNATIONAL OPERATIONS CENTER EQUIPMENT, AND
3 ALL UTILITY RELIEF DIRECTLY RECEIVED BY THE OWNER OR OPERATOR.

4 F. IF THE AUTHORITY DETERMINES THAT THE REQUIREMENTS OF THIS SECTION
5 HAVE NOT BEEN SATISFIED, THE AUTHORITY MAY REVOKE THE CERTIFICATION OF THE
6 INTERNATIONAL OPERATIONS CENTER AND NOTIFY THE DEPARTMENT OF REVENUE IN
7 WRITING. THE OWNER OR OPERATOR MAY APPEAL THE REVOCATION. THE AUTHORITY MAY
8 GIVE SPECIAL CONSIDERATION OR ALLOW A TEMPORARY EXCEPTION IF THERE IS
9 EXTRAORDINARY HARDSHIP DUE TO FACTORS BEYOND THE OWNER'S OR OPERATOR'S
10 CONTROL. IF CERTIFICATION IS REVOKED, THE DEPARTMENT OF REVENUE SHALL ORDER
11 THE OWNER OR OPERATOR TO FORFEIT FURTHER ENTITLEMENT TO UTILITY RELIEF. IF
12 THE OWNER OR OPERATOR FAILS TO MAKE A MINIMUM CAPITAL INVESTMENT OF ONE
13 HUNDRED MILLION DOLLARS IN A TAXABLE YEAR, TAKING INTO ACCOUNT ANY EXCESS
14 INVESTMENT AMOUNTS CARRIED FORWARD FROM PREVIOUS YEARS, THE OWNER OR OPERATOR
15 MAY AVOID REVOCATION OF ITS CERTIFICATION BY PAYING TO THE DEPARTMENT OF
16 REVENUE WITHIN SIXTY DAYS AFTER THE END OF THE TAXABLE YEAR THE AMOUNT OF THE
17 UTILITY RELIEF PROVIDED PURSUANT TO THIS SECTION IN THAT YEAR.

18 G. THE AUTHORITY AND THE DEPARTMENT OF REVENUE SHALL PRESCRIBE FORMS
19 AND PROCEDURES AS NECESSARY FOR THE PURPOSES OF THIS SECTION.

20 H. PROPRIETARY BUSINESS INFORMATION CONTAINED IN THE APPLICATION FORM
21 DESCRIBED IN SUBSECTION B OF THIS SECTION AND THE WRITTEN NOTICE DESCRIBED IN
22 SUBSECTION F OF THIS SECTION ARE CONFIDENTIAL AND MAY NOT BE DISCLOSED TO THE
23 PUBLIC, EXCEPT THAT THE INFORMATION SHALL BE TRANSMITTED TO THE DEPARTMENT OF
24 REVENUE. THE AUTHORITY OR THE DEPARTMENT OF REVENUE MAY DISCLOSE THE NAME OF
25 AN INTERNATIONAL OPERATIONS CENTER THAT HAS BEEN CERTIFIED PURSUANT TO THIS
26 SECTION.

27 I. EXCEPT AS PROVIDED IN SUBSECTION F OF THIS SECTION, ON
28 CERTIFICATION, THE INTERNATIONAL OPERATIONS CENTER REMAINS CERTIFIED UNLESS
29 OWNERSHIP OF THE INTERNATIONAL OPERATIONS CENTER IS SOLD, CONVEYED,
30 TRANSFERRED OR OTHERWISE DIRECTLY OR INDIRECTLY DISPOSED OF TO ANOTHER ENTITY
31 IN WHICH THE ORIGINAL OWNER HOLDS LESS THAN A CONTROLLING INTEREST. FOR THE
32 PURPOSES OF THIS SUBSECTION, "CONTROLLING INTEREST" MEANS AT LEAST EIGHTY
33 PERCENT OF THE VOTING SHARES OF A CORPORATION OR OF THE INTERESTS IN A
34 NONCORPORATE ENTITY.

35 J. AN OWNER OR OPERATOR MAY BE COMPRISED OF A SINGLE ENTITY OR
36 AFFILIATED ENTITIES.

37 K. FOR THE PURPOSES OF THIS SECTION:

38 1. "INTERNATIONAL OPERATIONS CENTER" MEANS A FACILITY THAT IS SUBJECT
39 TO THE INVESTMENT THRESHOLDS UNDER SUBSECTION D OF THIS SECTION AND THAT
40 SELF-CONSUMES RENEWABLE ENERGY FROM A QUALIFIED FACILITY PURSUANT TO SECTION
41 43-1083.04, SUBSECTION C OR SECTION 43-1164.05, SUBSECTION C.

42 2. "UTILITY RELIEF" MEANS THE MITIGATION OF THE TAX BURDEN ON THE
43 RETAIL PURCHASER OF ELECTRICITY OR NATURAL GAS THROUGH THE APPLICATION OF
44 SECTION 42-5063, SUBSECTION C, PARAGRAPH 7, SECTION 42-5159, SUBSECTION G,
45 PARAGRAPH 2 AND SECTION 42-6012, PARAGRAPH 2.

1 Sec. 2. Section 42-5063, Arizona Revised Statutes, is amended to read:
2 42-5063. Utilities classification: definitions

3 A. The utilities classification is comprised of the business of:

4 1. Producing and furnishing or furnishing to consumers natural or
5 artificial gas and water.

6 2. Providing to retail electric customers ancillary services, electric
7 distribution services, electric generation services, electric transmission
8 services and other services related to providing electricity.

9 B. The utilities classification does not include:

10 1. Sales of ancillary services, electric distribution services,
11 electric generation services, electric transmission services and other
12 services related to providing electricity, gas or water to a person who
13 resells the services.

14 2. Sales of natural gas or liquefied petroleum gas used to propel a
15 motor vehicle.

16 3. Sales of alternative fuel, as defined in section 1-215, to a used
17 oil fuel burner who has received a permit to burn used oil or used oil fuel
18 under section 49-426 or 49-480.

19 4. Sales of ancillary services, electric distribution services,
20 electric generation services, electric transmission services and other
21 services that are related to providing electricity to a retail electric
22 customer who is located outside this state for use outside this state if the
23 electricity is delivered to a point of sale outside this state.

24 5. Sales or other transfers of renewable energy credits or any other
25 unit created to track energy derived from renewable energy resources. For
26 the purposes of this paragraph, "renewable energy credit" means a unit
27 created administratively by the corporation commission or governing body of a
28 public power utility to track kilowatt hours of electricity derived from a
29 renewable energy resource or the kilowatt hour equivalent of conventional
30 energy resources displaced by distributed renewable energy resources.

31 C. The tax base for the utilities classification is the gross proceeds
32 of sales or gross income derived from the business, but the following shall
33 be deducted from the tax base:

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

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

1 3. Gross proceeds of sales or gross income derived from sales to:
2 (a) Qualifying hospitals as defined in section 42-5001.
3 (b) A qualifying health care organization as defined in section
4 42-5001 if the tangible personal property is used by the organization solely
5 to provide health and medical related educational and charitable services.
6 4. The portion of gross proceeds of sales or gross income that is
7 derived from sales to a qualified environmental technology manufacturer,
8 producer or processor as defined in section 41-1514.02 of a utility product
9 and that is used directly in environmental technology manufacturing,
10 producing or processing. This paragraph shall apply for twenty full
11 consecutive calendar or fiscal years from the date the first paper
12 manufacturing machine is placed in service. In the case of a qualified
13 environmental technology manufacturer, producer or processor who does not
14 manufacture paper, the time period shall begin with the date the first
15 manufacturing, processing or production equipment is placed in service.
16 5. The portion of gross proceeds of sales or gross income attributable
17 to transfers of electricity by any retail electric customer owning a solar
18 photovoltaic energy generating system to an electric distribution system, if
19 the electricity transferred is generated by the customer's system.
20 6. Gross proceeds of sales or gross income derived from sales of
21 electricity or natural gas to a business that is principally engaged in
22 manufacturing or smelting operations and that uses at least fifty-one ~~per~~
23 ~~cent~~ PERCENT of the electricity or natural gas in the manufacturing or
24 smelting operations. This paragraph does not apply to gas transportation
25 services. For the purposes of this paragraph:
26 (a) "Gas transportation services" means the services of transporting
27 natural gas to a natural gas customer or to a natural gas distribution
28 facility if the natural gas was purchased from a supplier other than the
29 utility.
30 (b) "Manufacturing" means the performance as a business of an
31 integrated series of operations that places tangible personal property in a
32 form, composition or character different from that in which it was acquired
33 and transforms it into a different product with a distinctive name, character
34 or use. Manufacturing does not include processing, fabricating, job
35 printing, mining, generating electricity or operating a restaurant.
36 (c) "Principally engaged" means at least fifty-one ~~per-cent~~ PERCENT of
37 the business is a manufacturing or smelting operation.
38 (d) "Smelting" means to melt or fuse a metalliferous mineral, often
39 with an accompanying chemical change, usually to separate the metal.
40 7. GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM SALES OF
41 ELECTRICITY OR NATURAL GAS TO A BUSINESS THAT OPERATES AN INTERNATIONAL
42 OPERATIONS CENTER IN THIS STATE AND THAT IS CERTIFIED BY THE ARIZONA COMMERCE
43 AUTHORITY PURSUANT TO SECTION 41-1520.

1 D. For the purposes of this section:

2 1. "Ancillary services" means those services so designated in federal
3 energy regulatory commission order 888 adopted in 1996 that include the
4 services necessary to support the transmission of electricity from resources
5 to loads while maintaining reliable operation of the transmission system
6 according to good utility practice.

7 2. "Electric distribution service" means distributing electricity to
8 retail electric customers through the use of electric distribution
9 facilities.

10 3. "Electric generation service" means providing electricity for sale
11 to retail electric customers but excluding electric distribution or
12 transmission services.

13 4. "Electric transmission service" means transmitting electricity to
14 retail electric customers or to electric distribution facilities so
15 classified by the federal energy regulatory commission or, to the extent
16 permitted by law, so classified by the Arizona corporation commission.

17 5. "Other services" includes metering, meter reading services, billing
18 and collecting services.

19 6. "Retail electric customer" means a person who purchases electricity
20 for that person's own use, including use in that person's trade or business
21 and not for resale, redistribution or retransmission.

22 Sec. 3. Section 42-5159, Arizona Revised Statutes, is amended to read:
23 42-5159. Exemptions

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

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

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

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

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

43 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
44 which in this state is subject to the tax imposed under title 28, chapter 16,
45 article 1, use fuel that is sold to or used by a person holding a valid

1 single trip use fuel tax permit issued under section 28-5739, aviation fuel,
2 the sales, distribution or use of which in this state is subject to the tax
3 imposed under section 28-8344, and jet fuel, the sales, distribution or use
4 of which in this state is subject to the tax imposed under article 8 of this
5 chapter.

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

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

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

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

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

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

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

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

38 13. Tangible personal property purchased by:

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

42 (b) A hospital operated by this state or a political subdivision of
43 this state.

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

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

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

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

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

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

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

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

32 (i) A qualifying community health center as defined in section
33 42-5001.

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

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

42 (l) For taxable periods beginning from and after June 30, 2001, a
43 nonprofit charitable organization that has qualified under section 501(c)(3)
44 of the internal revenue code and that provides residential apartment housing
45 for low income persons over sixty-two years of age in a facility that

1 qualifies for a federal housing subsidy, if the tangible personal property is
2 used by the organization solely to provide residential apartment housing for
3 low income persons over sixty-two years of age in a facility that qualifies
4 for a federal housing subsidy.

5 (m) A qualifying health sciences educational institution as defined in
6 section 42-5001.

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

12 15. Tangible personal property sold by:

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

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

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

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

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

33 18. Prescription eyeglasses and contact lenses.

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

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

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

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

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

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

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

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

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

15 27. Lottery tickets or shares purchased pursuant to title 5, chapter
16 5.1, article 1.

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

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

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

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

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

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

39 (b) Public educational institutions.

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

43 33. Natural gas or liquefied petroleum gas used to propel a motor
44 vehicle.

1 34. Machinery, equipment, technology or related supplies that are only
2 useful to assist a person ~~who has~~ WITH a physical disability as defined in
3 section 46-191, ~~OR A PERSON WHO~~ has a developmental disability as defined in
4 section 36-551 or has a head injury as defined in section 41-3201 to be more
5 independent and functional.

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

19 36. Food, drink and condiment purchased for consumption within the
20 premises of any prison, jail or other institution under the jurisdiction of
21 the state department of corrections, the department of public safety, the
22 department of juvenile corrections or a county sheriff.

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

27 38. Tangible personal property that is or directly enters into and
28 becomes an ingredient or component part of cards used as prescription plan
29 identification cards.

30 39. Overhead materials or other tangible personal property that is used
31 in performing a contract between the United States government and a
32 manufacturer, modifier, assembler or repairer, including property used in
33 performing a subcontract with a government contractor who is a manufacturer,
34 modifier, assembler or repairer, to which title passes to the government
35 under the terms of the contract or subcontract. For the purposes of this
36 paragraph:

37 (a) "Overhead materials" means tangible personal property, the gross
38 proceeds of sales or gross income derived from which would otherwise be
39 included in the retail classification, that is used or consumed in the
40 performance of a contract, the cost of which is charged to an overhead
41 expense account and allocated to various contracts based on generally
42 accepted accounting principles and consistent with government contract
43 accounting standards.

44 (b) "Subcontract" means an agreement between a contractor and any
45 person who is not an employee of the contractor for furnishing of supplies or

1 services that, in whole or in part, are necessary to the performance of one
2 or more government contracts, or under which any portion of the contractor's
3 obligation under one or more government contracts is performed, undertaken or
4 assumed, and that includes provisions causing title to overhead materials or
5 other tangible personal property used in the performance of the subcontract
6 to pass to the government or that includes provisions incorporating such
7 title passing clauses in a government contract into the subcontract.

8 40. Through December 31, 1994, tangible personal property sold pursuant
9 to a personal property liquidation transaction, as defined in section
10 42-5061. From and after December 31, 1994, tangible personal property sold
11 pursuant to a personal property liquidation transaction, as defined in
12 section 42-5061, if the gross proceeds of the sales were included in the
13 measure of the tax imposed by article 1 of this chapter or if the personal
14 property liquidation was a casual activity or transaction.

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

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

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

29 44. Alternative fuel vehicles if the vehicle was manufactured as a
30 diesel fuel vehicle and converted to operate on alternative fuel and
31 equipment that is installed in a conventional diesel fuel motor vehicle to
32 convert the vehicle to operate on an alternative fuel, as defined in section
33 1-215.

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

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

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

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

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

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

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

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

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

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

23 51. Motor vehicle fuel and use fuel to a qualified business under
24 section 41-1516 for off-road use in harvesting, processing or transporting
25 qualifying forest products removed from qualifying projects as defined in
26 section 41-1516.

27 52. Repair parts installed in equipment used directly by a qualified
28 business under section 41-1516 in harvesting, processing or transporting
29 qualifying forest products removed from qualifying projects as defined in
30 section 41-1516.

31 53. Renewable energy credits or any other unit created to track energy
32 derived from renewable energy resources. For the purposes of this paragraph,
33 "renewable energy credit" means a unit created administratively by the
34 corporation commission or governing body of a public power entity to track
35 kilowatt hours of electricity derived from a renewable energy resource or the
36 kilowatt hour equivalent of conventional energy resources displaced by
37 distributed renewable energy resources.

38 54. Computer data center equipment purchased by the owner, operator or
39 qualified colocation tenant of the computer data center or an authorized
40 agent of the owner, operator or qualified colocation tenant during the
41 qualification period for use in a computer data center that is certified by
42 the Arizona commerce authority under section 41-1519. To qualify for this
43 deduction, at the time of purchase, the owner, operator or qualified
44 colocation tenant must present to the retailer its certificate that is issued
45 pursuant to section 41-1519 and that establishes its qualification for the

1 deduction. For the purposes of this paragraph, "computer data center",
2 "computer data center equipment", "qualification period" and "qualified
3 colocation tenant" have the same meanings prescribed in section 41-1519.

4 55. Coal acquired from an owner or operator of a power plant by a
5 person who is responsible for refining coal if both of the following apply:

6 (a) The transfer of title or possession of the coal is for the purpose
7 of refining the coal.

8 (b) The title or possession of the coal is transferred back to the
9 owner or operator of the power plant after completion of the coal refining
10 process. For the purposes of this subdivision, "coal refining process" means
11 the application of a coal additive system that aids the reduction of power
12 plant emissions during the combustion of coal and the treatment of flue gas.

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

16 1. Machinery, or equipment, used directly in manufacturing,
17 processing, fabricating, job printing, refining or metallurgical operations.
18 The terms "manufacturing", "processing", "fabricating", "job printing",
19 "refining" and "metallurgical" as used in this paragraph refer to and include
20 those operations commonly understood within their ordinary meaning.
21 "Metallurgical operations" includes leaching, milling, precipitating,
22 smelting and refining.

23 2. Machinery, or equipment, used directly in the process of extracting
24 ores or minerals from the earth for commercial purposes, including equipment
25 required to prepare the materials for extraction and handling, loading or
26 transporting such extracted material to the surface. "Mining" includes
27 underground, surface and open pit operations for extracting ores and
28 minerals.

29 3. Tangible personal property sold to persons engaged in business
30 classified under the telecommunications classification under section 42-5064
31 and consisting of central office switching equipment, switchboards, private
32 branch exchange equipment, microwave radio equipment and carrier equipment
33 including optical fiber, coaxial cable and other transmission media that are
34 components of carrier systems.

35 4. Machinery, equipment or transmission lines used directly in
36 producing or transmitting electrical power, but not including distribution.
37 Transformers and control equipment used at transmission substation sites
38 constitute equipment used in producing or transmitting electrical power.

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

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

1 7. Aircraft, navigational and communication instruments and other
2 accessories and related equipment sold to:

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

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

12 8. Machinery, tools, equipment and related supplies used or consumed
13 directly in repairing, remodeling or maintaining aircraft, aircraft engines
14 or aircraft component parts by or on behalf of a certificated or licensed
15 carrier of persons or property.

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

18 10. Machinery or equipment used directly to drill for oil or gas or
19 used directly in the process of extracting oil or gas from the earth for
20 commercial purposes.

21 11. Buses or other urban mass transit vehicles that are used directly
22 to transport persons or property for hire or pursuant to a governmentally
23 adopted and controlled urban mass transportation program and that are sold to
24 bus companies holding a federal certificate of convenience and necessity or
25 operated by any city, town or other governmental entity or by any person
26 contracting with such governmental entity as part of a governmentally adopted
27 and controlled program to provide urban mass transportation.

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

29 13. New machinery and equipment consisting of tractors, tractor-drawn
30 implements, self-powered implements, machinery and equipment necessary for
31 extracting milk, and machinery and equipment necessary for cooling milk and
32 livestock, and drip irrigation lines not already exempt under paragraph 6 of
33 this subsection and that are used for commercial production of agricultural,
34 horticultural, viticultural and floricultural crops and products in this
35 state. For the purposes of this paragraph:

36 (a) "New machinery and equipment" means machinery or equipment that
37 has never been sold at retail except pursuant to leases or rentals that do
38 not total two years or more.

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

41 14. Machinery or equipment used in research and development. For the
42 purposes of this paragraph, "research and development" means basic and
43 applied research in the sciences and engineering, and designing, developing
44 or testing prototypes, processes or new products, including research and
45 development of computer software that is embedded in or an integral part of

1 the prototype or new product or that is required for machinery or equipment
2 otherwise exempt under this section to function effectively. Research and
3 development do not include manufacturing quality control, routine consumer
4 product testing, market research, sales promotion, sales service, research in
5 social sciences or psychology, computer software research that is not
6 included in the definition of research and development, or other
7 nontechnological activities or technical services.

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

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

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

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

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

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

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

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

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

1 17. Machinery and equipment that are used directly in the feeding of
2 poultry, the environmental control of housing for poultry, the movement of
3 eggs within a production and packaging facility or the sorting or cooling of
4 eggs. This exemption does not apply to vehicles used for transporting eggs.

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

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

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

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

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

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

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

40 C. The exemptions provided by subsection B of this section do not
41 include:

42 1. Expendable materials. For the purposes of this paragraph,
43 expendable materials do not include any of the categories of tangible
44 personal property specified in subsection B of this section regardless of the
45 cost or useful life of that property.

1 2. Janitorial equipment and hand tools.
2 3. Office equipment, furniture and supplies.
3 4. Tangible personal property used in selling or distributing
4 activities, other than the telecommunications transmissions described in
5 subsection B, paragraph 15 of this section.

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

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

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

13 8. Machinery and equipment or tangible personal property used by a
14 contractor in the performance of a contract.

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 the purchase of
28 solar energy devices from a retailer that is registered with the department
29 as a solar energy retailer or a solar energy contractor.

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

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

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

42 G. The tax levied by this article does not apply to the purchase price
43 of electricity or natural gas by:

44 1. A business that is principally engaged in manufacturing or smelting
45 operations and that uses at least fifty-one ~~per-cent~~ PERCENT of the

1 electricity or natural gas in the manufacturing or smelting operations. This
2 ~~subsection~~ PARAGRAPH does not apply to gas transportation services. For the
3 purposes of this ~~subsection~~ PARAGRAPH:

4 ~~1-~~ (a) "Gas transportation services" means the services of
5 transporting natural gas to a natural gas customer or to a natural gas
6 distribution facility if the natural gas was purchased from a supplier other
7 than the utility.

8 ~~2-~~ (b) "Manufacturing" means the performance as a business of an
9 integrated series of operations that places tangible personal property in a
10 form, composition or character different from that in which it was acquired
11 and transforms it into a different product with a distinctive name, character
12 or use. Manufacturing does not include processing, fabricating, job
13 printing, mining, generating electricity or operating a restaurant.

14 ~~3-~~ (c) "Principally engaged" means at least fifty-one ~~per-cent~~
15 PERCENT of the business is a manufacturing or smelting operation.

16 ~~4-~~ (d) "Smelting" means to melt or fuse a metalliferous mineral,
17 often with an accompanying chemical change, usually to separate the metal.

18 2. A BUSINESS THAT OPERATES AN INTERNATIONAL OPERATIONS CENTER IN THIS
19 STATE AND THAT IS CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO
20 SECTION 41-1520.

21 H. For the purposes of subsection B of this section:

22 1. "Aircraft" includes:

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

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

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

32 I. For the purposes of subsection D of this section, "ancillary
33 services", "electric distribution service", "electric generation service",
34 "electric transmission service" and "other services" have the same meanings
35 prescribed in section 42-5063.

36 Sec. 4. Section 42-6012, Arizona Revised Statutes, is amended to read:

37 ~~42-6012.~~ Municipal transaction privilege tax; sales of
38 electricity or natural gas

39 ~~A-~~ A city or town that levies a transaction privilege, sales, gross
40 receipts, use, franchise or other similar fee or tax, however denominated, on
41 the business of producing, providing or furnishing electricity, electric
42 lights, current, power or natural gas shall either tax or exempt in whole the
43 gross proceeds of sales or gross income from sales by those businesses to
44 EITHER OF THE FOLLOWING BUSINESSES:

1 1. Businesses that use at least fifty-one ~~per-cent~~ PERCENT of the
2 electricity, electric lights, current, power or natural gas in a
3 manufacturing or smelting operation located in that city or town. This
4 ~~subsection~~ PARAGRAPH does not apply to gas transportation services.

5 ~~B.~~ For the purposes of this ~~section~~ PARAGRAPH:

6 ~~1.~~ (a) "Gas transportation services" means the services of
7 transporting natural gas to a natural gas customer or to a natural gas
8 distribution facility if the natural gas was purchased from a supplier other
9 than the utility.

10 ~~2.~~ (b) "Manufacturing" means the performance as a business of an
11 integrated series of operations that places tangible personal property in a
12 form, composition or character different from that in which it was acquired
13 and transforms it into a different product with a distinctive name, character
14 or use. Manufacturing does not include processing, fabricating, job
15 printing, mining, generating electricity or operating a restaurant.

16 ~~3.~~ (c) "Smelting" means to melt or fuse a metalliferous mineral,
17 often with an accompanying chemical change, usually to separate the metal.

18 2. BUSINESSES THAT OPERATE AN INTERNATIONAL OPERATIONS CENTER IN THIS
19 STATE AND THAT ARE CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO
20 SECTION 41-1520.

21 Sec. 5. Section 43-1083.04, Arizona Revised Statutes, is amended to
22 read:

23 43-1083.04. Credit for renewable energy investment and
24 production for self-consumption by manufacturers
25 and international operations centers; definitions

26 A. A credit is allowed against the taxes imposed by this title for
27 investment in new renewable energy facilities that produce energy for
28 self-consumption using renewable energy resources if the power will be used
29 primarily for manufacturing OR FOR AN INTERNATIONAL OPERATIONS CENTER.

30 B. IF THE POWER IS GENERATED PRIMARILY FOR THE PURPOSES OF THE
31 TAXPAYER'S MANUFACTURING FACILITY, the taxpayer is eligible for the credit if
32 all of the following apply:

33 1. The taxpayer invests at least three hundred million dollars in new
34 renewable energy facilities in this state that produce energy for
35 self-consumption using renewable energy resources. The minimum investment
36 must be completed within a three-year period beginning on the date the
37 initial application is received or BY December 31, 2017, whichever is
38 earlier.

39 2. At least ninety ~~per-cent~~ PERCENT of the energy produced at each
40 renewable energy facility is used for self-consumption in this state.
41 Self-consumption includes the power used by related entities if the related
42 entities are owned directly or indirectly by the same ownership interests
43 that collectively own more than fifty ~~per-cent~~ PERCENT. A facility that
44 transfers the power it generates to a utility qualifies under this paragraph

1 if at least ninety ~~per-cent~~ PERCENT of the power is transferred back for
2 self-consumption in this state.

3 3. The power is used primarily for manufacturing. A lessor of a
4 ~~manufacturing~~ facility that is using power for self-consumption under
5 paragraph 2 of this subsection qualifies under this paragraph if the lessee
6 is a manufacturer and the power is transferred as part of the lease to the
7 lessee.

8 C. IF THE POWER IS GENERATED PRIMARILY FOR THE PURPOSES OF THE
9 TAXPAYER'S INTERNATIONAL OPERATIONS CENTER, THE TAXPAYER IS ELIGIBLE FOR THE
10 CREDIT IF ALL OF THE FOLLOWING APPLY:

11 1. THE TAXPAYER INVESTS AT LEAST ONE HUNDRED MILLION DOLLARS IN ONE OR
12 MORE NEW RENEWABLE ENERGY FACILITIES IN THIS STATE THAT PRODUCE ENERGY FOR
13 SELF-CONSUMPTION USING RENEWABLE ENERGY RESOURCES. THE MINIMUM INVESTMENT
14 MUST BE COMPLETED WITHIN A THREE-YEAR PERIOD BEGINNING ON THE DATE THE
15 INITIAL APPLICATION IS RECEIVED OR BY DECEMBER 31, 2018, WHICHEVER IS
16 EARLIER.

17 2. A PORTION OF THE ENERGY PRODUCED AT EACH RENEWABLE ENERGY FACILITY
18 IS USED FOR SELF-CONSUMPTION IN THIS STATE. BY THE FIFTH YEAR A RENEWABLE
19 ENERGY FACILITY IS IN OPERATION, AT LEAST FIFTY-ONE PERCENT OF THE ENERGY
20 PRODUCED MUST BE USED FOR SELF-CONSUMPTION IN THIS STATE. SELF-CONSUMPTION
21 INCLUDES THE POWER USED BY RELATED ENTITIES IF THE RELATED ENTITIES ARE
22 DIRECTLY OR INDIRECTLY UNDER THE SAME OWNERSHIP INTERESTS THAT COLLECTIVELY
23 OWN MORE THAN EIGHTY PERCENT. POWER THAT A RENEWABLE ENERGY FACILITY
24 TRANSFERS TO A UTILITY QUALIFIES AS SELF-CONSUMPTION IF THE UTILITY IS THE
25 SAME UTILITY THAT PROVIDES POWER TO THE OWNER'S INTERNATIONAL OPERATIONS
26 CENTER IN THIS STATE.

27 3. THE POWER THAT IS USED FOR SELF-CONSUMPTION UNDER PARAGRAPH 2 OF
28 THIS SUBSECTION IS USED FOR AN INTERNATIONAL OPERATIONS CENTER IN THIS STATE.
29 A LESSOR OF AN INTERNATIONAL OPERATIONS CENTER FACILITY THAT USES POWER FOR
30 SELF-CONSUMPTION UNDER PARAGRAPH 2 OF THIS SUBSECTION SATISFIES THE
31 REQUIREMENTS OF THIS PARAGRAPH IF THE LESSEE IS AN INTERNATIONAL OPERATIONS
32 CENTER AND THE POWER IS TRANSFERRED AS PART OF THE LEASE TO THE LESSEE.

33 ~~C.~~ D. Subject to subsection ~~F~~ G of this section, the credit
34 authorized by this section is ~~one~~ FIVE million dollars per year for five
35 years for each renewable energy facility. The maximum credit allowed per
36 taxpayer per year is five million dollars. IF A TAXPAYER USES THE POWER
37 GENERATED BY THE RENEWABLE ENERGY FACILITY IN THE TAXPAYER'S INTERNATIONAL
38 OPERATIONS CENTER, THE TAXPAYER, INCLUDING ALL AFFILIATES OF THE TAXPAYER,
39 MAY NOT CUMULATE TAX CREDITS UNDER THIS SECTION OVER DIFFERENT TAXABLE YEARS
40 EXCEEDING, IN THE AGGREGATE, TWENTY-FIVE MILLION DOLLARS. The initial credit
41 for each facility is claimed in the year that the facility becomes
42 operational. A credit, other than carryovers allowed under subsection ~~M~~ N
43 of this section, may not be claimed for any taxable year beginning after
44 December 31, 2025.

1 ~~D~~ E. To qualify as a separate renewable energy facility for the
2 purposes of this section, a facility must be located at least one mile from
3 any other renewable energy facility for which the taxpayer is claiming a
4 credit under this section.

5 ~~E~~ F. To be eligible for the credit under this section, the taxpayer
6 must apply to the department for certification of the credit on a form
7 prescribed by the department. The application shall include:

8 1. The name, address and social security number or federal employer
9 identification number of the applicant.

10 2. An estimate of the total investment the taxpayer will make, over a
11 three-year period beginning on the date the application is received, in new
12 renewable energy ~~production~~ facilities in this state that produce energy for
13 self-consumption using renewable energy resources.

14 3. The expected location of each of the taxpayer's facilities that
15 comprise the total investment in paragraph 2 of this subsection and the
16 earliest date that each facility is expected to be operational.

17 4. A statement that ~~at least ninety per cent~~ THE PORTION of the power
18 generated by each facility, AS REQUIRED BY SUBSECTION B, PARAGRAPH 2 OR
19 SUBSECTION C, PARAGRAPH 2 OF THIS SECTION, shall be for self-consumption and
20 shall be used for manufacturing OR INTERNATIONAL OPERATIONS CENTER USE.

21 5. Any additional information that the department requires.

22 ~~F~~ G. The department shall review each application under subsection
23 ~~E~~ F of this section and preapprove the taxpayer for a specified amount of
24 credit that is authorized. Credits are allowed under this section and
25 section 43-1164.05 on a first come, first served basis. The department may
26 not authorize tax credits under this section and section 43-1164.05 that
27 exceed in the aggregate a total of ten million dollars for any calendar year.
28 The portion of each year's limit that is reserved for each taxpayer must be
29 based on the year that each credit is expected to be claimed using the dates
30 provided in subsection ~~E~~ F, paragraph 3 of this section. If the year a
31 facility is completed is different from the estimated completion date
32 provided in subsection ~~E~~ F, paragraph 3 of this section, the taxpayer must
33 amend the application with the new dates. If an application is received
34 that, if authorized, would require the department to exceed the ten million
35 dollar limit, the department shall grant the applicant only the remaining
36 credit amount that would not exceed the ten million dollar limit. After the
37 department authorizes ten million dollars in tax credits, the department
38 shall deny any subsequent applications that are received for that calendar
39 year. The department may not authorize any additional tax credits that
40 exceed the ten million dollar limit even if the amounts that have been
41 certified to any taxpayer are not claimed or a taxpayer otherwise fails to
42 meet the requirements to claim the additional credit.

43 ~~G~~ H. If a taxpayer fails to start construction within six months
44 after submitting the application under subsection ~~E~~ F of this section, the
45 preapproval issued under subsection ~~F~~ G of this section is void and all

1 monies reserved from the limits specified in subsection ~~F~~ G of this section
2 revert back to the limit for the year for which they were reserved.

3 ~~H~~. I. Each year after initial preapproval, on or before the
4 anniversary date of the application specified in subsection ~~E~~ F of this
5 section, the taxpayer must submit to the department:

6 1. Documentation of the taxpayer's progress toward the ~~three hundred~~
7 ~~million dollar~~ investment required by subsection B, paragraph 1 OR SUBSECTION
8 C, PARAGRAPH 1 of this section. This documentation is not required after the
9 department receives a report stating that the ~~three hundred million dollar~~
10 REQUIRED investment THRESHOLD has been reached.

11 2. Documentation for each facility that demonstrates that ~~at least~~
12 ~~ninety per cent~~ THE REQUIRED PORTION of the power generated by each renewable
13 energy facility is for self-consumption AS REQUIRED BY SUBSECTION B,
14 PARAGRAPH 2 OR SUBSECTION C, PARAGRAPH 2 OF THIS SECTION.

15 3. CERTIFICATION FROM THE ARIZONA COMMERCE AUTHORITY PURSUANT TO
16 SECTION 41-1520.

17 ~~I~~. J. The taxpayer must submit a request for final certification to
18 the department within thirty days after each of the renewable energy
19 facilities for which an authorization was given under subsection ~~F~~ G of this
20 section becomes operational. Within thirty days after receiving a completed
21 request under this subsection, the department shall review the request and
22 either issue a final certification of the credit to the taxpayer or issue a
23 denial of the credit if it is determined that the requirements of this
24 section have not been met. Every final certification issued under this
25 subsection must include a facility code issued by the department that is
26 unique to each facility. To show that the facility has been certified, the
27 taxpayer shall include with the tax return the facility code for each
28 facility for which a credit is claimed. IF THE TAXPAYER IS THE OWNER OR
29 OPERATOR OF AN INTERNATIONAL OPERATIONS CENTER, THE TAXPAYER MUST SUBMIT THE
30 REQUEST FOR FINAL CERTIFICATION FOR EACH OF THE RENEWABLE ENERGY FACILITIES
31 FOR WHICH CAPITAL INVESTMENT WILL BE CLAIMED TOWARDS THE REQUIRED INVESTMENT
32 THRESHOLD AND MUST SUBMIT ADDITIONAL EVIDENCE TO THE DEPARTMENT WITHIN SIXTY
33 DAYS AFTER THE END OF THE FIFTH YEAR OF OPERATION OF EACH FACILITY THAT THE
34 REQUIREMENTS OF SUBSECTION C, PARAGRAPH 2 OF THIS SECTION HAVE BEEN MET.

35 ~~J. If the taxpayer fails to make the required three hundred million~~
36 ~~dollar investment within the time period required by subsection B, paragraph~~
37 ~~1 of this section, the taxpayer must cease claiming any credits under this~~
38 ~~section and shall recapture any credits already claimed. The recapture must~~
39 ~~be made on the taxpayer's income tax return for the tax year in which it was~~
40 ~~first known that the required investment would not be made within the~~
41 ~~required time.~~

42 K. IF THE TAXPAYER FAILS TO MAKE THE REQUIRED INVESTMENT IN RENEWABLE
43 ENERGY FACILITIES WITHIN THE TIME PERIOD REQUIRED BY SUBSECTION B, PARAGRAPH
44 1 OR SUBSECTION C, PARAGRAPH 1 OF THIS SECTION OR IF THE CERTIFICATION OF AN
45 INTERNATIONAL OPERATIONS CENTER HAS BEEN REVOKED UNDER SECTION 41-1520 DUE TO

1 A FAILURE TO MAKE A ONE BILLION TWO HUNDRED FIFTY MILLION DOLLAR INVESTMENT
2 IN THE CENTER WITHIN TEN YEARS AFTER CERTIFICATION OR IF THE TAXPAYER FAILS
3 TO RECEIVE FINAL CERTIFICATION OF THE CREDIT UNDER SUBSECTION J OF THIS
4 SECTION, THE TAXPAYER SHALL NOT BE ELIGIBLE AND MUST CEASE CLAIMING ANY
5 FURTHER CREDITS UNDER THIS SECTION AND SHALL REIMBURSE THE AMOUNT OF ALL
6 CREDITS PREVIOUSLY RECEIVED UNDER THIS SECTION. THE REIMBURSEMENT MUST BE
7 MADE ON THE TAXPAYER'S INCOME TAX RETURN FOR THE TAXABLE YEAR IN WHICH IT IS
8 FIRST KNOWN THAT THE REQUIRED INVESTMENT WOULD NOT BE MADE WITHIN THE
9 REQUIRED TIME OR THE TAXABLE YEAR IN WHICH THE CERTIFICATION WAS REVOKED.
10 THE DEPARTMENT MAY GIVE SPECIAL CONSIDERATION OR ALLOW A TEMPORARY EXEMPTION
11 FROM REIMBURSEMENT IF THERE IS EXTRAORDINARY HARDSHIP DUE TO FACTORS BEYOND
12 THE TAXPAYER'S CONTROL. IF THE REIMBURSEMENT IS DUE TO REVOCATION OF THE
13 CERTIFICATION OF AN INTERNATIONAL OPERATIONS CENTER DUE TO A FAILURE TO
14 INVEST ONE BILLION TWO HUNDRED FIFTY MILLION DOLLARS IN THE CENTER WITHIN TEN
15 YEARS AFTER CERTIFICATION, THE CREDITS SHALL BE REIMBURSED IN INVERSE
16 PROPORTION TO THE TOTAL CAPITAL INVESTMENT MADE IN THE INTERNATIONAL
17 OPERATIONS CENTER DIVIDED BY ONE BILLION TWO HUNDRED FIFTY MILLION DOLLARS.
18 THE DEPARTMENT MAY REQUIRE REIMBURSEMENT BEFORE THE TENTH ANNIVERSARY OF
19 CERTIFICATION OF AN INTERNATIONAL OPERATIONS CENTER IF THE FACILITY HAS BEEN
20 CLOSED OR RELOCATED OR THE TAXPAYER HAS OTHERWISE DEMONSTRATED THAT THE ONE
21 BILLION TWO HUNDRED FIFTY MILLION DOLLAR INVESTMENT WILL NOT BE TIMELY MADE.

22 ~~K.~~ L. If a particular facility ceases to meet the requirements of
23 this section or if the facility is sold, the taxpayer may not claim any
24 future credits related to that facility.

25 ~~L.~~ M. Co-owners of a business, including partners in a partnership,
26 members of a limited liability company and shareholders of an S corporation
27 as defined in section 1361 of the internal revenue code, may each claim the
28 pro rata share of the credit allowed under this section based on ownership
29 interest. The total of the credits allowed all the owners of the business
30 may not exceed the amount that would have been allowed for a sole owner of
31 the business.

32 ~~M.~~ N. If the allowable tax credit for a taxpayer exceeds the taxes
33 otherwise due under this title on the claimant's income, or if there are no
34 taxes due under this title, the amount of the claim not used to offset taxes
35 under this title may be carried forward for not more than five consecutive
36 taxable years as a credit against subsequent years' income tax liability.

37 ~~N.~~ O. A taxpayer may not claim a credit under this section and
38 section 43-1083.02 regarding the same facilities.

39 ~~O.~~ P. The department shall adopt rules and publish and prescribe
40 forms and procedures as necessary to effectuate the purposes of this section.

41 ~~P.~~ Q. For the purposes of this section:

42 1. "Biomass" means organic material that is available on a renewable
43 or recurring basis, including:

1 (a) Forest-related materials, including mill residues, logging
2 residues, forest thinnings, slash, brush, low-commercial value materials or
3 undesirable species, salt cedar and other phreatophyte or woody vegetation
4 removed from river basins or watersheds and woody material harvested for the
5 purpose of forest fire fuel reduction or forest health and watershed
6 improvement.

7 (b) Agricultural-related materials, including orchard trees, vineyard,
8 grain or crop residues, including straws and stover, aquatic plants and
9 agricultural processed coproducts and waste products, including fats, oils,
10 greases, whey and lactose.

11 (c) Animal waste, including manure and slaughterhouse and other
12 processing waste.

13 (d) Solid woody waste materials, including landscape or right-of-way
14 tree trimmings, rangeland maintenance residues, waste pallets, crates and
15 manufacturing, construction and demolition wood wastes but excluding
16 pressure-treated, chemically treated or painted wood wastes and wood
17 contaminated with plastic.

18 (e) Crops and trees planted for the purpose of being used to produce
19 energy.

20 (f) Landfill gas, wastewater treatment gas and biosolids, including
21 organic waste by-products generated during the wastewater treatment process.

22 2. "INTERNATIONAL OPERATIONS CENTER" MEANS A FACILITY THAT IS
23 CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1520.

24 ~~2-~~ 3. "Renewable energy facility" means a facility in which the
25 taxpayer invested at least thirty million dollars, that has at least twenty
26 megawatts generating capacity or a minimum typical annual generation of forty
27 thousand megawatt hours, that is located on land in this state owned or
28 leased by the taxpayer and that produces electricity using a ~~qualified~~
29 RENEWABLE energy resource.

30 ~~3-~~ 4. "Renewable energy resource" means a resource that generates
31 electricity through the use of only the following energy sources:

32 (a) Solar light.

33 (b) Solar heat.

34 (c) Wind.

35 (d) Biomass, including fuel cells supplied directly or indirectly with
36 biomass generated fuels.

37 Sec. 6. Section 43-1164.05, Arizona Revised Statutes, is amended to
38 read:

39 43-1164.05. Credit for renewable energy investment and
40 production for self-consumption by manufacturers
41 and international operations centers; definitions

42 A. A credit is allowed against the taxes imposed by this title for
43 investment in new renewable energy facilities that produce energy for
44 self-consumption using renewable energy resources if the power will be used
45 primarily for manufacturing OR FOR AN INTERNATIONAL OPERATIONS CENTER.

1 B. IF THE POWER IS GENERATED PRIMARILY FOR THE PURPOSES OF THE
2 TAXPAYER'S MANUFACTURING FACILITY, the taxpayer is eligible for the credit if
3 all of the following apply:

4 1. The taxpayer invests at least three hundred million dollars in new
5 renewable energy facilities in this state that produce energy for
6 self-consumption using renewable energy resources. The minimum investment
7 must be completed within a three-year period beginning on the date the
8 initial application is received or December 31, 2017, whichever is earlier.

9 2. At least ninety ~~per-cent~~ PERCENT of the energy produced at each
10 renewable energy facility is used for self-consumption in this state.
11 Self-consumption includes the power used by related entities if the related
12 entities are owned directly or indirectly by the same ownership interests
13 that collectively own more than fifty ~~per-cent~~ PERCENT. A facility that
14 transfers the power it generates to a utility qualifies under this paragraph
15 if at least ninety ~~per-cent~~ PERCENT of the power is transferred back for
16 self-consumption in this state.

17 3. The power is used primarily for manufacturing. A lessor of a
18 ~~manufacturing~~ facility that is using power for self-consumption under
19 paragraph 2 of this subsection qualifies under this paragraph if the lessee
20 is a manufacturer and the power is transferred as part of the lease to the
21 lessee.

22 C. IF THE POWER IS GENERATED PRIMARILY FOR THE PURPOSES OF THE
23 TAXPAYER'S INTERNATIONAL OPERATIONS CENTER, THE TAXPAYER IS ELIGIBLE FOR THE
24 CREDIT IF ALL OF THE FOLLOWING APPLY:

25 1. THE TAXPAYER INVESTS AT LEAST ONE HUNDRED MILLION DOLLARS IN ONE OR
26 MORE NEW RENEWABLE ENERGY FACILITIES IN THIS STATE THAT PRODUCE ENERGY FOR
27 SELF-CONSUMPTION USING RENEWABLE ENERGY RESOURCES. THE MINIMUM INVESTMENT
28 MUST BE COMPLETED WITHIN A THREE-YEAR PERIOD BEGINNING ON THE DATE THE
29 INITIAL APPLICATION IS RECEIVED OR BY DECEMBER 31, 2018, WHICHEVER IS
30 EARLIER.

31 2. A PORTION OF THE ENERGY PRODUCED AT EACH RENEWABLE ENERGY FACILITY
32 IS USED FOR SELF-CONSUMPTION IN THIS STATE. BY THE FIFTH YEAR A RENEWABLE
33 ENERGY FACILITY IS IN OPERATION, AT LEAST FIFTY-ONE PERCENT OF THE ENERGY
34 PRODUCED MUST BE USED FOR SELF-CONSUMPTION IN THIS STATE. SELF-CONSUMPTION
35 INCLUDES THE POWER USED BY RELATED ENTITIES IF THE RELATED ENTITIES ARE
36 DIRECTLY OR INDIRECTLY UNDER THE SAME OWNERSHIP INTERESTS THAT COLLECTIVELY
37 OWN MORE THAN EIGHTY PERCENT. POWER THAT A RENEWABLE ENERGY FACILITY
38 TRANSFERS TO A UTILITY QUALIFIES AS SELF-CONSUMPTION IF THE UTILITY IS THE
39 SAME UTILITY THAT PROVIDES POWER TO THE OWNER'S INTERNATIONAL OPERATIONS
40 CENTER IN THIS STATE.

41 3. THE POWER THAT IS USED FOR SELF-CONSUMPTION UNDER PARAGRAPH 2 OF
42 THIS SUBSECTION IS USED FOR AN INTERNATIONAL OPERATIONS CENTER IN THIS STATE.
43 A LESSOR OF AN INTERNATIONAL OPERATIONS CENTER FACILITY THAT USES POWER FOR
44 SELF-CONSUMPTION UNDER PARAGRAPH 2 OF THIS SUBSECTION SATISFIES THE

1 REQUIREMENTS OF THIS PARAGRAPH IF THE LESSEE IS AN INTERNATIONAL OPERATIONS
2 CENTER AND THE POWER IS TRANSFERRED AS PART OF THE LEASE TO THE LESSEE.

3 ~~E~~. D. Subject to subsection ~~F~~ G of this section, the credit
4 authorized by this section is ~~one~~ FIVE million dollars per year for five
5 years for each renewable energy facility. The maximum credit allowed per
6 taxpayer per year is five million dollars. IF A TAXPAYER USES THE POWER
7 GENERATED BY THE RENEWABLE ENERGY FACILITY IN THE TAXPAYER'S INTERNATIONAL
8 OPERATIONS CENTER, THE TAXPAYER, INCLUDING ALL AFFILIATES OF THE TAXPAYER,
9 MAY NOT CUMULATE TAX CREDITS UNDER THIS SECTION OVER DIFFERENT TAXABLE YEARS
10 EXCEEDING, IN THE AGGREGATE, TWENTY-FIVE MILLION DOLLARS. The initial credit
11 for each facility is claimed in the year that the facility becomes
12 operational. A credit, other than carryovers allowed under subsection ~~M~~ N
13 of this section, may not be claimed for any taxable year beginning after
14 December 31, 2025.

15 ~~D~~. E. To qualify as a separate renewable energy facility for the
16 purposes of this section, a facility must be located at least one mile from
17 any other renewable energy facility for which the taxpayer is claiming a
18 credit under this section.

19 ~~E~~. F. To be eligible for the credit under this section, the taxpayer
20 must apply to the department for certification of the credit on a form
21 prescribed by the department. The application shall include:

22 1. The name, address and social security number or federal employer
23 identification number of the applicant.

24 2. An estimate of the total investment the taxpayer will make, over a
25 three-year period beginning on the date the application is received, in new
26 renewable energy ~~production~~ facilities in this state that produce energy for
27 self-consumption using renewable energy resources.

28 3. The expected location of each of the taxpayer's facilities that
29 comprise the total investment in paragraph 2 of this subsection and the
30 earliest date that each facility is expected to be operational.

31 4. A statement that ~~at least ninety per cent~~ THE PORTION of the power
32 generated by each facility, AS REQUIRED BY SUBSECTION B, PARAGRAPH 2 OR
33 SUBSECTION C, PARAGRAPH 2 OF THIS SECTION, shall be for self-consumption and
34 shall be used for manufacturing OR INTERNATIONAL OPERATIONS CENTER USE.

35 5. Any additional information that the department requires.

36 ~~F~~. G. The department shall review each application under subsection
37 ~~E~~ F of this section and preapprove the taxpayer for a specified amount of
38 credit that is authorized. Credits are allowed under this section and
39 section 43-1083.04 on a first come, first served basis. The department may
40 not authorize tax credits under this section and section 43-1083.04 that
41 exceed in the aggregate a total of ten million dollars for any calendar year.
42 The portion of each year's limit that is reserved for each taxpayer must be
43 based on the year that each credit is expected to be claimed using the dates
44 provided in subsection ~~E~~ F, paragraph 3 of this section. If the year a
45 facility is completed is different from the estimated completion date

1 provided in subsection ~~E~~ F, paragraph 3 of this section, the taxpayer must
2 amend the application with the new dates. If an application is received
3 that, if authorized, would require the department to exceed the ten million
4 dollar limit, the department shall grant the applicant only the remaining
5 credit amount that would not exceed the ten million dollar limit. After the
6 department authorizes ten million dollars in tax credits, the department
7 shall deny any subsequent applications that are received for that calendar
8 year. The department may not authorize any additional tax credits that
9 exceed the ten million dollar limit even if the amounts that have been
10 certified to any taxpayer are not claimed or a taxpayer otherwise fails to
11 meet the requirements to claim the additional credit.

12 ~~G~~ H. If a taxpayer fails to start construction within six months
13 after submitting the application under subsection ~~E~~ F of this section, the
14 preapproval issued under subsection ~~F~~ G of this section is void and all
15 monies reserved from the limits specified in subsection ~~F~~ G of this section
16 revert back to the limit for the year for which they were reserved.

17 ~~H~~ I. Each year after initial preapproval, on or before the
18 anniversary date of the application specified in subsection ~~E~~ F of this
19 section, the taxpayer must submit to the department:

20 1. Documentation of the taxpayer's progress toward the ~~three hundred~~
21 ~~million dollar~~ investment required by subsection B, paragraph 1 ~~OR SUBSECTION~~
22 ~~C, PARAGRAPH 1~~ of this section. This documentation is not required after the
23 department receives a report stating that the ~~three hundred million dollar~~
24 ~~REQUIRED~~ investment ~~THRESHOLD~~ has been reached.

25 2. Documentation for each facility that demonstrates that ~~at least~~
26 ~~ninety per cent~~ ~~THE REQUIRED PORTION~~ of the power generated by each renewable
27 energy facility is for self-consumption ~~AS REQUIRED BY SUBSECTION B,~~
28 ~~PARAGRAPH 2 OR SUBSECTION C, PARAGRAPH 2 OF THIS SECTION.~~

29 3. ~~CERTIFICATION FROM THE ARIZONA COMMERCE AUTHORITY PURSUANT TO~~
30 ~~SECTION 41-1520.~~

31 ~~I~~ J. The taxpayer must submit a request for final certification to
32 the department within thirty days after each of the renewable energy
33 facilities for which an authorization was given under subsection ~~F~~ G of this
34 section becomes operational. Within thirty days after receiving a completed
35 request under this subsection, the department shall review the request and
36 either issue a final certification of the credit to the taxpayer or issue a
37 denial of the credit if it is determined that the requirements of this
38 section have not been met. Every final certification issued under this
39 subsection must include a facility code issued by the department that is
40 unique to each facility. To show that the facility has been certified, the
41 taxpayer shall include with the tax return the facility code for each
42 facility for which a credit is claimed. ~~IF THE TAXPAYER IS THE OWNER OR~~
43 ~~OPERATOR OF AN INTERNATIONAL OPERATIONS CENTER, THE TAXPAYER MUST SUBMIT THE~~
44 ~~REQUEST FOR FINAL CERTIFICATION FOR EACH OF THE RENEWABLE ENERGY FACILITIES~~
45 ~~FOR WHICH CAPITAL INVESTMENT WILL BE CLAIMED TOWARDS THE REQUIRED INVESTMENT~~

1 THRESHOLD AND MUST SUBMIT ADDITIONAL EVIDENCE TO THE DEPARTMENT WITHIN SIXTY
2 DAYS AFTER THE END OF THE FIFTH YEAR OF OPERATION OF EACH FACILITY THAT THE
3 REQUIREMENTS OF SUBSECTION C, PARAGRAPH 2 OF THIS SECTION HAVE BEEN MET.

4 ~~J. If the taxpayer fails to make the required three hundred million~~
5 ~~dollar investment within the time period required by subsection B, paragraph~~
6 ~~1 of this section, the taxpayer must cease claiming any credits under this~~
7 ~~section and shall recapture any credits already claimed. The recapture must~~
8 ~~be made on the taxpayer's income tax return for the tax year in which it was~~
9 ~~first known that the required investment would not be made within the~~
10 ~~required time.~~

11 K. IF THE TAXPAYER FAILS TO MAKE THE REQUIRED INVESTMENT IN RENEWABLE
12 ENERGY FACILITIES WITHIN THE TIME PERIOD REQUIRED BY SUBSECTION B, PARAGRAPH
13 1 OR SUBSECTION C, PARAGRAPH 1 OF THIS SECTION OR IF THE CERTIFICATION OF AN
14 INTERNATIONAL OPERATIONS CENTER HAS BEEN REVOKED UNDER SECTION 41-1520 DUE TO
15 A FAILURE TO MAKE A ONE BILLION TWO HUNDRED FIFTY MILLION DOLLAR INVESTMENT
16 IN THE CENTER WITHIN TEN YEARS AFTER CERTIFICATION OR IF THE TAXPAYER FAILS
17 TO RECEIVE FINAL CERTIFICATION OF THE CREDIT UNDER SUBSECTION J OF THIS
18 SECTION, THE TAXPAYER SHALL NOT BE ELIGIBLE AND MUST CEASE CLAIMING ANY
19 FURTHER CREDITS UNDER THIS SECTION AND SHALL REIMBURSE THE AMOUNT OF ALL
20 CREDITS PREVIOUSLY RECEIVED UNDER THIS SECTION. THE REIMBURSEMENT MUST BE
21 MADE ON THE TAXPAYER'S INCOME TAX RETURN FOR THE TAXABLE YEAR IN WHICH IT IS
22 FIRST KNOWN THAT THE REQUIRED INVESTMENT WOULD NOT BE MADE WITHIN THE
23 REQUIRED TIME OR THE TAXABLE YEAR IN WHICH THE CERTIFICATION WAS REVOKED.
24 THE DEPARTMENT MAY GIVE SPECIAL CONSIDERATION OR ALLOW A TEMPORARY EXEMPTION
25 FROM REIMBURSEMENT IF THERE IS EXTRAORDINARY HARDSHIP DUE TO FACTORS BEYOND
26 THE TAXPAYER'S CONTROL. IF THE REIMBURSEMENT IS DUE TO REVOCATION OF THE
27 CERTIFICATION OF AN INTERNATIONAL OPERATIONS CENTER DUE TO A FAILURE TO
28 INVEST ONE BILLION TWO HUNDRED FIFTY MILLION DOLLARS IN THE CENTER WITHIN TEN
29 YEARS AFTER CERTIFICATION, THE CREDITS SHALL BE REIMBURSED IN INVERSE
30 PROPORTION TO THE TOTAL CAPITAL INVESTMENT MADE IN THE INTERNATIONAL
31 OPERATIONS CENTER DIVIDED BY ONE BILLION TWO HUNDRED FIFTY MILLION DOLLARS.
32 THE DEPARTMENT MAY REQUIRE REIMBURSEMENT BEFORE THE TENTH ANNIVERSARY OF
33 CERTIFICATION OF AN INTERNATIONAL OPERATIONS CENTER IF THE FACILITY HAS BEEN
34 CLOSED OR RELOCATED OR THE TAXPAYER HAS OTHERWISE DEMONSTRATED THAT THE ONE
35 BILLION TWO HUNDRED FIFTY MILLION DOLLAR INVESTMENT WILL NOT BE TIMELY MADE.

36 ~~K.~~ L. If a particular facility ceases to meet the requirements of
37 this section or if the facility is sold, the taxpayer may not claim any
38 future credits related to that facility.

39 ~~L.~~ M. Co-owners of a business, including corporate partners in a
40 partnership and members of a limited liability company, may each claim the
41 pro rata share of the credit allowed under this section based on ownership
42 interest. The total of the credits allowed all the owners of the business
43 may not exceed the amount that would have been allowed for a sole owner of
44 the business.

1 ~~M.~~ N. If the allowable tax credit for a taxpayer exceeds the taxes
2 otherwise due under this title on the claimant's income, or if there are no
3 taxes due under this title, the amount of the claim not used to offset taxes
4 under this title may be carried forward for not more than five consecutive
5 taxable years as a credit against subsequent years' income tax liability.

6 ~~N.~~ O. A taxpayer may not claim a credit under this section and
7 section 43-1164.03 regarding the same facilities.

8 ~~O.~~ P. The department shall adopt rules and publish and prescribe
9 forms and procedures as necessary to effectuate the purposes of this section.

10 ~~P.~~ Q. For the purposes of this section:

11 1. "Biomass" means organic material that is available on a renewable
12 or recurring basis, including:

13 (a) Forest-related materials, including mill residues, logging
14 residues, forest thinnings, slash, brush, low-commercial value materials or
15 undesirable species, salt cedar and other phreatophyte or woody vegetation
16 removed from river basins or watersheds and woody material harvested for the
17 purpose of forest fire fuel reduction or forest health and watershed
18 improvement.

19 (b) Agricultural-related materials, including orchard trees, vineyard,
20 grain or crop residues, including straws and stover, aquatic plants and
21 agricultural processed coproducts and waste products, including fats, oils,
22 greases, whey and lactose.

23 (c) Animal waste, including manure and slaughterhouse and other
24 processing waste.

25 (d) Solid woody waste materials, including landscape or right-of-way
26 tree trimmings, rangeland maintenance residues, waste pallets, crates and
27 manufacturing, construction and demolition wood wastes but excluding
28 pressure-treated, chemically treated or painted wood wastes and wood
29 contaminated with plastic.

30 (e) Crops and trees planted for the purpose of being used to produce
31 energy.

32 (f) Landfill gas, wastewater treatment gas and biosolids, including
33 organic waste by-products generated during the wastewater treatment process.

34 2. "INTERNATIONAL OPERATIONS CENTER" MEANS A FACILITY THAT IS
35 CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1520.

36 ~~2.~~ 3. "Renewable energy facility" means a facility in which the
37 taxpayer invested at least thirty million dollars, that has at least twenty
38 megawatts generating capacity or a minimum typical annual generation of forty
39 thousand megawatt hours, that is located on land in this state owned or
40 leased by the taxpayer and that produces electricity using a ~~qualified~~
41 RENEWABLE energy resource.

42 ~~3.~~ 4. "Renewable energy resource" means a resource that generates
43 electricity through the use of only the following energy sources:

1 (a) Solar light.

2 (b) Solar heat.

3 (c) Wind.

4 (d) Biomass, including fuel cells supplied directly or indirectly with
5 biomass generated fuels.

6 Sec. 7. Effective date; retroactivity

7 A. Sections 42-5063, 42-5159 and 42-6012, Arizona Revised Statutes, as
8 amended by this act, are effective from and after the last day of the month
9 of the general effective date of the fifty-second legislature, first regular
10 session.

11 B. Sections 43-1083.04 and 43-1164.05, Arizona Revised Statutes, as
12 amended by this act, apply retroactively to taxable years beginning from and
13 after December 31, 2014.