

REFERENCE TITLE: international operations centers; incentives

State of Arizona
Senate
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2015

SB 1468

Introduced by
Senators Biggs, Shooter, Yarbrough: Griffin

AN ACT

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. Section 42-5063, Arizona Revised Statutes, is amended to
3 read:

4 42-5063. Utilities classification; definitions

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

6 1. Producing and furnishing or furnishing to consumers natural or
7 artificial gas and water.

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

11 B. The utilities classification does not include:

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

16 2. Sales of natural gas or liquefied petroleum gas used to propel a
17 motor vehicle.

18 3. Sales of alternative fuel, as defined in section 1-215, to 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 4. Sales of ancillary services, electric distribution services,
22 electric generation services, electric transmission services and other
23 services that are related to providing electricity to a retail electric
24 customer who is located outside this state for use outside this state if the
25 electricity is delivered to a point of sale outside this state.

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

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

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

42 2. Revenues received by any person or persons owning a utility system
43 in the form of reimbursement or contribution compensation for property and
44 equipment installed to provide utility access to, on or across the land of an
45 actual utility consumer if the property and equipment become the property of

1 the utility. This deduction shall not exceed the value of such property and
2 equipment.

3 3. Gross proceeds of sales or gross income derived from sales to:

4 (a) Qualifying hospitals as defined in section 42-5001.

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

8 4. The portion of gross proceeds of sales or gross income that is
9 derived from sales to a qualified environmental technology manufacturer,
10 producer or processor as defined in section 41-1514.02 of a utility product
11 and that is used directly in environmental technology manufacturing,
12 producing or processing. This paragraph shall apply for twenty full
13 consecutive calendar or fiscal years from the date the first paper
14 manufacturing machine is placed in service. In the case of a qualified
15 environmental technology manufacturer, producer or processor who does not
16 manufacture paper, the time period shall begin with the date the first
17 manufacturing, processing or production equipment is placed in service.

18 5. The portion of gross proceeds of sales or gross income attributable
19 to transfers of electricity by any retail electric customer owning a solar
20 photovoltaic energy generating system to an electric distribution system, if
21 the electricity transferred is generated by the customer's system.

22 6. Gross proceeds of sales or gross income derived from sales of
23 electricity or natural gas to a business that is principally engaged in
24 manufacturing or smelting operations, **OR AN INTERNATIONAL OPERATIONS CENTER,**
25 and that uses at least fifty-one ~~per-cent~~ **PERCENT** of the electricity or
26 natural gas in the manufacturing or smelting operations **OR THE INTERNATIONAL**
27 **OPERATIONS CENTER.** This paragraph does not apply to gas transportation
28 services. For the purposes of this paragraph:

29 (a) "Gas transportation services" means the services of transporting
30 natural gas to a natural gas customer or to a natural gas distribution
31 facility if the natural gas was purchased from a supplier other than the
32 utility.

33 (b) **"INTERNATIONAL OPERATIONS CENTER" MEANS A FACILITY HAVING A**
34 **CAPITAL INVESTMENT COST OF AT LEAST ONE BILLION TWO HUNDRED FIFTY MILLION**
35 **DOLLARS AND THAT THE DEPARTMENT HAS QUALIFIED FOR THE INCOME TAX CREDIT FOR**
36 **RENEWABLE ENERGY INVESTMENT UNDER SECTION 43-1083.04, SUBSECTION H OR**
37 **43-1164.05, SUBSECTION H.**

38 ~~(b)~~ (c) "Manufacturing" means the performance as a business of an
39 integrated series of operations that places tangible personal property in a
40 form, composition or character different from that in which it was acquired
41 and transforms it into a different product with a distinctive name, character
42 or use. Manufacturing does not include processing, fabricating, job
43 printing, mining, generating electricity or operating a restaurant.

44 ~~(c)~~ (d) "Principally engaged" means at least fifty-one ~~per-cent~~
45 **PERCENT** of the business is a manufacturing or smelting operation.

1 ~~(d)~~ (e) "Smelting" means to melt or fuse a metalliferous mineral,
2 often with an accompanying chemical change, usually to separate the metal.

3 D. For the purposes of this section:

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

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

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

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

19 5. "Other services" includes metering, meter reading services, billing
20 and collecting services.

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

24 Sec. 2. Section 42-5159, Arizona Revised Statutes, is amended to read:

25 42-5159. Exemptions

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

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

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

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

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

1 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
2 which in this state is subject to the tax imposed under title 28, chapter 16,
3 article 1, use fuel that is sold to or used by a person holding a valid
4 single trip use fuel tax permit issued under section 28-5739, aviation fuel,
5 the sales, distribution or use of which in this state is subject to the tax
6 imposed under section 28-8344, and jet fuel, the sales, distribution or use
7 of which in this state is subject to the tax imposed under article 8 of this
8 chapter.

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

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

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

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

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

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

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

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

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

41 13. Tangible personal property purchased by:

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

1 (b) A hospital operated by this state or a political subdivision of
2 this state.

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

8 (d) A qualifying health care organization, as defined in section
9 42-5001, if the tangible personal property is used by the organization solely
10 to provide health and medical related educational and charitable services.

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

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

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

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

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

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

34 (i) A qualifying community health center as defined in section
35 42-5001.

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

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

44 (l) For taxable periods beginning from and after June 30, 2001, a
45 nonprofit charitable organization that has qualified under section 501(c)(3)

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

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

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

14 15. Tangible personal property sold by:

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

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

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

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

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

35 18. Prescription eyeglasses and contact lenses.

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

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

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

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

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

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

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

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

17 27. Lottery tickets or shares purchased pursuant to title 5, chapter
18 5.1, article 1.

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

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

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

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

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

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

41 (b) Public educational institutions.

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

1 33. Natural gas or liquefied petroleum gas used to propel a motor
2 vehicle.

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

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

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

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

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

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

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

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

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

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

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

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

31 44. Alternative fuel vehicles if the vehicle was manufactured as a
32 diesel fuel vehicle and converted to operate on alternative fuel and
33 equipment that is installed in a conventional diesel fuel motor vehicle to
34 convert the vehicle to operate on an alternative fuel, as defined in section
35 1-215.

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

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

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

44 46. Tangible personal property that is excluded, exempt or deductible
45 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 a business that is principally engaged in
- 44 manufacturing or smelting operations, **OR AN INTERNATIONAL OPERATIONS CENTER,**
- 45 and that uses at least fifty-one ~~per-cent~~ **PERCENT** of the electricity or

1 natural gas in the manufacturing or smelting operations ~~OR THE INTERNATIONAL~~
2 ~~OPERATIONS CENTER~~. This subsection does not apply to gas transportation
3 services. For the purposes of this subsection:

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

8 2. "INTERNATIONAL OPERATIONS CENTER" MEANS A FACILITY HAVING A CAPITAL
9 INVESTMENT COST OF AT LEAST ONE BILLION TWO HUNDRED FIFTY MILLION DOLLARS AND
10 THAT THE DEPARTMENT HAS QUALIFIED FOR THE INCOME TAX CREDIT FOR RENEWABLE
11 ENERGY INVESTMENT UNDER SECTION 43-1083.04, SUBSECTION H OR 43-1164.05,
12 SUBSECTION H.

13 ~~2-~~ 3. "Manufacturing" means the performance as a business of an
14 integrated series of operations that places tangible personal property in a
15 form, composition or character different from that in which it was acquired
16 and transforms it into a different product with a distinctive name, character
17 or use. Manufacturing does not include processing, fabricating, job
18 printing, mining, generating electricity or operating a restaurant.

19 ~~3-~~ 4. "Principally engaged" means at least fifty-one ~~per cent~~ PERCENT
20 of the business is a manufacturing or smelting operation.

21 ~~4-~~ 5. "Smelting" means to melt or fuse a metalliferous mineral, often
22 with an accompanying chemical change, usually to separate the metal.

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

24 1. "Aircraft" includes:

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

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

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

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

38 Sec. 3. Section 42-6012, Arizona Revised Statutes, is amended to read:

39 42-6012. Municipal transaction privilege tax; sales of
40 electricity or natural gas; definitions

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

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

5 B. For the purposes of this section:

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

10 2. **"INTERNATIONAL OPERATIONS CENTER" MEANS A FACILITY HAVING A CAPITAL**
11 **INVESTMENT COST OF AT LEAST ONE BILLION TWO HUNDRED FIFTY MILLION DOLLARS AND**
12 **THAT THE DEPARTMENT HAS QUALIFIED FOR THE INCOME TAX CREDIT FOR RENEWABLE**
13 **ENERGY INVESTMENT UNDER SECTION 43-1083.04, SUBSECTION H OR 43-1164.05,**
14 **SUBSECTION H.**

15 ~~2-~~ 3. "Manufacturing" means the performance as a business of an
16 integrated series of operations that places tangible personal property in a
17 form, composition or character different from that in which it was acquired
18 and transforms it into a different product with a distinctive name, character
19 or use. Manufacturing does not include processing, fabricating, job
20 printing, mining, generating electricity or operating a restaurant.

21 ~~3-~~ 4. "Smelting" means to melt or fuse a metalliferous mineral, often
22 with an accompanying chemical change, usually to separate the metal.

23 Sec. 4. Section 43-1083.04, Arizona Revised Statutes, is amended to
24 read:

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

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

32 B. The taxpayer is eligible for the credit if all of the following
33 apply:

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

39 2. ~~At least ninety per cent~~ **A PORTION** 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~~ A PORTION of the power is transferred back for
2 self-consumption in this state.

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

8 C. Subject to subsection F of this section, the credit authorized by
9 this section is ~~one~~ FIVE million dollars per year for five years for each
10 renewable energy facility. The maximum credit allowed per taxpayer per year
11 is five million dollars. The initial credit for each facility is claimed in
12 the year that the facility becomes operational. A credit, other than
13 carryovers allowed under subsection M of this section, may not be claimed for
14 any taxable year beginning after December 31, 2025.

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

19 E. To be eligible for the credit under this section, the taxpayer must
20 apply to the department for certification of the credit on a form prescribed
21 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~~ A PORTION of the power
32 generated by each facility shall be for self-consumption and shall be used
33 for manufacturing OR INTERNATIONAL OPERATIONS USE.

34 5. Any additional information that the department requires.

35 F. The department shall review each application under subsection E of
36 this section and preapprove the taxpayer for a specified amount of credit
37 that is authorized. Credits are allowed under this section and section
38 43-1164.05 on a first come, first served basis. The department may not
39 authorize tax credits under this section and section 43-1164.05 that exceed
40 in the aggregate a total of ten million dollars for any calendar year. The
41 portion of each year's limit that is reserved for each taxpayer must be based
42 on the year that each credit is expected to be claimed using the dates
43 provided in subsection E, paragraph 3 of this section. If the year a
44 facility is completed is different from the estimated completion date
45 provided in subsection E, paragraph 3 of this section, the taxpayer must

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

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

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

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

24 2. Documentation for each facility that demonstrates that ~~at least~~
25 ~~ninety per cent~~ A PORTION of the power generated by each renewable energy
26 facility is for self-consumption.

27 I. The taxpayer must submit a request for final certification to the
28 department within thirty days after each of the renewable energy facilities
29 for which an authorization was given under subsection F of this section
30 becomes operational. Within thirty days after receiving a completed request
31 under this subsection, the department shall review the request and either
32 issue a final certification of the credit to the taxpayer or issue a denial
33 of the credit if it is determined that the requirements of this section have
34 not been met. Every final certification issued under this subsection must
35 include a facility code issued by the department that is unique to each
36 facility. To show that the facility has been certified, the taxpayer shall
37 include with the tax return the facility code for each facility for which a
38 credit is claimed.

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

1 K. If a particular facility ceases to meet the requirements of this
2 section or if the facility is sold, the taxpayer may not claim any future
3 credits related to that facility.

4 L. Co-owners of a business, including partners in a partnership,
5 members of a limited liability company and shareholders of an S corporation
6 as defined in section 1361 of the internal revenue code, may each claim the
7 pro rata share of the credit allowed under this section based on ownership
8 interest. The total of the credits allowed all the owners of the business
9 may not exceed the amount that would have been allowed for a sole owner of
10 the business.

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

16 N. A taxpayer may not claim a credit under this section and section
17 43-1083.02 regarding the same facilities.

18 O. The department shall adopt rules and publish and prescribe forms
19 and procedures as necessary to effectuate the purposes of this section.

20 P. For the purposes of this section:

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

23 (a) Forest-related materials, including mill residues, logging
24 residues, forest thinnings, slash, brush, low-commercial value materials or
25 undesirable species, salt cedar and other phreatophyte or woody vegetation
26 removed from river basins or watersheds and woody material harvested for the
27 purpose of forest fire fuel reduction or forest health and watershed
28 improvement.

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

33 (c) Animal waste, including manure and slaughterhouse and other
34 processing waste.

35 (d) Solid woody waste materials, including landscape or right-of-way
36 tree trimmings, rangeland maintenance residues, waste pallets, crates and
37 manufacturing, construction and demolition wood wastes but excluding
38 pressure-treated, chemically treated or painted wood wastes and wood
39 contaminated with plastic.

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

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

44 2. "INTERNATIONAL OPERATIONS CENTER" MEANS A FACILITY HAVING A CAPITAL
45 INVESTMENT COST OF AT LEAST ONE BILLION TWO HUNDRED FIFTY MILLION DOLLARS AND

1 THAT THE DEPARTMENT HAS QUALIFIED FOR THE INCOME TAX CREDIT PURSUANT TO THIS
2 SECTION.

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

9 ~~3-~~ 4. "Renewable energy resource" means a resource that generates
10 electricity through the use of only the following energy sources:

11 (a) Solar light.

12 (b) Solar heat.

13 (c) Wind.

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

16 Sec. 5. Section 43-1164.05, Arizona Revised Statutes, is amended to
17 read:

18 43-1164.05. Credit for renewable energy investment and
19 production for self-consumption by manufacturers
20 and international operations centers; definitions

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

25 B. The taxpayer is eligible for the credit if all of the following
26 apply:

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

32 2. ~~At least ninety per cent~~ A PORTION of the energy produced at each
33 renewable energy facility is used for self-consumption in this state.
34 Self-consumption includes the power used by related entities if the related
35 entities are owned directly or indirectly by the same ownership interests
36 that collectively own more than fifty ~~per cent~~ PERCENT. A facility that
37 transfers the power it generates to a utility qualifies under this paragraph
38 if ~~at least ninety per cent~~ A PORTION of the power is transferred back for
39 self-consumption in this state.

40 3. The power is used primarily for manufacturing OR AN INTERNATIONAL
41 OPERATIONS CENTER. A lessor of a ~~manufacturing~~ facility that is using power
42 for self-consumption under paragraph 2 of this subsection qualifies under
43 this paragraph if the lessee is a manufacturer OR AN INTERNATIONAL OPERATIONS
44 CENTER and the power is transferred as part of the lease to the lessee.

1 C. Subject to subsection F of this section, the credit authorized by
2 this section is ~~one~~ FIVE million dollars per year for five years for each
3 renewable energy facility. The maximum credit allowed per taxpayer per year
4 is five million dollars. The initial credit for each facility is claimed in
5 the year that the facility becomes operational. A credit, other than
6 carryovers allowed under subsection M of this section, may not be claimed for
7 any taxable year beginning after December 31, 2025.

8 D. To qualify as a separate renewable energy facility for the purposes
9 of this section, a facility must be located at least one mile from any other
10 renewable energy facility for which the taxpayer is claiming a credit under
11 this section.

12 E. To be eligible for the credit under this section, the taxpayer must
13 apply to the department for certification of the credit on a form prescribed
14 by the department. The application shall include:

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

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

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

24 4. A statement that ~~at least ninety per cent~~ A PORTION of the power
25 generated by each facility shall be for self-consumption and shall be used
26 for manufacturing OR INTERNATIONAL OPERATIONS USE.

27 5. Any additional information that the department requires.

28 F. The department shall review each application under subsection E of
29 this section and preapprove the taxpayer for a specified amount of credit
30 that is authorized. Credits are allowed under this section and section
31 43-1083.04 on a first come, first served basis. The department may not
32 authorize tax credits under this section and section 43-1083.04 that exceed
33 in the aggregate a total of ten million dollars for any calendar year. The
34 portion of each year's limit that is reserved for each taxpayer must be based
35 on the year that each credit is expected to be claimed using the dates
36 provided in subsection E, paragraph 3 of this section. If the year a
37 facility is completed is different from the estimated completion date
38 provided in subsection E, paragraph 3 of this section, the taxpayer must
39 amend the application with the new dates. If an application is received
40 that, if authorized, would require the department to exceed the ten million
41 dollar limit, the department shall grant the applicant only the remaining
42 credit amount that would not exceed the ten million dollar limit. After the
43 department authorizes ten million dollars in tax credits, the department
44 shall deny any subsequent applications that are received for that calendar
45 year. The department may not authorize any additional tax credits that

1 exceed the ten million dollar limit even if the amounts that have been
 2 certified to any taxpayer are not claimed or a taxpayer otherwise fails to
 3 meet the requirements to claim the additional credit.

4 G. If a taxpayer fails to start construction within six months after
 5 submitting the application under subsection E of this section, the
 6 preapproval issued under subsection F of this section is void and all monies
 7 reserved from the limits specified in subsection F of this section revert
 8 back to the limit for the year for which they were reserved.

9 H. Each year after initial preapproval, on or before the anniversary
 10 date of the application specified in subsection E of this section, the
 11 taxpayer must submit to the department:

12 1. Documentation of the taxpayer's progress toward the ~~three~~ ONE
 13 hundred million dollar investment required by subsection B, paragraph 1 of
 14 this section. This documentation is not required after the department
 15 receives a report stating that the ~~three hundred million dollar~~ REQUIRED
 16 investment THRESHOLD has been reached.

17 2. Documentation for each facility that demonstrates that ~~at least~~
 18 ~~ninety per cent~~ A PORTION of the power generated by each renewable energy
 19 facility is for self-consumption.

20 I. The taxpayer must submit a request for final certification to the
 21 department within thirty days after each of the renewable energy facilities
 22 for which an authorization was given under subsection F of this section
 23 becomes operational. Within thirty days after receiving a completed request
 24 under this subsection, the department shall review the request and either
 25 issue a final certification of the credit to the taxpayer or issue a denial
 26 of the credit if it is determined that the requirements of this section have
 27 not been met. Every final certification issued under this subsection must
 28 include a facility code issued by the department that is unique to each
 29 facility. To show that the facility has been certified, the taxpayer shall
 30 include with the tax return the facility code for each facility for which a
 31 credit is claimed.

32 J. If the taxpayer fails to make the required ~~three hundred million~~
 33 ~~dollar~~ investment within the time period required by subsection B, paragraph
 34 1 of this section, the taxpayer must cease claiming any credits under this
 35 section and shall recapture any credits already claimed. The recapture must
 36 be made on the taxpayer's income tax return for the tax year in which it was
 37 first known that the required investment would not be made within the
 38 required time.

39 K. If a particular facility ceases to meet the requirements of this
 40 section or if the facility is sold, the taxpayer may not claim any future
 41 credits related to that facility.

42 L. Co-owners of a business, including corporate partners in a
 43 partnership and members of a limited liability company, may each claim the
 44 pro rata share of the credit allowed under this section based on ownership
 45 interest. The total of the credits allowed all the owners of the business

1 may not exceed the amount that would have been allowed for a sole owner of
2 the business.

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

8 N. A taxpayer may not claim a credit under this section and section
9 43-1164.03 regarding the same facilities.

10 O. The department shall adopt rules and publish and prescribe forms
11 and procedures as necessary to effectuate the purposes of this section.

12 P. For the purposes of this section:

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

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

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

25 (c) Animal waste, including manure and slaughterhouse and other
26 processing waste.

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

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

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

36 2. "INTERNATIONAL OPERATIONS CENTER" MEANS A FACILITY HAVING A CAPITAL
37 INVESTMENT COST OF AT LEAST ONE BILLION TWO HUNDRED FIFTY MILLION DOLLARS AND
38 THAT THE DEPARTMENT HAS QUALIFIED FOR THE INCOME TAX CREDIT PURSUANT TO THIS
39 SECTION.

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

- 1 ~~3.~~ 4. "Renewable energy resource" means a resource that generates
2 electricity through the use of only the following energy sources:
3 (a) Solar light.
4 (b) Solar heat.
5 (c) Wind.
6 (d) Biomass, including fuel cells supplied directly or indirectly with
7 biomass generated fuels.