

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

CHAPTER 6
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
46 ALL CAPITAL INVESTMENT IN THE INTERNATIONAL OPERATIONS CENTER, INCLUDING

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

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

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

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

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

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

36 K. FOR THE PURPOSES OF THIS SECTION:

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

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

45 Sec. 2. Section 42-5063, Arizona Revised Statutes, is amended to read:

46 42-5063. Utilities classification; definitions

- 1 A. The utilities classification is comprised of the business of:
2 1. Producing and furnishing or furnishing to consumers natural or
3 artificial gas and water.
4 2. Providing to retail electric customers ancillary services, electric
5 distribution services, electric generation services, electric transmission
6 services and other services related to providing electricity.
7 B. The utilities classification does not include:
8 1. Sales of ancillary services, electric distribution services,
9 electric generation services, electric transmission services and other
10 services related to providing electricity, gas or water to a person who
11 resells the services.
12 2. Sales of natural gas or liquefied petroleum gas used to propel a
13 motor vehicle.
14 3. Sales of alternative fuel, as defined in section 1-215, to a used
15 oil fuel burner who has received a permit to burn used oil or used oil fuel
16 under section 49-426 or 49-480.
17 4. Sales of ancillary services, electric distribution services,
18 electric generation services, electric transmission services and other
19 services that are related to providing electricity to a retail electric
20 customer who is located outside this state for use outside this state if the
21 electricity is delivered to a point of sale outside this state.
22 5. Sales or other transfers of renewable energy credits or any other
23 unit created to track energy derived from renewable energy resources. For
24 the purposes of this paragraph, "renewable energy credit" means a unit
25 created administratively by the corporation commission or governing body of a
26 public power utility to track kilowatt hours of electricity derived from a
27 renewable energy resource or the kilowatt hour equivalent of conventional
28 energy resources displaced by distributed renewable energy resources.
29 C. The tax base for the utilities classification is the gross proceeds
30 of sales or gross income derived from the business, but the following shall
31 be deducted from the tax base:
32 1. Revenues received by a municipally owned utility in the form of
33 fees charged to persons constructing residential, commercial or industrial
34 developments or connecting residential, commercial or industrial developments
35 to a municipal utility system or systems if the fees are segregated and used
36 only for capital expansion, system enlargement or debt service of the utility
37 system or systems.
38 2. Revenues received by any person or persons owning a utility system
39 in the form of reimbursement or contribution compensation for property and
40 equipment installed to provide utility access to, on or across the land of an
41 actual utility consumer if the property and equipment become the property of
42 the utility. This deduction shall not exceed the value of such property and
43 equipment.
44 3. Gross proceeds of sales or gross income derived from sales to:
45 (a) Qualifying hospitals as defined in section 42-5001.

1 (b) A qualifying health care organization as defined in section
2 42-5001 if the tangible personal property is used by the organization solely
3 to provide health and medical related educational and charitable services.

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

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

18 6. Gross proceeds of sales or gross income derived from sales of
19 electricity or natural gas to a business that is principally engaged in
20 manufacturing or smelting operations and that uses at least fifty-one ~~per~~
21 ~~cent~~ PERCENT of the electricity or natural gas in the manufacturing or
22 smelting operations. This paragraph does not apply to gas transportation
23 services. For the purposes of this paragraph:

24 (a) "Gas transportation services" means the services of transporting
25 natural gas to a natural gas customer or to a natural gas distribution
26 facility if the natural gas was purchased from a supplier other than the
27 utility.

28 (b) "Manufacturing" means the performance as a business of an
29 integrated series of operations that places tangible personal property in a
30 form, composition or character different from that in which it was acquired
31 and transforms it into a different product with a distinctive name, character
32 or use. Manufacturing does not include processing, fabricating, job
33 printing, mining, generating electricity or operating a restaurant.

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

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

38 7. GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM SALES OF
39 ELECTRICITY OR NATURAL GAS TO A BUSINESS THAT OPERATES AN INTERNATIONAL
40 OPERATIONS CENTER IN THIS STATE AND THAT IS CERTIFIED BY THE ARIZONA COMMERCE
41 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
46 single trip use fuel tax permit issued under section 28-5739, aviation fuel,

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

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

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

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

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

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

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

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

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

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

37 13. Tangible personal property purchased by:

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

41 (b) A hospital operated by this state or a political subdivision of
42 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
46 qualifies for a federal housing subsidy, if the tangible personal property is

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

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

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

11 15. Tangible personal property sold by:

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

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

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

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

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

32 18. Prescription eyeglasses and contact lenses.

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

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

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

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

43 23. Items purchased with United States department of agriculture food
44 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
45 958) or food instruments issued under section 17 of the child nutrition act

1 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
2 section 1786).

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

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

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

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

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

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

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

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

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

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

38 (b) Public educational institutions.

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

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

44 34. Machinery, equipment, technology or related supplies that are only
45 useful to assist a person ~~who has~~ WITH a physical disability as defined in
46 section 46-191, ~~OR A PERSON WHO~~ has a developmental disability as defined in

1 section 36-551 or has a head injury as defined in section 41-3201 to be more
2 independent and functional.

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

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

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

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

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

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

41 (b) "Subcontract" means an agreement between a contractor and any
42 person who is not an employee of the contractor for furnishing of supplies or
43 services that, in whole or in part, are necessary to the performance of one
44 or more government contracts, or under which any portion of the contractor's
45 obligation under one or more government contracts is performed, undertaken or
46 assumed, and that includes provisions causing title to overhead materials or

1 other tangible personal property used in the performance of the subcontract
2 to pass to the government or that includes provisions incorporating such
3 title passing clauses in a government contract into the subcontract.

4 40. Through December 31, 1994, tangible personal property sold pursuant
5 to a personal property liquidation transaction, as defined in section
6 42-5061. From and after December 31, 1994, tangible personal property sold
7 pursuant to a personal property liquidation transaction, as defined in
8 section 42-5061, if the gross proceeds of the sales were included in the
9 measure of the tax imposed by article 1 of this chapter or if the personal
10 property liquidation was a casual activity or transaction.

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (b) "Curriculum design or enhancement" means planning, implementing or
18 reporting on courses of study, lessons, assignments or other learning
19 activities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 7. Aircraft, navigational and communication instruments and other
44 accessories and related equipment sold to:

45 (a) A person holding a federal certificate of public convenience and
46 necessity, a supplemental air carrier certificate under federal aviation

1 regulations (14 Code of Federal Regulations part 121) or a foreign air
2 carrier permit for air transportation for use as or in conjunction with or
3 becoming a part of aircraft to be used to transport persons, property or
4 United States mail in intrastate, interstate or foreign commerce.

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

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

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

14 10. Machinery or equipment used directly to drill for oil or gas or
15 used directly in the process of extracting oil or gas from the earth for
16 commercial purposes.

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

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

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

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

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

37 14. Machinery or equipment used in research and development. For the
38 purposes of this paragraph, "research and development" means basic and
39 applied research in the sciences and engineering, and designing, developing
40 or testing prototypes, processes or new products, including research and
41 development of computer software that is embedded in or an integral part of
42 the prototype or new product or that is required for machinery or equipment
43 otherwise exempt under this section to function effectively. Research and
44 development do not include manufacturing quality control, routine consumer
45 product testing, market research, sales promotion, sales service, research in
46 social sciences or psychology, computer software research that is not

1 included in the definition of research and development, or other
2 nontechnological activities or technical services.

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

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

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

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

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

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

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

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

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

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

44 18. Machinery or equipment, including related structural components,
45 that is employed in connection with manufacturing, processing, fabricating,
46 job printing, refining, mining, natural gas pipelines, metallurgical

1 operations, telecommunications, producing or transmitting electricity or
2 research and development and that is used directly to meet or exceed rules or
3 regulations adopted by the federal energy regulatory commission, the United
4 States environmental protection agency, the United States nuclear regulatory
5 commission, the Arizona department of environmental quality or a political
6 subdivision of this state to prevent, monitor, control or reduce land, water
7 or air pollution.

8 19. Machinery and equipment that are used in the commercial production
9 of livestock, livestock products or agricultural, horticultural, viticultural
10 or floricultural crops or products in this state and that are used directly
11 and primarily to prevent, monitor, control or reduce air, water or land
12 pollution.

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

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

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

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

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

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

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

39 2. Janitorial equipment and hand tools.

40 3. Office equipment, furniture and supplies.

41 4. Tangible personal property used in selling or distributing
42 activities, other than the telecommunications transmissions described in
43 subsection B, paragraph 15 of this section.

44 5. Motor vehicles required to be licensed by this state, except buses
45 or other urban mass transit vehicles specifically exempted pursuant to

1 subsection B, paragraph 11 of this section, without regard to the use of such
2 motor vehicles.

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

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

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

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

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

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

20 E. The tax levied by this article does not apply to the purchase of
21 solar energy devices from a retailer that is registered with the department
22 as a solar energy retailer or a solar energy contractor.

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

25 1. Fees charged by a municipally owned utility to persons constructing
26 residential, commercial or industrial developments or connecting residential,
27 commercial or industrial developments to a municipal utility system or
28 systems if the fees are segregated and used only for capital expansion,
29 system enlargement or debt service of the utility system or systems.

30 2. Reimbursement or contribution compensation to any person or persons
31 owning a utility system for property and equipment installed to provide
32 utility access to, on or across the land of an actual utility consumer if the
33 property and equipment become the property of the utility. This deduction
34 shall not exceed the value of such property and equipment.

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

37 1. A business that is principally engaged in manufacturing or smelting
38 operations and that uses at least fifty-one ~~per-cent~~ PERCENT of the
39 electricity or natural gas in the manufacturing or smelting operations. This
40 ~~subsection~~ PARAGRAPH does not apply to gas transportation services. For the
41 purposes of this ~~subsection~~ PARAGRAPH:

42 ~~1-~~ (a) "Gas transportation services" means the services of
43 transporting natural gas to a natural gas customer or to a natural gas
44 distribution facility if the natural gas was purchased from a supplier other
45 than the utility.

1 ~~2-~~ (b) "Manufacturing" means the performance as a business of an
2 integrated series of operations that places tangible personal property in a
3 form, composition or character different from that in which it was acquired
4 and transforms it into a different product with a distinctive name, character
5 or use. Manufacturing does not include processing, fabricating, job
6 printing, mining, generating electricity or operating a restaurant.

7 ~~3-~~ (c) "Principally engaged" means at least fifty-one ~~per-cent~~
8 PERCENT of the business is a manufacturing or smelting operation.

9 ~~4-~~ (d) "Smelting" means to melt or fuse a metalliferous mineral,
10 often with an accompanying chemical change, usually to separate the metal.

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

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

15 1. "Aircraft" includes:

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

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

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

25 I. For the purposes of subsection D of this section, "ancillary
26 services", "electric distribution service", "electric generation service",
27 "electric transmission service" and "other services" have the same meanings
28 prescribed in section 42-5063.

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

30 ~~42-6012.~~ Municipal transaction privilege tax: sales of
31 electricity or natural gas

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

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

42 ~~B-~~ For the purposes of this ~~section~~ PARAGRAPH:

43 ~~1-~~ (a) "Gas transportation services" means the services of
44 transporting natural gas to a natural gas customer or to a natural gas
45 distribution facility if the natural gas was purchased from a supplier other
46 than the utility.

1 ~~2-~~ (b) "Manufacturing" means the performance as a business of an
2 integrated series of operations that places tangible personal property in a
3 form, composition or character different from that in which it was acquired
4 and transforms it into a different product with a distinctive name, character
5 or use. Manufacturing does not include processing, fabricating, job
6 printing, mining, generating electricity or operating a restaurant.

7 ~~3-~~ (c) "Smelting" means to melt or fuse a metalliferous mineral,
8 often with an accompanying chemical change, usually to separate the metal.

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

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

14 43-1083.04. Credit for renewable energy investment and
15 production for self-consumption by manufacturers
16 and international operations centers; definitions

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

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

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

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

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

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

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

7 2. A PORTION OF THE ENERGY PRODUCED AT EACH RENEWABLE ENERGY FACILITY
8 IS USED FOR SELF-CONSUMPTION IN THIS STATE. BY THE FIFTH YEAR A RENEWABLE
9 ENERGY FACILITY IS IN OPERATION, AT LEAST FIFTY-ONE PERCENT OF THE ENERGY
10 PRODUCED MUST BE USED FOR SELF-CONSUMPTION IN THIS STATE. SELF-CONSUMPTION
11 INCLUDES THE POWER USED BY RELATED ENTITIES IF THE RELATED ENTITIES ARE
12 DIRECTLY OR INDIRECTLY UNDER THE SAME OWNERSHIP INTERESTS THAT COLLECTIVELY
13 OWN MORE THAN EIGHTY PERCENT. POWER THAT A RENEWABLE ENERGY FACILITY
14 TRANSFERS TO A UTILITY QUALIFIES AS SELF-CONSUMPTION IF THE UTILITY IS THE
15 SAME UTILITY THAT PROVIDES POWER TO THE OWNER'S INTERNATIONAL OPERATIONS
16 CENTER IN THIS STATE.

17 3. THE POWER THAT IS USED FOR SELF-CONSUMPTION UNDER PARAGRAPH 2 OF
18 THIS SUBSECTION IS USED FOR AN INTERNATIONAL OPERATIONS CENTER IN THIS STATE.
19 A LESSOR OF AN INTERNATIONAL OPERATIONS CENTER FACILITY THAT USES POWER FOR
20 SELF-CONSUMPTION UNDER PARAGRAPH 2 OF THIS SUBSECTION SATISFIES THE
21 REQUIREMENTS OF THIS PARAGRAPH IF THE LESSEE IS AN INTERNATIONAL OPERATIONS
22 CENTER AND THE POWER IS TRANSFERRED AS PART OF THE LEASE TO THE LESSEE.

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

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

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

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

44 2. An estimate of the total investment the taxpayer will make, over a
45 three-year period beginning on the date the application is received, in new
46 renewable energy ~~production~~ facilities in this state that produce energy for

1 self-consumption using renewable energy resources.

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

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

9 5. Any additional information that the department requires.

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

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

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

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

44 2. Documentation for each facility that demonstrates that ~~at least~~
45 ~~ninety per cent~~ THE REQUIRED PORTION of the power generated by each renewable
46 energy facility is for self-consumption AS REQUIRED BY SUBSECTION B,

1 PARAGRAPH 2 OR SUBSECTION C, PARAGRAPH 2 OF THIS SECTION.

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

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

22 ~~J. If the taxpayer fails to make the required three hundred million
23 dollar investment within the time period required by subsection B, paragraph
24 1 of this section, the taxpayer must cease claiming any credits under this
25 section and shall recapture any credits already claimed. The recapture must
26 be made on the taxpayer's income tax return for the tax year in which it was
27 first known that the required investment would not be made within the
28 required time.~~

29 K. IF THE TAXPAYER FAILS TO MAKE THE REQUIRED INVESTMENT IN RENEWABLE
30 ENERGY FACILITIES WITHIN THE TIME PERIOD REQUIRED BY SUBSECTION B, PARAGRAPH
31 1 OR SUBSECTION C, PARAGRAPH 1 OF THIS SECTION OR IF THE CERTIFICATION OF AN
32 INTERNATIONAL OPERATIONS CENTER HAS BEEN REVOKED UNDER SECTION 41-1520 DUE TO
33 A FAILURE TO MAKE A ONE BILLION TWO HUNDRED FIFTY MILLION DOLLAR INVESTMENT
34 IN THE CENTER WITHIN TEN YEARS AFTER CERTIFICATION OR IF THE TAXPAYER FAILS
35 TO RECEIVE FINAL CERTIFICATION OF THE CREDIT UNDER SUBSECTION J OF THIS
36 SECTION, THE TAXPAYER SHALL NOT BE ELIGIBLE AND MUST CEASE CLAIMING ANY
37 FURTHER CREDITS UNDER THIS SECTION AND SHALL REIMBURSE THE AMOUNT OF ALL
38 CREDITS PREVIOUSLY RECEIVED UNDER THIS SECTION. THE REIMBURSEMENT MUST BE
39 MADE ON THE TAXPAYER'S INCOME TAX RETURN FOR THE TAXABLE YEAR IN WHICH IT IS
40 FIRST KNOWN THAT THE REQUIRED INVESTMENT WOULD NOT BE MADE WITHIN THE
41 REQUIRED TIME OR THE TAXABLE YEAR IN WHICH THE CERTIFICATION WAS REVOKED.
42 THE DEPARTMENT MAY GIVE SPECIAL CONSIDERATION OR ALLOW A TEMPORARY EXEMPTION
43 FROM REIMBURSEMENT IF THERE IS EXTRAORDINARY HARDSHIP DUE TO FACTORS BEYOND
44 THE TAXPAYER'S CONTROL. IF THE REIMBURSEMENT IS DUE TO REVOCATION OF THE
45 CERTIFICATION OF AN INTERNATIONAL OPERATIONS CENTER DUE TO A FAILURE TO
46 INVEST ONE BILLION TWO HUNDRED FIFTY MILLION DOLLARS IN THE CENTER WITHIN TEN

1 YEARS AFTER CERTIFICATION, THE CREDITS SHALL BE REIMBURSED IN INVERSE
2 PROPORTION TO THE TOTAL CAPITAL INVESTMENT MADE IN THE INTERNATIONAL
3 OPERATIONS CENTER DIVIDED BY ONE BILLION TWO HUNDRED FIFTY MILLION DOLLARS.
4 THE DEPARTMENT MAY REQUIRE REIMBURSEMENT BEFORE THE TENTH ANNIVERSARY OF
5 CERTIFICATION OF AN INTERNATIONAL OPERATIONS CENTER IF THE FACILITY HAS BEEN
6 CLOSED OR RELOCATED OR THE TAXPAYER HAS OTHERWISE DEMONSTRATED THAT THE ONE
7 BILLION TWO HUNDRED FIFTY MILLION DOLLAR INVESTMENT WILL NOT BE TIMELY MADE.

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

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

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

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

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

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

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

30 (a) Forest-related materials, including mill residues, logging
31 residues, forest thinnings, slash, brush, low-commercial value materials or
32 undesirable species, salt cedar and other phreatophyte or woody vegetation
33 removed from river basins or watersheds and woody material harvested for the
34 purpose of forest fire fuel reduction or forest health and watershed
35 improvement.

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

40 (c) Animal waste, including manure and slaughterhouse and other
41 processing waste.

42 (d) Solid woody waste materials, including landscape or right-of-way
43 tree trimmings, rangeland maintenance residues, waste pallets, crates and
44 manufacturing, construction and demolition wood wastes but excluding
45 pressure-treated, chemically treated or painted wood wastes and wood
46 contaminated with plastic.

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

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

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

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

13 ~~3-~~ 4. "Renewable energy resource" means a resource that generates
14 electricity through the use of only the following energy sources:

15 (a) Solar light.

16 (b) Solar heat.

17 (c) Wind.

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

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

22 43-1164.05. Credit for renewable energy investment and
23 production for self-consumption by manufacturers
24 and international operations centers; definitions

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

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

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

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

45 3. The power is used primarily for manufacturing. A lessor of a
46 ~~manufacturing~~ facility that is using power for self-consumption under

1 paragraph 2 of this subsection qualifies under this paragraph if the lessee
2 is a manufacturer and the power is transferred as part of the lease to the
3 lessee.

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

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

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

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

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

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

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

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

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

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

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

17 5. Any additional information that the department requires.

18 ~~F~~ G. The department shall review each application under subsection
19 ~~E~~ F of this section and preapprove the taxpayer for a specified amount of
20 credit that is authorized. Credits are allowed under this section and
21 section 43-1083.04 on a first come, first served basis. The department may
22 not authorize tax credits under this section and section 43-1083.04 that
23 exceed in the aggregate a total of ten million dollars for any calendar year.
24 The portion of each year's limit that is reserved for each taxpayer must be
25 based on the year that each credit is expected to be claimed using the dates
26 provided in subsection ~~E~~ F, paragraph 3 of this section. If the year a
27 facility is completed is different from the estimated completion date
28 provided in subsection ~~E~~ F, paragraph 3 of this section, the taxpayer must
29 amend the application with the new dates. If an application is received
30 that, if authorized, would require the department to exceed the ten million
31 dollar limit, the department shall grant the applicant only the remaining
32 credit amount that would not exceed the ten million dollar limit. After the
33 department authorizes ten million dollars in tax credits, the department
34 shall deny any subsequent applications that are received for that calendar
35 year. The department may not authorize any additional tax credits that
36 exceed the ten million dollar limit even if the amounts that have been
37 certified to any taxpayer are not claimed or a taxpayer otherwise fails to
38 meet the requirements to claim the additional credit.

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

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

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

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

10 3. **CERTIFICATION FROM THE ARIZONA COMMERCE AUTHORITY PURSUANT TO**
11 **SECTION 41-1520.**

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

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

37 **K. IF THE TAXPAYER FAILS TO MAKE THE REQUIRED INVESTMENT IN RENEWABLE**
38 **ENERGY FACILITIES WITHIN THE TIME PERIOD REQUIRED BY SUBSECTION B, PARAGRAPH**
39 **1 OR SUBSECTION C, PARAGRAPH 1 OF THIS SECTION OR IF THE CERTIFICATION OF AN**
40 **INTERNATIONAL OPERATIONS CENTER HAS BEEN REVOKED UNDER SECTION 41-1520 DUE TO**
41 **A FAILURE TO MAKE A ONE BILLION TWO HUNDRED FIFTY MILLION DOLLAR INVESTMENT**
42 **IN THE CENTER WITHIN TEN YEARS AFTER CERTIFICATION OR IF THE TAXPAYER FAILS**
43 **TO RECEIVE FINAL CERTIFICATION OF THE CREDIT UNDER SUBSECTION J OF THIS**
44 **SECTION, THE TAXPAYER SHALL NOT BE ELIGIBLE AND MUST CEASE CLAIMING ANY**
45 **FURTHER CREDITS UNDER THIS SECTION AND SHALL REIMBURSE THE AMOUNT OF ALL**
46 **CREDITS PREVIOUSLY RECEIVED UNDER THIS SECTION. THE REIMBURSEMENT MUST BE**

1 MADE ON THE TAXPAYER'S INCOME TAX RETURN FOR THE TAXABLE YEAR IN WHICH IT IS
2 FIRST KNOWN THAT THE REQUIRED INVESTMENT WOULD NOT BE MADE WITHIN THE
3 REQUIRED TIME OR THE TAXABLE YEAR IN WHICH THE CERTIFICATION WAS REVOKED.
4 THE DEPARTMENT MAY GIVE SPECIAL CONSIDERATION OR ALLOW A TEMPORARY EXEMPTION
5 FROM REIMBURSEMENT IF THERE IS EXTRAORDINARY HARDSHIP DUE TO FACTORS BEYOND
6 THE TAXPAYER'S CONTROL. IF THE REIMBURSEMENT IS DUE TO REVOCATION OF THE
7 CERTIFICATION OF AN INTERNATIONAL OPERATIONS CENTER DUE TO A FAILURE TO
8 INVEST ONE BILLION TWO HUNDRED FIFTY MILLION DOLLARS IN THE CENTER WITHIN TEN
9 YEARS AFTER CERTIFICATION, THE CREDITS SHALL BE REIMBURSED IN INVERSE
10 PROPORTION TO THE TOTAL CAPITAL INVESTMENT MADE IN THE INTERNATIONAL
11 OPERATIONS CENTER DIVIDED BY ONE BILLION TWO HUNDRED FIFTY MILLION DOLLARS.
12 THE DEPARTMENT MAY REQUIRE REIMBURSEMENT BEFORE THE TENTH ANNIVERSARY OF
13 CERTIFICATION OF AN INTERNATIONAL OPERATIONS CENTER IF THE FACILITY HAS BEEN
14 CLOSED OR RELOCATED OR THE TAXPAYER HAS OTHERWISE DEMONSTRATED THAT THE ONE
15 BILLION TWO HUNDRED FIFTY MILLION DOLLAR INVESTMENT WILL NOT BE TIMELY MADE.

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

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

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

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

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

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

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

37 (a) Forest-related materials, including mill residues, logging
38 residues, forest thinnings, slash, brush, low-commercial value materials or
39 undesirable species, salt cedar and other phreatophyte or woody vegetation
40 removed from river basins or watersheds and woody material harvested for the
41 purpose of forest fire fuel reduction or forest health and watershed
42 improvement.

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

1 (c) Animal waste, including manure and slaughterhouse and other
2 processing waste.

3 (d) Solid woody waste materials, including landscape or right-of-way
4 tree trimmings, rangeland maintenance residues, waste pallets, crates and
5 manufacturing, construction and demolition wood wastes but excluding
6 pressure-treated, chemically treated or painted wood wastes and wood
7 contaminated with plastic.

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

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

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

14 ~~2-~~ 3. "Renewable energy facility" means a facility in which the
15 taxpayer invested at least thirty million dollars, that has at least twenty
16 megawatts generating capacity or a minimum typical annual generation of forty
17 thousand megawatt hours, that is located on land in this state owned or
18 leased by the taxpayer and that produces electricity using a ~~qualified~~
19 RENEWABLE energy resource.

20 ~~3-~~ 4. "Renewable energy resource" means a resource that generates
21 electricity through the use of only the following energy sources:

22 (a) Solar light.

23 (b) Solar heat.

24 (c) Wind.

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

27 Sec. 7. Effective date; retroactivity

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

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

APPROVED BY THE GOVERNOR MARCH 3, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 3, 2015.