House Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
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Fiftieth Legislature
Second Special Session
2011

CHAPTER 1

HOUSE BILL 2001

AN ACT

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

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

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

M. For the purposes of this section:

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

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

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

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

5-505. Apportionment of revenue

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

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

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

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

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

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

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

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

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

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

Sec. 3. Section 5-522, Arizona Revised Statutes, is amended to read:

5-522. Use of monies in state lottery fund; report

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

M. For the purposes of this section:

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

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

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

Sec. 5. Section 5-555, Arizona Revised Statutes, is amended to read:

5-555. Apportionment of revenue

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

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

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

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

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

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

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

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

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

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

Sec. 6. Section 5-572, Arizona Revised Statutes, is amended to read:

5-572. Use of monies in state lottery fund; report

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

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

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

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

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

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

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

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

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

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

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

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

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

15-213.01. Procurement practices; guaranteed energy cost savings contracts; definitions

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

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

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

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

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

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

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

1. Changes in utility rates.
2. Changes in the number of days in the utility billing cycle.
3. Changes in the square footage of the facility.
4. Changes in the operational schedule of the facility.
5. Changes in facility temperature.
6. Significant changes in the weather.
7. Significant changes in the amount of equipment or lighting utilized in the facility.
8. Significant changes in the nature or intensity of energy use such as the change of classroom space to laboratory space.

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

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

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

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

1. For the first three years of savings, prepare a measurement and verification report on an annual basis in addition to an annual reconciliation of savings.
2. Reimburse the school district for any shortfall of guaranteed energy cost savings on an annual basis.

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

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

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

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

1. The name of the project.

2. The qualified provider.

3. The total cost of the project.

4. The expected energy and cost savings.

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

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

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

R. For the purposes of this section:

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

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

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

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

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

(c) Automated or computerized energy control systems.

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

(e) Replacing or modifying lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility unless an increase in illumination is necessary to conform to the applicable state or local building code for the lighting system after the proposed modifications are made.

(f) Indoor air quality improvements to increase air quality that conform to the applicable state or local building code requirements.

(g) Energy recovery systems.

(h) Installing a new or retrofitting an existing day lighting system.

(i) Any life safety measures that provide long-term operating cost reductions and that comply with state and local codes.

(j) Implementing operation programs through education, training and software that reduce the operating costs.

(k) Procurement of low-cost utility supplies of all types, including electricity, natural gas, propane and water.

(l) Devices that reduce water consumption and water costs or that reduce sewer charges.

(m) Rainwater harvesting systems.

(n) Combined heat and power systems.

(o) Renewable and alternative energy projects and renewable energy power service agreements.

(p) Self-generation systems.

(q) Any additional building systems and infrastructure that produce energy, or that provide utility or operational cost savings not specifically mentioned in this paragraph, if the improvements meet the life cycle cost requirement and enhance building system performance or occupant comfort and safety.

4. "Guaranteed energy cost savings contract" means a contract for implementing one or more energy cost savings measures.

5. "Life cycle cost" means the sum of present values of investment costs, capital costs, installation costs, energy costs, operating costs, maintenance costs and disposal costs over the life of the project, product or measure as provided by federal life cycle cost rules, regulations and criteria contained in the United States department of energy federal energy management program "guidance on life-cycle cost analysis" required by executive order 13423, January 2007.

6. "Operational savings" means reductions in actual budget line items currently being expended or savings realized from the implementation or installation of energy cost savings measures.

7. "Qualified provider" means a person or a business experienced in designing, implementing or installing energy cost savings measures.

1 Sec. 8. Section 15-972, Arizona Revised Statutes, as amended by Laws
2 2010, Seventh Special Session, chapter 8, section 5, is amended to read:
3 15-972. State limitation on homeowner property taxes;
4 additional state aid to school districts; definitions
5 A. Notwithstanding section 15-971, there shall be additional state aid
6 for education computed for school districts as provided in subsection B of
7 this section.
8 B. The clerk of the board of supervisors shall compute such additional
9 state aid for education as follows:
10 1. For a high school district or for a common school district within a
11 high school district which does not offer instruction in high school subjects
12 as provided in section 15-447:
13 (a) Determine the qualifying tax rate pursuant to section 41-1276 for
14 the school district.
15 (b) Determine the following percentage of the qualifying tax rate
16 determined in subdivision (a) of this paragraph:
17 (i) Thirty-five per cent through December 31, 2005.
18 (ii) Thirty-six per cent beginning from and after December 31, 2005
19 through December 31, 2006.
20 (iii) Thirty-seven per cent beginning from and after December 31, 2006
21 through December 31, 2007.
22 (iv) Thirty-eight per cent beginning from and after December 31, 2007
23 through December 31, 2008.
24 (v) Thirty-nine per cent beginning from and after December 31, 2008
25 through December 31, 2009.
26 (vi) Forty per cent beginning from and after December 31, 2009.
27 (vii) SUCH FURTHER ADJUSTMENTS OF THE PERCENTAGE BEGINNING FROM AND
28 AFTER DECEMBER 31, 2012 AS PROVIDED BY LAW.
29 (c) Select the lesser of the amount determined in subdivision (b) of
30 this paragraph or forty per cent of the primary property tax rate that would
31 be levied in lieu of the provisions of this section for the district.
32 (d) Multiply the rate selected in subdivision (c) of this paragraph as
33 a rate per one hundred dollars assessed valuation by the assessed valuation
34 used for primary property taxes of the residential property in the school
35 district.
36 2. For a unified school district, for a common school district not
37 within a high school district or for a common school district which offers
38 instruction in high school subjects as provided in section 15-447:
39 (a) Determine the qualifying tax rate pursuant to section 41-1276 for
40 the school district.
41 (b) Determine the following percentage of the tax rate determined in
42 subdivision (a) of this paragraph:
43 (i) Thirty-five per cent through December 31, 2005.
44 (ii) Thirty-six per cent beginning from and after December 31, 2005
45 through December 31, 2006.

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

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

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

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

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

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

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

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

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

1. Five hundred dollars through December 31, 2005.

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

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

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

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

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

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

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

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

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

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

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

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

1. Having only one class of outstanding stock.

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

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

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

K. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

20-224.03. Premium tax credit for new employment

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

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

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

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

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

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

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

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

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

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

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

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

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

1 20-224.04. Premium tax credit for increased employment in
2 military reuse zones; definitions
3 A. A tax credit is allowed against the premium tax liability incurred
4 by an insurer pursuant to section 20-224, 20-837, 20-1010, 20-1060 or
5 20-1097.07 for net increases in employment positions of residents of this
6 state by an insurer that is located in a military reuse zone established
7 under title 41, chapter 10, article 3. A tax credit is not allowed for the
8 portion of the tax payable to the fire fighters' relief and pension fund
9 pursuant to section 20-224 or the portion of the tax payable to the public
10 safety personnel retirement system pursuant to section 20-224.01. The amount
11 of the tax credit is a dollar amount allowed for each new employee,
12 determined as follows:
13 1. With respect to each employee other than a dislocated military base
14 employee:
15 1st year of employment $ 500
16 2nd year of employment $1,000
17 3rd year of employment $1,500
18 4th year of employment $2,000
19 5th year of employment $2,500
20 2. With respect to each dislocated military base employee:
21 1st year of employment $1,000
22 2nd year of employment $1,500
23 3rd year of employment $2,000
24 4th year of employment $2,500
25 5th year of employment $3,000
26 B. Pursuant to subsection A of this section, if the allowable tax
27 credit exceeds the state premium tax liability, the amount of the claim not
28 used as an offset against the state premium tax liability may be carried
29 forward as a tax credit against subsequent years' state premium tax liability
30 for the period, not to exceed five taxable years, if the insurer remains in
31 the military reuse zone.
32 C. The net increase in the number of employees for purposes of this
33 section shall be determined by comparing the insurer's average employment in
34 the military reuse zone during the taxable year with the insurer's previous
35 year's fourth quarter employment in the zone, based on the insurer's report
36 to the department of economic security for unemployment insurance purposes
37 but considering only employment in the zone.
38 D. A credit is not allowed under this section with respect to an
39 employee whose place of employment is relocated by the insurer from a
40 location in this state to the military reuse zone unless the insurer
41 maintains at least the same number of employees in this state but outside the
42 zone.
43 E. A taxpayer who claims a credit under section 20-224.03 shall not
44 claim a credit under this section with respect to the same employees.
45 F. For the purposes of this section:

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

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

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

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

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

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

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

2. Provides proof as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28-7282. <u>Economic strength project fund</u>

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

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

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

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

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

28-7284. Agreements

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

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

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

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

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

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

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

34-451. Energy conservation standards for public buildings

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

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

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

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

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

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

Sec. 17. Section 36-274, Arizona Revised Statutes, is amended to read:

36-274. Disease control research fund; lapsing; investment

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

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

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

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

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

1 Sec. 18. Section 40-360.01, Arizona Revised Statutes, is amended to
2 read:
3 40-360.01. Organization and membership of the committee
4 A. The commission shall establish a power plant and transmission line
5 siting committee of Arizona.
6 B. The committee shall consist of the following members:
7 1. State attorney general or the attorney general's designee.
8 2. Director of environmental quality or the director's designee.
9 3. Director of water resources or the director's designee.
10 4. Director of the GOVERNOR'S energy office ~~of the department of~~
11 ~~commerce~~ or the director's designee.
12 5. Chairman of the Arizona corporation commission or the chairman's
13 designee.
14 6. Six members appointed by the commission to serve for a term of two
15 years of which three members shall represent the public, one member shall
16 represent incorporated cities and towns, one member shall represent counties
17 and one member shall be actively engaged in agriculture.
18 C. The attorney general or the attorney general's designee shall be
19 chairman of the committee.
20 D. The commission shall establish such procedures as provide for
21 expeditious review of the proposed siting plans and necessary consultation
22 with the person proposing the facilities, for noticing and conducting the
23 hearing provided by section 40-360.04, and for a timely decision regarding
24 the issuance of a certificate of environmental compatibility of the proposed
25 site.
26 E. Committee members appointed by the commission are eligible to
27 receive compensation of two hundred dollars for each meeting attended,
28 prorated for partial days for each meeting attended, payable from the filing
29 fee required by section 40-360.09. Committee members employed by government
30 entities are not eligible to receive compensation for their services. All
31 committee members shall be reimbursed from the filing fee required by section
32 40-360.09 for their actual and necessary expenses incurred in connection with
33 their participation in committee meetings.
34 F. The committee may utilize the staff resources of its constituent
35 agencies as well as necessary consultants. All studies required by the
36 committee shall be conducted as specified by the committee and under its
37 general direction.
38 Sec. 19. Transfer and renumber
39 Sections 41-1509, 41-1510 and 41-1515.01, Arizona Revised Statutes, are
40 transferred and renumbered for placement in title 41, chapter 1, article 1,
41 Arizona Revised Statutes, as sections 41-110, 41-111 and 41-112, Arizona
42 Revised Statutes, respectively.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41-111. Solar energy advisory council; definition

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

1. The chairman of the Arizona power authority.

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

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

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

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

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

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

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

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

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

F. The council shall:

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

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

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

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

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

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

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

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

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

41-112. <u>Arizona biofuels conversion program; fund; program termination; definitions</u>

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

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

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

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

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

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

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

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

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

F. Monies in the fund:

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

2. Are continuously appropriated.

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

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

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

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

41-191.09. <u>Attorney general legal services cost allocation fund; contributions; exemptions</u>

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

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

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

D. The following agencies are exempt from this section:

1. The department of water resources.

2. The residential utility consumer office.

3. The industrial commission.
4. The universities and the Arizona board of regents.
5. The auditor general.
6. The corporation commission.
7. The office of the governor.
8. The department of law.
9. The house of representatives.
10. The senate.
11. The joint legislative budget committee.
12. The Arizona state library, archives and public records.
13. The legislative council.
14. The department of administration risk management fund.
15. The department of transportation.
16. The Arizona game and fish department.
17. The department of economic security.
18. The Arizona health care cost containment system.
19. The superior court.
20. The court of appeals.
21. The supreme court.
22. The Arizona department of agriculture and councils that receive administrative and budgetary services from the Arizona department of agriculture.
23. All self-supporting regulatory agencies as determined pursuant to section 35-143.01.
24. THE ARIZONA COMMERCE AUTHORITY.

E. Monies in the attorney general legal services cost allocation fund are exempt from lapsing to the state general fund at the end of each fiscal year.

Sec. 24. Section 41-192, Arizona Revised Statutes, is amended to read:

41-192. <u>Powers and duties of attorney general; restrictions on state agencies as to legal counsel; exceptions</u>

A. The attorney general shall have charge of and direct the department of law and shall serve as chief legal officer of the state. The attorney general shall:

1. Be the legal advisor of the departments of this state and render such legal services as the departments require.

2. Establish administrative and operational policies and procedures within his department.

3. Approve long-range plans for developing departmental programs therein, and coordinate the legal services required by other departments of this state or other state agencies.

4. Represent school districts and governing boards of school districts in any lawsuit involving a conflict of interest with other county offices.

5. Represent political subdivisions, school districts and municipalities in suits to enforce state or federal statutes pertaining to

1 antitrust, restraint of trade or price-fixing activities or conspiracies, if
2 the attorney general notifies in writing the political subdivisions, school
3 districts and municipalities of the attorney general's intention to bring any
4 such action on its behalf. At any time within thirty days after the
5 notification, the political subdivisions, school districts and
6 municipalities, by formal resolution of its governing body, may withdraw the
7 authority of the attorney general to bring the intended action on its behalf.
8 6. In any action brought by the attorney general pursuant to state or
9 federal statutes pertaining to antitrust, restraint of trade, or price-fixing
10 activities or conspiracies for the recovery of damages by this state or any
11 of its political subdivisions, school districts or municipalities, in
12 addition to the attorney general's other powers and authority, the attorney
13 general on behalf of this state may enter into contracts relating to the
14 investigation and prosecution of such action with any other party plaintiff
15 who has brought a similar action for the recovery of damages and with whom
16 the attorney general finds it advantageous to act jointly or to share common
17 expenses or to cooperate in any manner relative to such action. In any such
18 action, notwithstanding any other laws to the contrary, the attorney general
19 may undertake, among other things, to render legal services as special
20 counsel or to obtain the legal services of special counsel from any
21 department or agency of the United States, of this state or any other state
22 or any department or agency thereof or any county, city, public corporation
23 or public district in this state or in any other state that has brought or
24 intends to bring a similar action for the recovery of damages or their duly
25 authorized legal representatives in such action.
26 7. Organize the civil rights division within the department of law and
27 administer such division pursuant to the powers and duties provided in
28 chapter 9 of this title.
29 8. Compile, publish and distribute to all state agencies, departments,
30 boards, commissions and councils, and to other persons and government
31 entities on request, at least every ten years, the Arizona agency handbook
32 that sets forth and explains the major state laws that govern state agencies,
33 including information on the laws relating to bribery, conflicts of interest,
34 contracting with the government, disclosure of public information,
35 discrimination, nepotism, financial disclosure, gifts and extra compensation,
36 incompatible employment, political activity by employees, public access and
37 misuse of public resources for personal gain. A supplement to the handbook
38 reflecting revisions to the information contained in the handbook shall be
39 compiled and distributed by the attorney general as deemed necessary.
40 B. Except as otherwise provided by law, the attorney general may:
41 1. Organize the department into such bureaus, subdivisions or units as
42 he deems most efficient and economical, and consolidate or abolish them.
43 2. Adopt rules for the orderly conduct of the business of the
44 department.

1 3. Employ and assign assistant attorneys general and other employees
2 necessary to perform the functions of the department.
3 4. Compromise or settle any action or claim by or against this state
4 or any department, board or agency of this state. If the compromise or
5 settlement involves a particular department, board or agency of this state,
6 the compromise or settlement shall be first approved by the department, board
7 or agency. If no department or agency is named or otherwise materially
8 involved, the approval of the governor shall be first obtained.
9 5. Charge reasonable fees for distributing official publications,
10 including attorney general legal opinions and the Arizona agency handbook.
11 The fees received shall be transmitted to the state treasurer for deposit in
12 the state general fund.
13 C. Assistants and employees in any legal division subject to a merit
14 system prior to March 6, 1953 shall remain subject thereto.
15 D. The powers and duties of a bureau, subdivision or unit shall be
16 limited to those assigned by law to the department.
17 E. Notwithstanding any law to the contrary, except as provided in
18 subsections F and G of this section, no state agency other than the attorney
19 general shall employ legal counsel or make an expenditure or incur an
20 indebtedness for legal services, but the following are exempt from this
21 section:
22 1. The director of water resources.
23 2. The residential utility consumer office.
24 3. The industrial commission.
25 4. The Arizona board of regents.
26 5. The auditor general.
27 6. The corporation commissioners and the corporation commission other
28 than the securities division.
29 7. The office of the governor.
30 8. The constitutional defense council.
31 9. The office of the state treasurer.
32 10. THE ARIZONA COMMERCE AUTHORITY.
33 F. If the attorney general determines that he is disqualified from
34 providing judicial or quasi-judicial legal representation or legal services
35 on behalf of any state agency in relation to any matter, the attorney general
36 shall give written notification to the state agency affected. If the agency
37 has received written notification from the attorney general that the attorney
38 general is disqualified from providing judicial or quasi-judicial legal
39 representation or legal services in relation to any particular matter, the
40 state agency is authorized to make expenditures and incur indebtedness to
41 employ attorneys to provide the representation or services.
42 G. If the attorney general and the director of the department of
43 agriculture cannot agree on the final disposition of a pesticide complaint
44 under section 3-368, if the attorney general and the director determine that
45 a conflict of interest exists as to any matter or if the attorney general and

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

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

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

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

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

41-724. Exemptions

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

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

Sec. 26. Section 41-803, Arizona Revised Statutes, is amended to read:

41-803. Operation of state motor vehicle fleet; public service announcements; energy conservation; alternative and clean burning fuels; definitions

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

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

1 vehicles, and monies received shall be deposited, pursuant to sections 35-146
2 and 35-147, in the state general fund. The agency or department director
3 shall determine the appropriateness of the announcements, may exempt any
4 vehicles that are not suitable for advertising and may contract with private
5 parties for design and placement of the announcements.
6 C. The director shall provide for detailed cost, operation,
7 maintenance, mileage and custody records for each state owned vehicle. On or
8 before August 1 of each year, all state agencies and departments, including
9 those listed in subsection E of this section, shall make information
10 available to the director regarding vehicle cost, operation, maintenance and
11 mileage and other information as established by the director in policies and
12 procedures for the purposes of the report prescribed in subsection R of this
13 section.
14 D. Each state department and agency shall pay from available monies
15 the cost of motor vehicle services received from the state motor vehicle
16 fleet at a rate determined by the director.
17 E. The following departments and agencies are excluded from
18 participation in the state motor vehicle fleet:
19 1. Department of public safety.
20 2. Department of transportation.
21 3. Department of economic security.
22 4. State department of corrections.
23 5. Universities and community colleges.
24 6. Arizona state schools for the deaf and the blind.
25 7. Cotton research and protection council.
26 8. ARIZONA COMMERCE AUTHORITY.
27 F. The director shall appoint a person in the office of the director
28 who is the state motor vehicle fleet alternative fuel and clean burning fuel
29 coordinator. The coordinator shall develop, implement, document, monitor and
30 modify as necessary a statewide alternative fuels plan in consultation with
31 all state agencies and departments that are subject to the alternative fuel
32 and clean burning fuel requirements prescribed in this section or any other
33 law. The approval of the coordinator is required for all acquisitions of
34 vehicles pursuant to this section, except for acquisitions by community
35 college districts.
36 G. Purchases of all new motor vehicles that primarily operate in
37 counties with a population of more than two hundred fifty thousand persons
38 and that have a gross vehicle weight of eight thousand five hundred pounds or
39 less, including those agency motor vehicle fleets listed in subsection E of
40 this section, shall meet the following minimum requirements for vehicles:
41 1. For model year 1997, ten per cent of new motor vehicles purchased
42 shall be capable of operating on alternative fuels.
43 2. For model year 1998, fifteen per cent of new motor vehicles
44 purchased shall be capable of operating on alternative fuels.

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

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

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

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

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

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

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

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

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

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

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

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

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

1. By purchase or lease as authorized by law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

T. For the purposes of this section:

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

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

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

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

41-1005. Exemptions

A. This chapter does not apply to any:

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 28. Heading change

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

Sec. 29. Repeal

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

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

41-1501. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "AUTHORITY" MEANS THE ARIZONA COMMERCE AUTHORITY.

2. "BOARD" MEANS THE BOARD OF DIRECTORS OF THE AUTHORITY.

3. "CHIEF EXECUTIVE OFFICER" MEANS THE CHIEF EXECUTIVE OFFICER OF THE AUTHORITY.

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

A. THE ARIZONA COMMERCE AUTHORITY IS ESTABLISHED. THE MISSION OF THE AUTHORITY IS TO PROVIDE PRIVATE SECTOR LEADERSHIP IN GROWING AND DIVERSIFYING THE ECONOMY OF THIS STATE, CREATING HIGH QUALITY EMPLOYMENT IN THIS STATE THROUGH EXPANSION, ATTRACTION AND RETENTION OF BUSINESSES AND MARKETING THIS STATE FOR THE PURPOSE OF EXPANSION, ATTRACTION AND RETENTION OF BUSINESSES.

B. THE AUTHORITY SHALL BE GOVERNED BY A BOARD OF DIRECTORS CONSISTING OF:

1. THE GOVERNOR, WHO SERVES AS CHAIRPERSON.

2. THE CHIEF EXECUTIVE OFFICER.

3. SEVENTEEN PRIVATE SECTOR BUSINESS LEADERS WHO ARE CHIEF EXECUTIVE OFFICERS OF PRIVATE, FOR PROFIT ENTERPRISES. NONE OF THESE MEMBERS MAY BE AN ELECTED OFFICIAL OF ANY GOVERNMENT ENTITY. THESE MEMBERS MUST BE APPOINTED FROM GEOGRAPHICALLY DIVERSE AREAS OF THIS STATE AND NOT ALL FROM THE SAME COUNTY. THESE MEMBERS SHALL SERVE STAGGERED THREE-YEAR TERMS OF OFFICE BEGINNING AND ENDING ON THE THIRD MONDAY IN JANUARY. THESE MEMBERS SHALL BE APPOINTED AS FOLLOWS:

(a) NINE MEMBERS WHO ARE APPOINTED BY THE GOVERNOR.

(b) FOUR MEMBERS WHO ARE APPOINTED BY THE PRESIDENT OF THE SENATE.

(c) FOUR MEMBERS WHO ARE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

4. THE FOLLOWING AS EX OFFICIO MEMBERS WITHOUT THE POWER TO VOTE:

(a) THE PRESIDENT OF THE SENATE.

(b) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

(c) THE PRESIDENT OF THE ARIZONA BOARD OF REGENTS.

(d) THE PRESIDENT OF EACH STATE UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS.

(e) ONE PRESIDENT OF A COMMUNITY COLLEGE WHO IS APPOINTED BY A STATEWIDE ORGANIZATION OF COMMUNITY COLLEGE PRESIDENTS.

(f) THE CHAIRPERSON OF THE ARIZONA AEROSPACE AND DEFENSE COMMISSION ESTABLISHED BY ARTICLE 6 OF THIS CHAPTER.

(g) THE CHAIRPERSON OF THE GOVERNOR'S COUNCIL ON SMALL BUSINESS, OR ITS SUCCESSOR.

(h) THE CHAIRPERSON OF THE GOVERNOR'S COUNCIL ON WORKFORCE POLICY, IF ESTABLISHED BY EXECUTIVE ORDER PURSUANT TO SECTION 41-1542.

(i) ONE MEMBER OF THE RURAL BUSINESS DEVELOPMENT ADVISORY COUNCIL ESTABLISHED BY SECTION 41-1505 WHO IS APPOINTED BY THE GOVERNOR.

(j) THE PRESIDENT OF A STATEWIDE ORGANIZATION OF INCORPORATED CITIES AND TOWNS WHO IS APPOINTED BY THE GOVERNOR.

(k) THE PRESIDENT OF A STATEWIDE ORGANIZATION OF COUNTY BOARDS OF SUPERVISORS WHO IS APPOINTED BY THE GOVERNOR.

C. THE FOLLOWING SHALL SERVE AS TECHNICAL ADVISORS TO THE BOARD TO ENHANCE COLLABORATION AMONG STATE AGENCIES TO MEET INFRASTRUCTURE NEEDS AND FACILITATE GROWTH OPPORTUNITIES THROUGHOUT THIS STATE:

1. THE DIRECTOR OF ENVIRONMENTAL QUALITY.

2. THE STATE LAND COMMISSIONER.

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

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

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

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

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

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

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

1. IN ADDITION TO THE PROVISIONS OF SECTION 38-431.03, THE BOARD OF DIRECTORS, EXECUTIVE COMMITTEE AND SUBCOMMITTEES MAY MEET IN EXECUTIVE SESSION FOR DISCUSSION ABOUT POTENTIAL BUSINESS DEVELOPMENT OPPORTUNITIES AND STRATEGIES, WHICH, IF MADE PUBLIC, COULD POTENTIALLY HARM THE APPLICANT'S, POTENTIAL APPLICANT'S OR THIS STATE'S COMPETITIVE POSITION.
2. SOCIAL AND TRAVEL EVENTS RELATED TO THE EXPANSION, ATTRACTION AND RETENTION OF BUSINESSES ARE NOT PUBLIC MEETINGS IF NO LEGAL ACTION INVOLVING A FINAL VOTE OR DECISION IS TAKEN.
3. ACTIVITIES AND EVENTS HELD IN PUBLIC FOR THE PURPOSE OF ANNOUNCING THE EXPANSION, ATTRACTION AND RETENTION OF PROJECTS ARE NOT PUBLIC MEETINGS.

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

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

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

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

41-1503. Chief executive officer

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

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

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

41-1504. Powers and duties

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

1. ADOPT AND USE A CORPORATE SEAL.

2. SUE AND BE SUED.

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

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

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

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

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

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

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

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

C. THE AUTHORITY SHALL:

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

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

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

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

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

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

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

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

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

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

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

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

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

E. THE CHIEF EXECUTIVE OFFICER SHALL:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41-1505. <u>Rural business development advisory council</u>

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

B. THE COUNCIL CONSISTS OF THE FOLLOWING MEMBERS:

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

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

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

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

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

D. THE COUNCIL SHALL:

1. RECOMMEND TO THE BOARD OF DIRECTORS POLICY DEVELOPMENT AND FUNDING ALLOCATIONS TO COMPLEMENT REGIONAL AND LOCAL ECONOMIC DEVELOPMENT STRATEGIES THAT FOCUS ON AND ASSIST RURAL COMMUNITIES.

2. LEVERAGE LOCAL, STATE AND FEDERAL RESOURCES TO ADVANCE BUSINESS IN RURAL AREAS OF THIS STATE.

3. DEVELOP SELECTION CRITERIA AND AN APPLICATION FORMAT FOR RURAL COMMUNITIES OR AREAS TO USE IN APPLYING FOR MATCHING MONIES.

4. MAKE RECOMMENDATIONS FOR COORDINATING PERSONNEL ACTIVITIES OF THE AUTHORITY TO ENSURE THAT COMMUNITIES RECEIVE APPROPRIATE TECHNICAL ASSISTANCE TO IMPLEMENT ECONOMIC DEVELOPMENT EFFORTS.

5. ASSIST LOCAL RURAL ECONOMIC DEVELOPMENT PROFESSIONALS, MAIN STREET PROJECT MANAGERS AND OTHERS INVOLVED IN ECONOMIC DEVELOPMENT.

6. MAKE RECOMMENDATIONS REGARDING:

(a) STATE RESPONSIBILITIES UNDER ANY NECESSARY CONTRACTS WITH CONSULTANTS, INCLUDING THE NATIONAL MAIN STREET CENTER OF THE NATIONAL TRUST FOR HISTORIC PRESERVATION.

(b) COORDINATION OF THE ACTIVITIES OF OTHER STATE AGENCY PERSONNEL ASSISTING WITH RURAL ECONOMIC DEVELOPMENT PROGRAMS.

7. MONITOR THE PROGRESS OF MAIN STREET COMMUNITIES AND OTHER ASPECTS OF THE PROGRAM.

8. COORDINATE THE EXPENDITURE OF AVAILABLE FEDERAL MONIES TO SUPPORT RURAL BUSINESS AND ECONOMIC DEVELOPMENT PROGRAMS.

E. EACH YEAR THE COUNCIL SHALL DEVELOP A PRIORITY LIST OF ECONOMIC STRENGTH PROJECTS THAT MEET THE CRITERIA ESTABLISHED BY SECTION 28-7281 AND SUBMIT THE LIST TO THE CHIEF EXECUTIVE OFFICER. THE COUNCIL SHALL CONFER WITH REGIONAL PLANNING AGENCIES AND LOCAL AUTHORITIES THAT WOULD BE AFFECTED BY A SPECIFIC ECONOMIC STRENGTH PROJECT AND SHALL SUBMIT THEIR COMMENTS TO THE CHIEF EXECUTIVE OFFICER. AFTER REVIEW BY THE BOARD, THE CHIEF EXECUTIVE OFFICER SHALL TRANSMIT THE PRIORITY LIST AND COMMENTS TO THE STATE TRANSPORTATION BOARD. THE COUNCIL SHALL SET PRIORITIES FOR INDIVIDUAL PROJECTS BASED ON THE FOLLOWING:

1. THE COST OF THE PROJECT.

2. THE NUMBER OF JOBS THAT THE PROJECT WILL CAUSE TO BE CREATED, RETAINED OR INCREASED.

3. THE NATURE AND AMOUNT OF CAPITAL INVESTMENT OR OTHER CONTRIBUTION TO THE ECONOMY OF THIS STATE OR A LOCAL AUTHORITY AS A RESULT OF THE PROJECT.

4. THE LIKELIHOOD THAT BENEFITS RESULTING FROM THE PROJECT WILL EXCEED THE COSTS OF THE PROJECT.

5. THE AMOUNT OF CONTRIBUTIONS TO THE PROJECT PROVIDED FROM OTHER THAN THE ECONOMIC STRENGTH PROJECT FUND IS AT LEAST TEN PER CENT OF THE COST OF THE PROJECT.

6. THE AMOUNT AND PERCENTAGE OF FUNDING FOR THE PROJECT THAT WILL COME FROM A SOURCE OTHER THAN THE ECONOMIC STRENGTH PROJECT FUND AS COMPARED TO OTHER PROPOSED PROJECTS.

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

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

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

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

41-1506. Arizona commerce authority fund

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

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

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

Sec. 31. Renumber

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41-1507. Tax credit for increased research activity; qualification for refund

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41-1508. Defense contractor restructuring assistance; definitions

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

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

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

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

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

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

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

1. Apply to the department of commerce.

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

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

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

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

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

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

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

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

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

41-1510.01. Solar energy tax incentives; qualification

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

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

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

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

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

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

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

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

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

D. The ~~department~~ AUTHORITY shall:

1. Review and evaluate each submitted application.

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

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

E. On the completion of each certified installation:

1. The business must:

(a) Certify that the installed solar energy device or system is operational.

(b) Provide the total amount of income tax credits to be claimed.

2. The ~~department~~ AUTHORITY shall review the installation expenses and issue a credit certificate to the business. The credit certificate shall include the assigned identifying number.

3. The ~~department of commerce~~ AUTHORITY shall transmit the credit information and certificate number to the department of revenue.

F. The ~~department of commerce~~ AUTHORITY shall not certify tax credits under this section in any calendar year that exceed a total of one million dollars.

G. The ~~department of commerce~~ AUTHORITY and the department of revenue shall collaborate in adopting rules that are necessary to accomplish the intent and purpose of this section.

Sec. 36. Section 41-1511, Arizona Revised Statutes, is amended to read:

41-1511. Renewable energy tax incentives; qualification; definitions

A. Tax incentives are allowed for expanding or locating qualified renewable energy operations in this state, including income tax credits pursuant to sections 43-1083.01 and 43-1164.01 and property tax classification pursuant to section 42-12006, paragraph ~~9~~ 8.

B. To be eligible for the tax incentives, a renewable energy business must apply to the ~~department of commerce~~ AUTHORITY, on a form prescribed by the ~~department~~ AUTHORITY, for preapproval of the business as qualifying for the incentives. The application must include:

1. The applicant's name, address, telephone number and federal taxpayer identification number or numbers.

2. The name, address, telephone number and e-mail address of a contact person for the applicant.

3. The address of the site where the qualifying renewable energy operation will be located.

4. A detailed description of the qualifying renewable energy operation and fixed capital assets.

5. An estimate of the capital investment and number of employment positions at the qualifying renewable energy operation, including:

(a) A schedule of qualifying investments.

(b) A list of full-time employment positions, the estimated number of employees to be hired for the positions each year during the first five years of operation and the annual wages for each position, calculated without employee-related benefits.

6. A nonrefundable processing fee in an amount determined by the ~~department~~ AUTHORITY.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Renewable energy operations in separate locations.

2. Separate expansions of a renewable energy operation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

L. A taxpayer may voluntarily relinquish unused credit amounts.

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

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

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

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

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

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

1. A headquarters facility opens for public business.

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

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

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

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

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

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

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

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

V. The ~~department~~ AUTHORITY shall:

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

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

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

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

X. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

Sec. 37. Repeal

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

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

41-1514.02. Environmental technology assistance; definitions

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

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

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

2. Encourage the use of environmental technology products.

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

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

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

1. Apply to the department of commerce.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Sec. 39. Repeal
2 Section 41-1515, Arizona Revised Statutes, is repealed.
3 Sec. 40. Section 41-1516, Arizona Revised Statutes, is amended to
4 read:
5 41-1516. Healthy forest enterprise incentives; definitions
6 A. The ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY shall:
7 1. Implement a program to encourage counties, cities and towns to
8 provide local incentives to economic enterprises that promote forest health
9 in this state.
10 2. Identify and certify to the department of revenue the names of and
11 relevant information relating to qualified businesses for the purposes of
12 available state tax incentives for economic enterprises that promote forest
13 health in this state.
14 B. To qualify for state tax incentives pursuant to this section, a
15 business:
16 1. Must be primarily engaged in a qualifying project. The business
17 shall submit to the ~~department of commerce~~ AUTHORITY evidence that it is
18 engaged in a qualifying project as follows:
19 (a) The business operation must enhance or sustain forest health,
20 sustain or recover watershed or improve public safety.
21 (b) If the qualifying forest product is on federal land, the business
22 shall submit a letter from the federal agency administering the land, or
23 official records or documents produced in connection with the project,
24 stating that the business is primarily engaged in the business of harvesting
25 or initial processing of qualifying forest products for commercial use as
26 follows:
27 (i) At least seventy per cent of the harvested or processed products,
28 measured by weight, must be qualifying forest products.
29 (ii) At least seventy-five per cent of the qualifying forest products,
30 measured by weight, must be harvested from sources in this state.
31 (c) If the qualifying forest product is not on federal land, the
32 business shall submit a letter from the state forester stating that the
33 business is primarily engaged in the business of harvesting or initial
34 processing of qualifying forest products for commercial use as follows:
35 (i) At least seventy per cent of the harvested or processed products
36 must be qualifying forest products.
37 (ii) At least seventy-five per cent of the harvested or processed
38 products must be from areas in this state.
39 (d) If the business is engaged in transporting qualifying forest
40 products, it must submit a letter from the state forester or United States
41 forest service, or official records or documents produced in connection with
42 the project, stating that all of the qualifying forest products it transports
43 are harvested from areas in this state. In addition, the business must
44 submit evidence to the ~~department of commerce~~ AUTHORITY that at least
45 seventy-five per cent of the mileage traveled by its units each year are for

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Employment information necessary to confirm eligibility for income tax credits as prescribed by sections 43-1076 and 43-1162.

3. The quantity, measured by weight, of qualifying forest products harvested, transported or processed.

I. On or before May 1 of each year, the ~~department of commerce~~ AUTHORITY shall report to the joint legislative budget committee:

1. The quantity, measured by weight, of qualifying forest products reported by harvesters, by transporters and by processors in the preceding calendar year.

2. The number of new full-time employees hired in qualified employment positions in this state in the preceding calendar year and reported for tax credit purposes.

3. The total number of all full-time employees employed in qualified employment positions in this state in the preceding calendar year and reported for tax credit purposes.

J. For purposes of administering and ensuring compliance with this section, agents of the ~~department of commerce~~ AUTHORITY may enter, and a qualified business shall allow access to, a qualifying project site at reasonable times and on reasonable notice to:

1. Inspect the facilities at the site.

2. Obtain factual data and records pertinent to and required by law to be kept for purposes of tax incentives.

3. Otherwise ascertain compliance with law and the terms of the memorandum of understanding.

K. The ~~department of commerce~~ AUTHORITY shall revoke the business' certification and notify the department of revenue and county assessor if either:

1. Within thirty days after a formal request from the ~~department of commerce~~ AUTHORITY or the department of revenue the business fails or refuses to provide the information or access for inspections required by this section.

2. The business no longer meets the terms and conditions required for qualification for the applicable tax incentives.

L. For the purposes of this section:

1. "Forest health" means the degree to which the integrity of the forest is sustained, including reducing the risk of catastrophic wildfire and destructive insect infestation, benefiting wildland habitats, watersheds and communities.

2. "Harvesting" means all operations relating to felling or otherwise removing trees and other forest plant growth and preparing them for transport for subsequent processing.

3. "Initial processing" means:

(a) The first change, after harvest, in the physical structure of qualifying forest products removed from a qualifying project into a marketable commercial product or component of a product that has commercial

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. "Qualifying project" means harvesting, transporting or the initial processing of qualifying forest products as required for certification pursuant to this section.

Sec. 41. Section 41-1517, Arizona Revised Statutes, is amended to read:

41-1517. Motion picture production tax incentives; duties; definitions

A. From and after December 31, 2005 through December 31, 2010, the department of commerce shall qualify motion picture production companies that produce one or more motion pictures in this state for motion picture production tax incentives, subject to the following requirements and conditions:

1. Except as provided in subsection K of this section, a motion picture production company must spend at least two hundred fifty thousand dollars toward production costs in this state producing each motion picture.

2. For the purpose of this section, production costs are limited to and subject to the following conditions:

(a) Salaries and other compensation for talent, management and labor paid to residents of this state, as defined by section 43-104.

(b) A story and scenario to be used for a motion picture.

(c) Set construction and operations, wardrobe, props, accessories and related services in this state. Expenses paid for construction contracts are limited to contractors who are licensed under title 32, chapter 10.

(d) Photography, sound synchronization, lighting and related costs incurred in this state.

(e) Editing and related services performed in this state.

(f) Rental of facilities and equipment in this state.

(g) Catered food, drink and condiment purchased in this state.

(h) Other direct in-state costs of producing the motion picture, pursuant to rules adopted by the department of revenue that follow generally accepted accounting standards for the motion picture industry.

(i) Payments for penalties and fines do not qualify as production costs.

(j) Expenses incurred before the date of notice of preapproval under subsection D of this section do not qualify as production costs.

3. A motion picture production company or its authorized payroll service company must employ residents of this state in its production activities as follows:

(a) In 2006, at least twenty-five per cent of full-time employees working in this state must be residents of this state.

(b) In 2007, at least thirty-five per cent of full-time employees working in this state must be residents of this state.

(c) In 2008 and every subsequent taxable year, at least fifty per cent of full-time employees working in this state must be residents of this state.

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

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

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

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

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

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

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

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

5. The estimated total budget of the production.

6. The estimated total expenditures in this state.

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

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

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

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

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

(c) A description of the locations.

(d) A description of the sets.

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Two hundred fifty thousand dollars.

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

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

1 submitted regardless of whether the initial preapproval period extends into
2 the following year or years. Before the expiration of the initial
3 preapproval or requalification period, a company may voluntarily relinquish
4 unused credit amounts.
5 H. The department of commerce shall reallocate the amount of credits
6 that is voluntarily relinquished under subsection G of this section, that
7 lapses under subsection F of this section or that lapses under subsection O
8 of this section. The reallocation shall be to other motion picture
9 production companies that applied in the original credit year based on
10 priority placement. The amount of the reallocated credits shall continue to
11 apply against the dollar limit of the original credit year regardless of the
12 year in which the reallocation occurs. If for any year an unused balance
13 occurs in the income tax credits authorized under the dollar limit prescribed
14 by subsection J of this section:
15 1. The balance shall be allocated to motion picture production
16 companies that successfully appeal the denial of approval under this section
17 or section 41-1517.01. Any amount of income tax credits due to successful
18 appeals that are not paid from an unused balance in any year shall be paid
19 against the dollar limit allowed by subsection J of this section in the
20 following year.
21 2. Any remaining unused balance shall be reallocated for the purposes
22 of this section in the following year.
23 I. Beginning with the tax credits allocated for 2006 pursuant to
24 subsection J of this section, an approved credit offsets tax liability for
25 the taxable year for which the credit was originally allocated or any
26 subsequent taxable year within the applicable carryforward period pursuant to
27 section 43-1075, subsection G or section 43-1163, subsection G. The credits
28 must be claimed on a timely filed original income tax return, including
29 extensions.
30 J. Subject to the requirements of section 41-1517.01 and subsections K
31 and U of this section, the department of commerce shall not preapprove income
32 tax credits exceeding a total of:
33 1. Thirty million dollars for 2006.
34 2. Forty million dollars for 2007.
35 3. Fifty million dollars for 2008.
36 4. Sixty million dollars for 2009.
37 5. From and after December 31, 2009, seventy million dollars for a
38 single year.
39 6. Five million dollars for an individual motion picture application
40 in 2007.
41 7. Seven million dollars for an individual motion picture application
42 in 2008.
43 8. Eight million dollars for an individual motion picture application
44 in 2009.

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

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

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

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

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

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

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

(c) Describes the location or locations.

(d) Describes the sets.

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

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

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

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

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

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

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

L. Except for applications with respect to commercial advertisement and music video production under subsection K of this section, after October 31 of each year, if the department has preapproved the maximum calendar year tax credit amount pursuant to subsection J of this section, the department may accept initial applications for the next calendar year. The preapproval of any application pursuant to this subsection shall not be effective prior to the first business day of the following calendar year. The department may accept initial applications with respect to commercial advertisement and music video production under subsection K of this section only during the calendar year in which the credits would be allotted.

M. Subject to subsection O of this section, the department of commerce shall deny an application submitted on completion of the production pursuant to subsection O of this section if it determines that:

1. The motion picture production company does not meet all of the established criteria provided in subsection A of this section.

2. The production would constitute an obscene motion picture film or obscene pictorial publication under title 12, chapter 7, article 1.1.

3. The production depicts sexual activity as defined in title 13, chapter 35.

4. The production would constitute sexual exploitation of a minor or commercial sexual exploitation of a minor under title 13, chapter 35.1.

N. On a determination by the department of commerce that a motion picture production company qualifies for motion picture production tax incentives, the department shall issue the company a written letter of qualification and transmit a copy of the letter to the department of revenue. Beginning from and after December 31, 2007, a letter of qualification is effective for twenty-four consecutive months as stated in the letter.

O. Upon completion of the motion picture production, a motion picture production company that qualifies for the motion picture tax incentives shall apply to the department in writing for approval of income tax credits, submit a viewable copy of the motion picture, except as provided in subsection P of this section, and certify the total amount of eligible production costs associated with the project incurred from and after December 31, 2005. From and after June 30, 2006, the department shall provide approval to a motion picture production company that it has met the eligibility requirements of this section and shall notify the department of revenue that the motion picture production company may claim the tax credits pursuant to sections 43-1075 and 43-1163. If the eligible production costs actually spent are less than the amount preapproved for income tax credits, the preapproved amount not incurred lapses and does not apply against the dollar limit prescribed by subsection J of this section for that year.

P. A motion picture production company may apply for postapproval of the production under subsection O of this section before a viewable copy of the production is available. To do so, the company must submit with its application a letter of credit, payable to the department of revenue,

1 providing that within two business days after the issuer receives a written
2 determination from the department of commerce that the production fails to
3 qualify for the tax credits the issuer will pay to the department of revenue
4 the full face value of the income tax credits in the application. If the
5 department of revenue draws on the letter of credit, the monies shall be
6 transferred to and held in an interest bearing account pending the final
7 outcome of an appeal, if any. The letter of credit may be released on the
8 determination by the department of commerce that the completed production
9 qualifies for the tax credits.
10 Q. If a preapproved motion picture production company fails to
11 undertake production, as described in subsection F of this section, and also
12 fails to voluntarily relinquish the unused credit amounts for reallocation by
13 the department as provided by subsection G of this section within the
14 ninety-day period, the company and all persons signing the application for
15 preapproval are disqualified from receiving, or participating in any motion
16 picture production company that applies for or receives, tax incentives
17 pursuant to this section for three years after the original application.
18 R. The department of commerce, with the cooperation of the department
19 of revenue, shall adopt rules and publish and prescribe forms and procedures
20 as necessary to effectuate the purposes of this section.
21 S. Any information gathered from motion picture production companies
22 for the purposes of this section, or applicants for infrastructure incentives
23 for the purposes of section 41-1517.01, shall be considered confidential
24 taxpayer information and shall be disclosed only as provided in section
25 42-2003, subsection B, paragraph 12, except that the department shall publish
26 the following information in its annual report:
27 1. The name of each motion picture production company and
28 infrastructure applicant and the amount of income tax credits preapproved for
29 each production and infrastructure project.
30 2. The amount of credits approved with respect to each production.
31 T. The department of commerce shall:
32 1. Keep annual records of the information provided on applications for
33 motion picture production tax incentives. These records shall reflect a
34 percentage comparison of the annual amount of monies exempted or credited to
35 qualifying motion picture production companies to the estimated amount of
36 monies spent on in-state production costs by motion picture production
37 companies.
38 2. Maintain annual data on growth in Arizona-based motion picture
39 industry companies and motion picture industry employment and wages.
40 3. Not later than April 30 of each year, prepare and publish a report
41 summarizing the information collected pursuant to this subsection. The
42 department shall make copies of the annual report available to the public on
43 request.
44 U. Subject to annual legislative authorization, the amount of three
45 hundred thirty seven thousand seven hundred dollars from the dollar amount of

1 income tax credits under subsection J of this section is allocated each year
2 to the department of commerce for up to six full-time equivalent positions
3 dedicated solely for the purposes of this section and section 41-1517.01. If
4 the income tax credits terminate pursuant to subsection A of this section and
5 section 41-1517.01, subsection A, the authorization under this subsection and
6 any positions dedicated for those purposes also terminate.
7 V. ON JULY 1, 2011, THE ARIZONA COMMERCE AUTHORITY SUCCEEDS TO THE
8 REMAINING FUNCTIONS AND RESPONSIBILITIES FORMERLY PERFORMED BY THE DEPARTMENT
9 OF COMMERCE UNDER THIS SECTION. ANY REFERENCE TO DEPARTMENT IN THIS SECTION
10 IS CONSIDERED TO REFER TO THE ARIZONA COMMERCE AUTHORITY.
11 ~~V.~~ W. For the purposes of this section:
12 1. "Commercial advertisement" means an advertising message designed
13 for delivery through either:
14 (a) A motion picture film or video medium to attract the attention of
15 consumers or influence consumers' feelings toward a particular product,
16 service, event or cause.
17 (b) Still photography that is used in national or international print
18 media to attract the attention of consumers or influence consumers' feelings
19 toward a particular product, service event or cause.
20 2. "Motion picture" means a single medium or multimedia program,
21 including a commercial advertisement, music video or television series, that:
22 (a) Is created by production activities conducted in whole or in part
23 in this state.
24 (b) Can be viewed or reproduced.
25 (c) Is intended for commercial distribution or licensing in the
26 delivery medium used.
27 Motion picture does not include any production featuring actual news, current
28 events, weather, locally produced and locally broadcast television
29 productions, financial market reports, concerts, internet broadcasts, talk
30 shows and interviews, game shows, sporting events, award or other gala
31 events, a production whose sole purpose is fund-raising, a production used
32 for corporate or organizational training or in-house corporate advertising or
33 other similar production activities.
34 3. "Motion picture production company" or "production company" means
35 any person primarily engaged in the business of producing motion pictures and
36 that has a physical business office and bank account in this state.
37 4. "Motion picture production tax incentives" means the tax deductions
38 for transaction privilege and use taxes listed in section 42-5009, subsection
39 H and the credit against income taxes provided under section 43-1075 or
40 43-1163.
41 5. "Music video" means a filmed or videotaped rendition of a song or
42 songs, portraying musicians performing the song or other visual images set to
43 the lyrics of the song.
44 6. "Television series" means a group of productions that is created or
45 adapted for television broadcast with a common series title, that is related

to each other in subject or theme, that is produced seasonally for appearing at scheduled intervals, but subject to discretionary programming and scheduling decisions, and with or without a predetermined number of episodes. Television series includes a pilot production for the promotion or introduction of a television series.

Sec. 42. Section 41-1517.01, Arizona Revised Statutes, is amended to read:

41-1517.01. Motion picture infrastructure tax incentives; definitions

A. From and after October 31, 2007 through December 31, 2010, the department of commerce shall certify motion picture infrastructure projects in this state for the purpose of tax credits under section 43-1075.01 or 43-1163.01. To qualify for certification:

1. A person must apply to the department. The applicant must be the person who will own and operate the infrastructure project and may be a motion picture production company, as defined in section 41-1517. The application must include:

(a) The applicant's name and contact information.

(b) A detailed description of the project.

(c) A preliminary budget.

(d) An outline of how the project meets the requirements of this section.

(e) The projected start and completion dates.

(f) The name and contact information for the prime contractor, if known.

(g) A copy of the construction contract, if available.

(h) An affirmation signed by an executive representing the applicant that:

(i) The applicant agrees to furnish records of expenditures on infrastructure projects in this state to the department of commerce on request.

(ii) Any items included in its base investment are intended for use by the applicant directly in the infrastructure project.

2. If the application is for a soundstage, after the date the department of commerce approves the application under subsection B of this section, the applicant must spend at least:

(a) Two hundred fifty thousand dollars in this state directly on project expenses within ninety days.

(b) An additional one million dollars in this state directly on project expenses within twelve months.

(c) A total of at least five million dollars in this state directly on project expenses within thirty-six months.

3. If the application is for support and augmentation facilities, after the date the department of commerce approves the application under subsection B of this section, the applicant must spend at least:

1 (a) Two hundred fifty thousand dollars in this state directly on
2 project expenses within ninety days.
3 (b) A total of at least one million dollars in this state directly on
4 project expenses within thirty-six months.
5 B. Within thirty days after submission, the department of commerce
6 shall review each complete application to determine whether the applicant
7 satisfies all of the criteria required by this section. The department may
8 conduct a site visit as part of the review process. This process shall
9 approve an applicant for tax credits under this section based on:
10 1. Priority placement for credits under this section established by
11 the date the applicant filed its initial application under subsection A of
12 this section.
13 2. The availability of tax credit amounts under the dollar limits
14 prescribed by subsection C of this section.
15 C. Subject to the limits prescribed in section 41-1517, subsection J,
16 the department of commerce shall not certify income tax credits under this
17 section, computed as fifteen per cent of the total base investment, exceeding
18 a total of:
19 1. Five million dollars for soundstage projects initially certified in
20 2008.
21 2. If no soundstage project was initially certified in 2008, five
22 million dollars for soundstage projects initially certified in 2009.
23 3. If at least one soundstage project was initially certified in 2008:
24 (a) Five million dollars for soundstage projects initially certified
25 in 2009.
26 (b) Seven million dollars for support and augmentation facilities
27 initially certified in 2009 that are associated with certified soundstage
28 projects.
29 4. If no soundstage project was initially certified in 2008 or 2009,
30 five million dollars for soundstage projects initially certified in 2010.
31 5. If only one soundstage project was initially certified in 2008 or
32 2009:
33 (a) Five million dollars for soundstage projects initially certified
34 in 2010.
35 (b) Nine million dollars for support and augmentation facilities
36 initially certified in 2010 that are associated with the certified soundstage
37 project.
38 6. If more than one soundstage project was initially certified in 2008
39 or 2009, or both:
40 (a) Five million dollars for soundstage projects initially certified
41 in 2010.
42 (b) Nine million dollars for support and augmentation facilities
43 initially certified in 2010 that are associated with certified soundstage
44 projects.

7. Three million dollars for a support and augmentation facilities project.

D. After October 31 of each year, if the department has preapproved the maximum dollar amount of income tax credits under subsection C of this section for the calendar year, the department may accept initial applications for the next calendar year. The preapproval of any application pursuant to this subsection is not effective before the first business day of the following calendar year.

E. Preapproval by the department of commerce under subsection B of this section lapses, the application is void and the amount of the preapproved incentives does not apply against the dollar limit prescribed by subsection C of this section if:

1. Within ninety days after the department preapproves the company, the company fails to provide documentation of:

(a) Its expenditure in this state of the lesser of:

(i) Ten per cent of the estimated total base investment amount.

(ii) Two hundred fifty thousand dollars.

(b) A surety bond equal to the estimated total base investment amount for which the company was preapproved.

2. For soundstage projects, within one year after the department preapproves the company, the company fails to provide documentation of:

(a) Total expenditure in this state of one million two hundred fifty thousand dollars.

(b) A surety bond equal to the estimated total base investment amount for which the company was preapproved.

F. On completion of the motion picture infrastructure project, an applicant that has been preapproved for income tax credits must apply to the department in writing for approval of the total base investment in the project. If the applicant has met the eligibility requirements of this section, the department shall:

1. Approve the total base investment amount, but the calculated income tax credit shall not exceed the preapproved amount under this section.

2. Notify the department of revenue that the applicant may claim the income tax credits pursuant to section 43-1075.01 or 43-1163.01 in the amount determined under paragraph 1 of this subsection.

G. The company and all persons signing the application for preapproval may be disqualified from receiving future tax credits pursuant to this section if, within eighteen months after the date of postapproval under subsection F of this section, the applicant fails to submit a report to the department that includes:

1. A list of activities and productions conducted at the project in the twelve months following postapproval.

2. The amount of any additional capital investment.

3. Any changes to or improvements made to the project since the date of postapproval.

1 H. Within sixty months after postapproval under subsection F of this
2 section, if the department of commerce determines that a person that received
3 a tax credit pursuant to this section failed to comply with any of the
4 requirements prescribed by this section, the department shall terminate,
5 adjust or recapture all or part of the tax credit. The department of
6 commerce shall notify the department of revenue of the conditions of
7 noncompliance. The department of revenue may also terminate the approval of
8 the credit if it obtains information indicating a failure to qualify and
9 comply. The department of revenue may require the person to:
10 1. File appropriate amended tax returns reflecting the recapture of
11 the amount of the tax credit actually applied to reduce state income tax
12 liability.
13 2. Pay a penalty of four and one-half per cent of the amount of the
14 applied credit per month elapsing from the date the penalty is assessed until
15 it is paid, except that the total penalty shall not exceed twenty-five per
16 cent of the full amount of the credit.
17 I. The department of commerce, with the cooperation of the department
18 of revenue, shall adopt rules and publish and prescribe forms and procedures
19 as necessary to effectuate the purposes of this section.
20 J. Any information gathered from applicants for the purposes of this
21 section is considered to be confidential taxpayer information and shall be
22 disclosed only as provided in section 41-1517, subsection S and section
23 42-2003, subsection B, paragraph 12.
24 K. ON JULY 1, 2011, THE ARIZONA COMMERCE AUTHORITY SUCCEEDS TO THE
25 REMAINING FUNCTIONS AND RESPONSIBILITIES FORMERLY PERFORMED BY THE DEPARTMENT
26 OF COMMERCE UNDER THIS SECTION. ANY REFERENCE TO DEPARTMENT IN THIS SECTION
27 IS CONSIDERED TO REFER TO THE ARIZONA COMMERCE AUTHORITY.
28 ~~K.~~ L. For the purposes of this section:
29 1. "Base investment" means the budget for the infrastructure project.
30 2. "Motion picture" has the same meaning as defined in section
31 41-1517.
32 3. "Motion picture infrastructure project", "infrastructure project"
33 and "project":
34 (a) Means soundstages and support and augmentation facilities that are
35 constructed in this state and primarily used for motion picture production.
36 (b) Does not include motion picture theaters and other commercial
37 exhibition facilities.
38 4. "Soundstage" means a permanent facility in this state of one or
39 more sets or stages used primarily for staging and filming motion pictures
40 and any land, permanent buildings or capital equipment that is in or adjacent
41 to, and is necessary for the operation of, a soundstage.
42 5. "Support and augmentation facilities" means permanent facilities in
43 this state that are used to complement motion picture production needs and
44 complement the motion picture production.

6. "Surety bond" means an executed written contract, issued by an insurance company with an insurance industry rating of B+ or better by A.M. Best company guarantying to the financiers of the project that it will be completed according to the terms of the preapproved application submitted by the production company in its application.

Sec. 43. Section 41-1518, Arizona Revised Statutes, is amended to read:

41-1518. Capital investment incentives; evaluation; certification; definitions

A. ~~Beginning July 1, 2006, the department of commerce~~ THE ARIZONA COMMERCE AUTHORITY shall receive and evaluate applications that are submitted by qualified investors to receive a tax credit pursuant to section 43-1074.02 for qualified investments made in a qualified small business and certify to the department of revenue the names, amounts and other relevant information relating to the applicants.

B. To be eligible for a tax credit pursuant to this section and section 43-1074.02, a qualified investor shall file an application with the ~~department of commerce~~ AUTHORITY within thirty days after making a qualified investment. The application, on a form prescribed by the ~~department of commerce~~ AUTHORITY, shall include:

1. The name, address and federal income tax identification number of the applicant.

2. The name and federal employer identification number of the qualified small business that received a qualified investment made by the applicant.

3. The date the qualified investment was made.

4. Any additional information that the ~~department of commerce~~ AUTHORITY requires.

C. As part of the application, the applicant and the qualified small business that receives the investment shall each provide written authorization pursuant to section 42-2003 designating the ~~department of commerce~~ AUTHORITY as eligible to receive tax information from the department of revenue for the purpose of determining if any misrepresentations exist on the application. The authorization shall limit disclosure to income tax information for the latest two years for which returns were filed with the department of revenue preceding the date the application is filed and for all tax years through the year in which the investment was made for which a return was not filed as of the date of the application. The applicant shall also provide in the written authorization income tax information for all tax years in which the applicant could claim or carry forward the credit pursuant to this section, but limited to the tax years in which the applicant actually claims a credit or carries forward a credit on a return filed with the department of revenue. An applicant who has an individual ownership interest as a co-owner of a business who may be entitled to a pro rata share of the credit pursuant to section 43-1074.02, subsection E shall provide a written

authorization with content similar to the authorization, and in the same manner as, any other applicant is required to provide.

D. The ~~department of commerce~~ AUTHORITY shall review and make a determination with respect to each application within ninety days after receiving the application. The ~~department of commerce~~ AUTHORITY may request additional information from the applicant in order to make an informed decision regarding the eligibility of the qualified investor or qualified small business.

E. Subject to subsection F of this section, the ~~department of commerce~~ AUTHORITY shall authorize tax credits for each qualified investor who makes a qualified investment in a qualified small business. The amount of the credit shall be:

1. If the qualified investment is made in a qualified small business that maintains its principal place of business in a rural county of this state or is a bioscience enterprise, twelve per cent of the amount of the investment per year for the first and second taxable years after the investment is made and eleven per cent of the amount of the investment for the third taxable year after the year in which the investment is made.

2. If the qualified investment is made in a qualified small business other than a business described in paragraph 1 of this subsection, ten per cent of the amount of the investment for each of the three taxable years after the year in which the investment is made.

F. The ~~department of commerce~~ AUTHORITY shall not authorize tax credits under this section after June 30, ~~2011~~ 2016. The ~~department of commerce~~ AUTHORITY shall not certify tax credits under this section exceeding twenty million dollars. Tax credits that expire after certification or that are otherwise not timely used by the qualified investor for whom they were originally authorized shall be included in the twenty million dollar limitation. If qualifying applications exceed twenty million dollars, the ~~department of commerce~~ AUTHORITY shall authorize credits in the order of the date and time that the applications are received by the ~~department of commerce~~ AUTHORITY, as evidenced by the time and date stamped on the application when received by the ~~department~~ AUTHORITY. All applications shall be filed in person at the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY. If an application is received that, if authorized, would require the ~~department of commerce~~ AUTHORITY to exceed the twenty million dollar limit, the ~~department of commerce~~ AUTHORITY shall only grant the applicant the remaining amount of tax credits that would not exceed the twenty million dollar limit. After the ~~department of commerce~~ AUTHORITY authorizes twenty million dollars in tax credits, the ~~department of commerce~~ AUTHORITY shall deny any subsequent applications that are received. The ~~department of commerce~~ AUTHORITY shall certify to the qualified investor and to the department of revenue the amount of the tax credit that is authorized for purposes of section 43-1074.02 for each taxable year described in subsection E of this section.

G. The total of all qualified investments in any calendar year by a qualified investor and its affiliates in qualified small businesses that are eligible for a tax credit pursuant to this section and section 43-1074.02 shall not exceed two hundred fifty thousand dollars. The maximum amount of qualified investments in a single qualified small business for which the ~~department of commerce~~ AUTHORITY may authorize tax credits under this section shall not exceed an aggregate of two million dollars in investments for all taxable years. If applications for tax credits are received for investments that exceed the limits prescribed by this subsection for any qualified small business, the ~~department of commerce~~ AUTHORITY shall authorize credits in the order of the date and time that the applications are received by the ~~department of commerce~~ AUTHORITY. If an application is received that, if authorized, would require the ~~department of commerce~~ AUTHORITY to authorize tax credits for any investment in a qualified small business that would cause the total qualified investments in the business to exceed the limits prescribed by this subsection, the ~~department of commerce~~ AUTHORITY shall only grant the applicant the remaining amount of tax credits that would not exceed the limits prescribed by this subsection.

H. The qualified investor shall file a return claiming the tax credit with the department of revenue for application against income tax pursuant to section 43-1074.02 by the due date of the return, including extensions, for the tax year in which the credit is available. If the qualified investor fails to timely file a return claiming the credit for a taxable year, the credit expires for that taxable year and there shall be no carryforward of the expired credit. If a qualified investor includes co-owners of a business who qualify for individual pro rata shares of the credit pursuant to section 43-1074.02, subsection E, each individual owner shall file a return claiming the tax credit with the department of revenue by the due date of the return, including extensions, for the tax year in which the credit is available. If an individual co-owner fails to timely file a return claiming the credit for a taxable year, the credit expires for that taxable year and there shall be no carryforward of the expired credit. Credits that expire or that otherwise are not timely used by the qualified investor or by the individual co-owner of a business for whom the credits were originally authorized shall not be reissued.

I. On receiving an application for a tax credit from a qualified investor, or a written request for certification as a qualified small business from a corporation, limited liability company, partnership or other business entity, the ~~department of commerce~~ AUTHORITY shall determine whether the corporation, limited liability company, partnership or other business entity that is named in the application or written request is a qualified small business. The ~~department of commerce~~ AUTHORITY shall determine if the business is a bioscience enterprise and if the business maintains its principal place of business in a rural county in this state. After determining the qualifications, the ~~department of commerce~~ AUTHORITY shall

certify the qualified small business as being eligible to receive qualified investments for purposes of this section. The certification is valid for one year, but the ~~department of commerce~~ AUTHORITY may revoke the certification at any time or refuse to renew the certification if the business fails to maintain the required qualifications. If a qualified small business fails to maintain the qualifications, the business shall notify the ~~department of commerce~~ AUTHORITY within five business days of failing to meet the qualifications. The ~~department of commerce~~ AUTHORITY shall revoke the certification of the business and may assess a penalty against the business entity equal to the amount of the tax credits authorized after the business failed to meet the qualifications. The penalty shall be deposited into the state general fund. If the certification is revoked or expires, subsequent investments in the business do not qualify for a tax credit pursuant to this section and section 43-1074.02. All tax credits that are issued before any expiration or revocation of the certification shall remain valid. Any application for a tax credit shall not be denied on the basis of the expiration or revocation of the certification if the investment was made before the date of the expiration or revocation.

J. The ~~department of commerce~~ AUTHORITY shall provide to the department of revenue necessary information required to administer this section and section 43-1074.02. If the ~~department of commerce~~ AUTHORITY subsequently discovers that an applicant who received a tax credit misrepresented information on the application, the ~~department of commerce~~ AUTHORITY shall immediately notify the department of revenue and provide the department of revenue all information that relates to that applicant. If the department of revenue determines that there has been a misrepresentation on the application, the department of revenue shall deny the credit if the misrepresentation relates to whether the applicant was a qualified investor or made a qualified investment. If the misrepresentation relates to whether the investment was made to:

1. A qualified small business, the department of revenue shall deny the credit only if the applicant knew or should have known at any time before the certification that the representation was false.

2. A bioscience enterprise or a business that maintains its principal place of business in a rural county in this state, the department of revenue shall decrease the amount of the credit that would have been allowed under subsection E, paragraph 1 of this section to the amount allowed under subsection E, paragraph 2 of this section only if the applicant knew or should have known at any time before the certification that the representation was false.

K. For the purposes of this section:

1. "Affiliate" means any person or entity that controls, that is controlled by or that is under common control with another person or entity. For the purposes of this paragraph, "control" means the power to

determine the policies of an entity whether through ownership of voting securities, by contract or otherwise.

2. "Asset" means any owned property that has value including financial assets and physical assets. Intellectual property shall not be included when determining total assets.

3. "Bioscience enterprise" means a business whose activity is related to bioscience as determined by the ~~department of commerce~~ AUTHORITY or any corporation, partnership, limited liability company or other business entity that is primarily engaged in a business that conducts research, development, manufacture, marketing, sale and licensing of products, services and solutions relating to either of the following:

(a) Medical, pharmaceutical, nutraceutical, bioengineering, biomechanical, bioinformatics or other life-science based applications.

(b) Applications of modern biological, bioengineering, biomechanical or bioinformatics technologies in the fields of human, plant or animal health, agriculture, defense, homeland security or the environment.

4. "Qualified investment" means an investment in an equity security that meets all of the following requirements:

(a) The equity security shall be common stock, preferred stock, an interest in a partnership or limited liability company, a security that is convertible into an equity security or ANY other equity security as determined by the ~~department of commerce~~ AUTHORITY.

(b) The investment shall be at least twenty-five thousand dollars.

(c) The qualified investor and its affiliates do not hold, of record or beneficially, immediately before making an investment, equity securities possessing more than thirty per cent of the total voting power of all equity securities of the qualified small business.

5. "Qualified investor" means an individual, limited liability company, partnership, S corporation as defined in section 1361 of the internal revenue code or other business entity that makes a qualified investment in a qualified small business. Qualified investor does not mean a corporation that is subject to tax under title 43, chapter 11.

6. "Qualified small business" means a corporation, limited liability company, partnership or other business entity that:

(a) Maintains at least a portion of its operations at an office or manufacturing or research facility located in this state.

(b) Has at least two principal full-time equivalent employees who are residents in this state. For the purposes of this subdivision, "principal" means a person whose sole responsibility is not administrative.

~~(c) Does not have a principal business involving any of the following:~~

~~(i) Sales or distribution of retail goods or food or restaurant services.~~

~~(ii) Development, sale, leasing, rental or operation of, or investment in, real estate.~~

~~(iii) Providing professional services, except for professional services for hardware or software licensed or sold by the provider of such services.~~

~~(iv) Providing health care services to patients, except for services provided in connection with research, development, clinical trials and marketing activities by bioscience enterprises.~~

~~(v) Providing banking, brokerage, insurance or other financial or investment services.~~

~~(vi) Providing personal services.~~

~~(vii) Operating mining, forestry and other natural resource exploitation or extraction businesses, except for research and development in these businesses.~~

~~(viii) Agricultural operations, except for research and development in these businesses.~~

~~(ix) Operating an investment company or fund.~~

~~(x) Any other business activity that the department of commerce determines by rule to be unsuited to fulfill the purposes of this section.~~

~~(d)~~ (c)Does not engage in any activities that involve human cloning or embryonic stem cell research.

~~(e)~~ (d) Has total assets not exceeding two million dollars THROUGH DECEMBER 31, 2011 OR TEN MILLION DOLLARS BEGINNING FROM AND AFTER DECEMBER 31, 2011, excluding any investment made under this section.

~~(f)~~ (e) Has not exceeded the limitation on qualified investments prescribed by subsection G of this section.

(f) DOES NOT HAVE A PRINCIPAL BUSINESS INVOLVING ACTIVITIES EXCLUDED BY THE AUTHORITY. THE AUTHORITY SHALL PROVIDE A LIST OF EXCLUDED BUSINESSES TO ANY PERSON ON REQUEST.

7. "Rural county" means a county that has a population of ~~four~~ SEVEN hundred FIFTY thousand or fewer persons.

Sec. 44. Repeal

Sections 41-1518.01 and 41-1519, Arizona Revised Statutes, are repealed.

Sec. 45. Title 41, chapter 10, article 1, Arizona Revised Statutes, is amended by adding section 41-1525, to read:

41-1525. Arizona quality jobs incentives; tax credits for new employment; qualifications; definitions

A. THE OWNER OF A BUSINESS OR AN INSURER LOCATED IN THIS STATE BEFORE JULY 2017 IS ELIGIBLE FOR INCOME TAX CREDITS UNDER SECTION 43-1074 OR 43-1161 OR AN INSURANCE PREMIUM TAX CREDIT UNDER SECTION 20-224.03 FOR NET INCREASES IN QUALIFIED EMPLOYMENT POSITIONS.

B. TO QUALIFY UNDER THIS SECTION, THE OWNER MUST IN THE FIRST TAXABLE YEAR IT CLAIMS A TAX CREDIT:

1. INVEST AT LEAST FIVE MILLION DOLLARS OF CAPITAL INVESTMENT AND CREATE AT LEAST TWENTY-FIVE NEW QUALIFIED EMPLOYMENT POSITIONS WITHIN THE EXTERIOR BOUNDARIES OF A CITY OR TOWN THAT HAS A POPULATION OF FIFTY THOUSAND

1 PERSONS OR MORE AND THAT IS LOCATED IN A COUNTY THAT HAS A POPULATION OF
2 EIGHT HUNDRED THOUSAND PERSONS OR MORE.
3 2. INVEST AT LEAST ONE MILLION DOLLARS OF CAPITAL INVESTMENT AND
4 CREATE AT LEAST FIVE QUALIFIED EMPLOYMENT POSITIONS IN ANY OTHER LOCATION.
5 C. NO MORE THAN FOUR HUNDRED NEW JOBS PER EMPLOYER QUALIFY FOR FIRST
6 YEAR CREDITS EACH YEAR, AND NO MORE THAN TEN THOUSAND NEW JOBS FOR ALL
7 EMPLOYERS QUALIFY FOR FIRST YEAR CREDITS EACH YEAR.
8 D. TO CLAIM A TAX CREDIT, THE OWNER MUST:
9 1. CERTIFY TO THE DEPARTMENT OF REVENUE OR THE DEPARTMENT OF
10 INSURANCE, AS APPLICABLE, ON OR BEFORE THE DUE DATE OF THE TAX RETURN,
11 INCLUDING ANY EXTENSIONS FOR THE YEAR FOR WHICH THE CREDIT IS CLAIMED, IN A
12 FORM PRESCRIBED BY THE DEPARTMENT, INCLUDING ELECTRONIC MEDIA, INFORMATION
13 THAT THE DEPARTMENT MAY REQUIRE, INCLUDING THE OWNERSHIP INTERESTS OF
14 CO-OWNERS OF THE BUSINESS IF THE BUSINESS IS A PARTNERSHIP, LIMITED LIABILITY
15 COMPANY OR AN S CORPORATION, AND THE FOLLOWING INFORMATION FOR EACH EMPLOYEE
16 IN THE LOCATION:
17 (a) THE DATE OF INITIAL EMPLOYMENT.
18 (b) THE NUMBER OF HOURS WORKED DURING THE YEAR.
19 (c) WHETHER THE POSITION WAS FULL-TIME.
20 (d) THE EMPLOYEE'S ANNUAL COMPENSATION.
21 (e) THE TOTAL COST OF HEALTH INSURANCE FOR THE EMPLOYEE AND THE COST
22 PAID BY THE EMPLOYER.
23 (f) OTHER INFORMATION REQUIRED BY THE DEPARTMENT.
24 2. REPORT AND CERTIFY TO THE AUTHORITY THE FOLLOWING INFORMATION, AND
25 PROVIDE SUPPORTING DOCUMENTATION, ON A FORM AND IN A MANNER APPROVED BY THE
26 AUTHORITY, AND AS SPECIFIED IN SUBSECTION E OF THIS SECTION, FOR EACH YEAR IN
27 WHICH THE TAXPAYER EARNED AND CLAIMED OR USED CREDITS OR IS CARRYING FORWARD
28 AMOUNTS FROM PREVIOUSLY EARNED AND CLAIMED CREDITS:
29 (a) THE BUSINESS NAME AND MAILING ADDRESS AND ANY OTHER CONTACT
30 INFORMATION REQUESTED BY THE AUTHORITY.
31 (b) THE PHYSICAL ADDRESS OF THE BUSINESS LOCATION.
32 (c) THE AVERAGE HOURLY WAGE AND THE TOTAL AMOUNT OF COMPENSATION PAID
33 TO EMPLOYEES QUALIFIED FOR THE CREDIT AND FOR ALL EMPLOYEES.
34 (d) THE TOTAL NUMBER OF QUALIFIED EMPLOYMENT POSITIONS AND THE AMOUNT
35 OF INCOME TAX OR PREMIUM TAX CREDITS QUALIFIED FOR IN THE TAXABLE YEAR.
36 (e) THE ESTIMATED AMOUNT OF TAX CREDITS TO BE USED IN THE TAXABLE YEAR
37 TO OFFSET TAX LIABILITY.
38 (f) THE ESTIMATED AMOUNT OF TAX CREDITS TO BE AVAILABLE FOR
39 CARRYFORWARD IN THE TAXABLE YEAR AND THE YEAR IN WHICH THE CREDITS EXPIRE.
40 (g) THE NUMBER OF JOBS AND THE AMOUNT OF CREDITS EARNED AND CLAIMED ON
41 THE PRIOR YEAR'S TAX RETURN.
42 (h) THE AMOUNT OF CREDITS USED TO OFFSET TAX LIABILITIES ON THE PRIOR
43 YEAR'S TAX RETURN.
44 (i) THE AMOUNT OF CREDITS AVAILABLE FOR CARRYFORWARD AS REPORTED ON
45 THE PRIOR YEAR'S TAX RETURN AND THE YEAR THE CREDITS EXPIRE.

1 (j) CAPITAL INVESTMENT MADE DURING THE TAXABLE YEAR AND THE PRECEDING
2 TAXABLE YEAR.
3 (k) OTHER INFORMATION NECESSARY FOR THE MANAGEMENT AND REPORTING OF
4 THE INCENTIVES UNDER THIS SECTION.
5 3. FOR ANY YEAR IN WHICH THE TAXPAYER IS CLAIMING FIRST YEAR CREDITS,
6 REPORT AND CERTIFY THE FOLLOWING ADDITIONAL INFORMATION AND PROVIDE
7 SUPPORTING DOCUMENTATION TO THE AUTHORITY ON A FORM AND IN A MANNER APPROVED
8 BY THE AUTHORITY, AND AS SPECIFIED IN SUBSECTION E OF THIS SECTION:
9 (a) THAT THE INCREASE IN THE NUMBER OF QUALIFIED EMPLOYMENT POSITIONS
10 FOR WHICH CREDIT IS SOUGHT IS THE LEAST OF:
11 (i) THE TOTAL NUMBER OF FILLED QUALIFIED EMPLOYMENT POSITIONS CREATED
12 AT THE LOCATION DURING THE TAXABLE YEAR.
13 (ii) THE DIFFERENCE BETWEEN THE AVERAGE NUMBER OF FULL-TIME EMPLOYEES
14 IN THE CURRENT TAXABLE YEAR AND THE AVERAGE NUMBER OF FULL-TIME EMPLOYEES
15 DURING THE IMMEDIATELY PRECEDING TAXABLE YEAR.
16 (iii) FOUR HUNDRED QUALIFIED EMPLOYMENT POSITIONS PER TAXPAYER EACH
17 YEAR.
18 (b) THAT ALL EMPLOYEES FILLING A QUALIFIED EMPLOYMENT POSITION WERE
19 EMPLOYED FOR AT LEAST NINETY DAYS DURING THE FIRST TAXABLE YEAR.
20 (c) THAT NONE OF THE EMPLOYEES FILLING QUALIFIED EMPLOYMENT POSITIONS
21 WERE EMPLOYED BY THE TAXPAYER DURING THE TWELVE MONTHS BEFORE THE CURRENT
22 DATE OF HIRE EXCEPT FOR THOSE RELOCATING TO THIS STATE.
23 (d) THAT ALL EMPLOYEES FOR WHOM SECOND AND THIRD YEAR CREDITS ARE
24 CLAIMED ARE IN QUALIFIED EMPLOYMENT POSITIONS FOR WHICH FIRST YEAR CREDITS
25 WERE ALLOWED AND CLAIMED BY THE TAXPAYER ON THE ORIGINAL FIRST AND SECOND
26 YEAR TAX RETURNS.
27 (e) THAT ALL EMPLOYEES FOR WHOM CREDITS ARE TAKEN PERFORMED THEIR JOB
28 DUTIES PRIMARILY AT THE DESIGNATED LOCATIONS OF THE BUSINESS.
29 E. TO QUALIFY FOR FIRST YEAR CREDITS, THE REPORT AND CERTIFICATION
30 PRESCRIBED BY SUBSECTION D, PARAGRAPHS 2 AND 3 OF THIS SECTION MUST BE FILED
31 WITH THE AUTHORITY BY THE EARLIER OF SIX MONTHS AFTER THE END OF THE TAXABLE
32 YEAR IN WHICH THE QUALIFIED EMPLOYMENT POSITIONS WERE CREATED OR BY THE DATE
33 THE TAX RETURN IS FILED FOR THE TAXABLE YEAR IN WHICH THE QUALIFIED
34 EMPLOYMENT POSITIONS WERE CREATED. TO QUALIFY FOR SECOND YEAR CREDITS, THE
35 REPORT AND CERTIFICATION PRESCRIBED BY SUBSECTION D, PARAGRAPH 2 OF THIS
36 SECTION MUST BE FILED WITH THE AUTHORITY BY THE EARLIER OF SIX MONTHS AFTER
37 THE END OF THE TAXABLE YEAR OR THE DATE THE TAX RETURN IS FILED FOR THE
38 TAXABLE YEAR IN WHICH THE SECOND YEAR CREDITS ARE ALLOWABLE. TO QUALIFY FOR
39 THIRD YEAR CREDITS, THE REPORT AND CERTIFICATION PRESCRIBED BY SUBSECTION D,
40 PARAGRAPH 2 OF THIS SECTION MUST BE FILED WITH THE AUTHORITY BY THE EARLIER
41 OF SIX MONTHS AFTER THE END OF THE TAXABLE YEAR OR THE DATE THE TAX RETURN IS
42 FILED FOR THE TAXABLE YEAR IN WHICH THE THIRD YEAR CREDITS ARE ALLOWABLE.
43 F. ANY INFORMATION SUBMITTED TO THE AUTHORITY UNDER SUBSECTION D,
44 PARAGRAPH 2, SUBDIVISIONS (e) THROUGH (j) OF THIS SECTION IS EXEMPT FROM

TITLE 39, CHAPTER 1, ARTICLE 2 AND CONSIDERED TO BE CONFIDENTIAL AND IS NOT SUBJECT TO DISCLOSURE EXCEPT:

1. TO THE EXTENT THAT THE PERSON OR ORGANIZATION THAT PROVIDED THE INFORMATION CONSENTS TO THE DISCLOSURE.

2. TO THE DEPARTMENT OF REVENUE FOR USE IN TAX ADMINISTRATION.

G. DOCUMENTS FILED WITH THE AUTHORITY, THE DEPARTMENT OF INSURANCE AND THE DEPARTMENT OF REVENUE UNDER SUBSECTION D OF THIS SECTION SHALL CONTAIN EITHER A SWORN STATEMENT OR CERTIFICATION, SIGNED BY AN OFFICER OF THE COMPANY UNDER PENALTY OF PERJURY, THAT THE INFORMATION CONTAINED IS TRUE AND CORRECT ACCORDING TO THE BEST BELIEF AND KNOWLEDGE OF THE PERSON SUBMITTING THE INFORMATION AFTER A REASONABLE INVESTIGATION OF THE FACTS. IF THE DOCUMENT CONTAINS INFORMATION THAT IS MATERIALLY FALSE, THE TAXPAYER IS INELIGIBLE FOR THE TAX CREDITS DESCRIBED UNDER SUBSECTION A OF THIS SECTION AND IS SUBJECT TO RECOVERY OF THE AMOUNT OF TAX CREDITS ALLOWED IN PRECEDING TAXABLE YEARS BASED ON THE FALSE INFORMATION, PLUS PENALTIES AND INTEREST.

H. THE AUTHORITY MAY MAKE SITE VISITS TO A TAXPAYER'S FACILITIES IF IT IS NECESSARY TO FURTHER DOCUMENT OR CLARIFY REPORTED INFORMATION. THE TAXPAYER MUST FREELY PROVIDE THE ACCESS.

I. THE AUTHORITY BY RULE MAY PRESCRIBE ADDITIONAL REPORTING REQUIREMENTS FOR TAXPAYERS WHO CLAIM TAX CREDITS PURSUANT TO THIS SECTION.

J. ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, THE AUTHORITY SHALL TRANSMIT A REPORT TO THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE CHAIRPERSONS OF THE SENATE FINANCE COMMITTEE AND THE HOUSE OF REPRESENTATIVES WAYS AND MEANS COMMITTEE AND PROVIDE A COPY OF THE REPORT TO THE SECRETARY OF STATE. THE REPORT SHALL INCLUDE THE FOLLOWING INFORMATION.

1. THE BUSINESS NAMES, LOCATIONS, NUMBER OF EMPLOYEES AND AMOUNT OF COMPENSATION PAID TO EMPLOYEES QUALIFYING FOR INCOME TAX CREDITS AS REPORTED TO THE AUTHORITY.

2. THE AMOUNT OF CAPITAL INVESTMENT, MADE DURING THE PRECEDING FISCAL YEAR AND CUMULATIVELY.

3. THE TOTAL AMOUNT OF INCOME TAX CREDITS ALLOWED FOR THE PRECEDING TAXABLE YEAR AND THE NUMBER OF QUALIFIED EMPLOYMENT POSITIONS FOR WHICH CREDITS WERE CLAIMED PURSUANT TO SECTIONS 43-1074 AND 43-1161.

K. FOR THE PURPOSES OF THIS SECTION:

1. "CAPITAL INVESTMENT" MEANS AN EXPENDITURE TO ACQUIRE, LEASE OR IMPROVE PROPERTY THAT IS USED IN OPERATING A BUSINESS, INCLUDING LAND, BUILDINGS, MACHINERY AND FIXTURES.

2. "PRIMARILY" MEANS MORE THAN SEVENTY-FIVE PER CENT OF THE SQUARE FOOTAGE OF THE LOCATION OR LOCATIONS.

3. "QUALIFIED EMPLOYMENT POSITION" MEANS EMPLOYMENT THAT MEETS THE FOLLOWING REQUIREMENTS:

(a) THE POSITION CONSISTS OF AT LEAST ONE THOUSAND SEVEN HUNDRED FIFTY HOURS PER YEAR OF FULL-TIME PERMANENT EMPLOYMENT.

(b) THE JOB DUTIES ARE PERFORMED PRIMARILY AT THE LOCATION OR LOCATIONS OF THE BUSINESS.

(c) THE EMPLOYMENT PROVIDES HEALTH INSURANCE COVERAGE FOR THE EMPLOYEE FOR WHICH THE EMPLOYER PAYS AT LEAST SIXTY-FIVE PER CENT OF THE PREMIUM OR MEMBERSHIP COST. IF THE BUSINESS IS SELF-INSURED, THE EMPLOYER PAYS AT LEAST SIXTY-FIVE PER CENT OF A PREDETERMINED FIXED COST PER EMPLOYEE FOR AN INSURANCE PROGRAM THAT IS PAYABLE WHETHER OR NOT THE EMPLOYEE HAS FILED CLAIMS.

(d) THE EMPLOYER PAYS COMPENSATION AT LEAST EQUAL TO THE MEDIAN WAGE BY COUNTY AS COMPUTED ANNUALLY BY THE AUTHORITY.

Sec. 46. Section 41-1531, Arizona Revised Statutes, is amended to read:

41-1531. Designating military reuse zone; term; renewal

A. After executing a lease with a term of fifteen years or longer for the use or occupancy of real property or improvements that are located on a closed military facility with a runway that is at least eight thousand feet long at closing or after title to any part of a closed military facility with a runway that is at least eight thousand feet long at closing is transferred to this state or to another public or private entity, the governor, after consulting with the ~~director of the department of commerce~~ CHIEF EXECUTIVE OFFICER OF THE ARIZONA COMMERCE AUTHORITY, may designate the property as a military reuse zone. Only properties that were used for operational and training purposes of the active uniformed services of the United States qualify for consideration as a military reuse zone.

B. The governor shall set a termination date for the military reuse zone that is not more than ten years after the date the zone is designated. During the last year before termination the governor may renew the military reuse zone for one term of ten years. Thereafter, the legislature and the governor by joint resolution may renew the military reuse zone for additional ten year terms.

Sec. 47. Section 41-1532, Arizona Revised Statutes, is amended to read:

41-1532. Tax incentives; conditions

A. A prime contractor may qualify for an exemption from transaction privilege tax with respect to activities in a military reuse zone as provided, and subject to the terms and conditions prescribed, by section 42-5075, subsection B, paragraph 4.

B. A taxpayer that owns or leases income producing property located in a military reuse zone is eligible for an income tax credit for net increases in employment of full-time employees who are primarily engaged in providing aviation or aerospace services or in manufacturing, assembling or fabricating aviation or aerospace products as provided, and subject to the terms and conditions prescribed, by section 43-1079 or 43-1167, as applicable. To qualify for a tax incentive under this subsection the taxpayer shall:

1. Agree with the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY in writing to furnish information relating to the amount of tax benefits the taxpayer receives for each taxable year in which the taxpayer claims the credit. If the taxpayer fails to provide the required information, the ~~department of commerce~~ AUTHORITY shall immediately revoke the taxpayer's qualification and notify the department of revenue.

2. Enter into a memorandum of understanding with this state through the ~~department of commerce~~ AUTHORITY containing employment goals. Each year in which the taxpayer claims the credit the taxpayer shall report in writing to the ~~department of commerce~~ AUTHORITY its performance in achieving the goals. The memorandum shall contain provisions that allow:

(a) The ~~department of commerce~~ AUTHORITY to stop, readjust or recapture all or part of the tax credit allowed to the taxpayer on noncompliance with the terms of the memorandum.

(b) The ~~department of commerce~~ AUTHORITY to notify the department of revenue of the conditions of noncompliance.

(c) The department of revenue to require the taxpayer to file appropriate amended tax returns reflecting the recapture of the tax credit.

C. Taxable property in a military reuse zone that is devoted to providing aviation or aerospace services or to manufacturing, assembling or fabricating aviation or aerospace products qualifies for assessment as class six property as provided, and subject to the terms and conditions prescribed, by sections 42-12006 and 42-15006.

D. To qualify for a tax incentive described in subsection A or C of this section, the taxpayer shall provide to the ~~department of commerce~~ AUTHORITY information relating to the amount of tax benefits the taxpayer receives each year for each year in which the taxpayer claims the incentives on forms prescribed by the ~~department of commerce~~ AUTHORITY. If the taxpayer fails to provide the required information, the ~~department of commerce~~ AUTHORITY shall immediately revoke the taxpayer's certification of eligibility and notify the department of revenue.

E. Taxpayers who qualify for tax incentives under subsection B or C of this section shall be certified by the ~~department of commerce~~ AUTHORITY as eligible for a five year period, subject to termination in the event of changed circumstances rendering the taxpayer no longer eligible.

F. Notwithstanding subsection C of this section, an insurer located in a military reuse zone is eligible for a premium tax credit under section 20-224.04 for net increases in employment positions of residents of this state. To qualify for a premium tax credit the insurer shall:

1. Agree with the ~~department of commerce~~ AUTHORITY in writing to furnish information relating to the amount of premium tax credits the insurer receives each year. If the insurer fails to provide the required information, the ~~department of commerce~~ AUTHORITY shall immediately revoke the insurer's qualification and notify the department of insurance.

2. Enter into a memorandum of understanding with this state through the ~~department of commerce~~ AUTHORITY containing employment goals. Each year the insurer shall report in writing to the ~~department of commerce~~ AUTHORITY its performance in achieving the goals. The memorandum shall contain provisions that allow:

(a) The ~~department of commerce~~ AUTHORITY to stop, readjust or recapture all or part of the premium tax credits provided to the insurer on noncompliance with the terms of the memorandum.

(b) The ~~department of commerce~~ AUTHORITY to notify the department of insurance of the conditions of noncompliance.

Sec. 48. Section 41-1533, Arizona Revised Statutes, is amended to read:

41-1533. Duties of Arizona commerce authority

The ~~department~~ ARIZONA COMMERCE AUTHORITY shall administer this article and shall:

1. Monitor the implementation and operation of this article and continually evaluate the progress made in the military reuse zone.

2. Assist an employer or prospective employer in a zone to obtain the benefits of any incentive authorized by this article.

3. Submit an annual written report to the governor evaluating the effectiveness of the program with respect to each zone, stating the amount of foregone tax revenue due to the incentives offered pursuant to section 41-1532, reporting any abuses and presenting any suggestions to improve the program. The report is due on or before March 1, beginning in the first full calendar year after the zone is established and ending in the first full calendar year after the zone is terminated.

4. Adopt rules as necessary to administer this article.

5. Provide information regarding military reuse zones on request and conduct informational and instructional seminars and training.

Sec. 49. Section 41-1541, Arizona Revised Statutes, is amended to read:

41-1541. Arizona job training program

A. The Arizona job training program is established in the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY. The program shall provide training for specific employment opportunities with qualified new and expanding businesses and businesses undergoing economic conversion. If job training employer tax monies are deposited in the Arizona job training fund pursuant to section 23-769, the program may provide incumbent worker training. The guidelines established pursuant to section 41-1543 shall provide additional weight for incumbent worker training applicants who demonstrate that incumbent worker trainees will receive an increase in compensation on completion of the training.

B. The ~~director~~ CHIEF EXECUTIVE OFFICER shall implement the program and spend monies in the Arizona job training fund established by section 41-1544.

C. The ~~department~~ AUTHORITY, the business receiving monies for training and the provider of training shall design the training programs.

D. The business shall contribute monies or other appropriate resources, including technical assistance, machinery or training space, as follows:

1. For specific employment opportunities with qualified new and expanding businesses and businesses undergoing economic conversion, in an amount equal to at least twenty-five per cent of the estimated cost of the proposed training.

2. For incumbent worker training, in an amount equal to at least fifty per cent of the estimated cost of the proposed training.

E. The ~~department~~ AUTHORITY shall not be a direct provider of the training established pursuant to this article.

F. Training may be provided by the state community college system, a private postsecondary educational institution licensed under title 32, chapter 30, a community college operated by a tribal government or another qualified training provider.

G. Before a business currently operating in this state is eligible to receive training monies, the ~~department~~ AUTHORITY shall require the business to maintain or exceed its current level of training expenditures.

Sec. 50. Section 41-1542, Arizona Revised Statutes, is amended to read:

41-1542. Governor's council on workforce policy; duties

A. The governor by executive order may establish a governor's council on workforce policy. If the governor establishes a governor's council on workforce policy, the council shall include at least the following members:

~~1. The director of the department of commerce or the director's designee.~~

1. THE CHIEF EXECUTIVE OFFICER OF THE ARIZONA COMMERCE AUTHORITY OR THE CHIEF EXECUTIVE OFFICER'S DESIGNEE.

2. The director of the department of economic security or the director's designee.

3. The superintendent of public instruction or the superintendent's designee.

4. One representative from a rural community college district who is appointed by the governor.

5. One representative from an urban community college district who is appointed by the governor.

6. One representative from organized labor who is appointed by the governor.

7. Representatives from large businesses who are appointed by the governor and who shall compose at least thirty per cent of the total membership of the council.

1 8. Representatives from small businesses who are appointed by the
2 governor and who shall compose at least twenty-five per cent of the total
3 membership of the council.
4 B. The governor's council on workforce policy that is established by
5 executive order shall develop program guidelines for selection criteria and
6 program operations. These guidelines shall include the following areas:
7 1. Project application procedures.
8 2. Categories of allowable and excluded project costs.
9 3. Limitations relating to partial or total project costs and interim
10 and end of project reporting requirements.
11 4. Procedures to assure that both urban and rural economic interests
12 are addressed.
13 5. Criteria to evaluate effective use of training monies.
14 6. Criteria to determine the annual qualifying wage rate per county so
15 that the qualifying wage rate reflects current economic conditions and the
16 needs of local businesses in the county.
17 C. The governor's council on workforce policy shall meet at least four
18 times each year and shall submit a written annual report to the governor, the
19 president of the senate, the speaker of the house of representatives and the
20 joint legislative budget committee by December 1 of each year. This report
21 shall include:
22 1. The qualifying wage rate per county.
23 2. The number of businesses recruited.
24 3. The number of approved applicants.
25 4. The number of persons hired.
26 5. The number of incumbent workers trained.
27 6. The racial and ethnic background of persons trained.
28 7. The number of persons trained by job skill category.
29 8. The average salaries paid.
30 9. The breakdown of full-time and part-time jobs.
31 10. The information on the efforts to leverage other training
32 resources.
33 11. A summary of the information considered pursuant to section
34 41-1543.
35 12. The number of grant applications denied due to either of the
36 following:
37 (a) Insufficient available grant money.
38 (b) The inability to meet the qualifying wage requirements pursuant to
39 subsection B, paragraph 6 of this section.
40 13. A summary of annual spending by state government on workforce
41 development, including details on each state program that participates in
42 workforce development in any state agency or community college. The report
43 shall include:
44 (a) Actual expenditures from state, federal or other sources for the
45 prior fiscal year, by fund, program and agency and in total.

(b) Estimated expenditures from state, federal or other sources for the current fiscal year, by fund, program and agency and in total.

(c) Federally mandated performance measure results by program, including measures for the previous two fiscal years and for the current fiscal year.

(d) Agency or statewide performance measure results as described in subsection E of this section by program, including measures for the previous two fiscal years and for the current fiscal year.

(e) A strategic plan that identifies:

(i) Each workforce development program in this state.

(ii) How the state programs met all performance measures in the previous fiscal year.

D. Each state agency and community college shall submit to the governor's council on workforce policy the information necessary to compile the report described in subsection C, paragraph 13 of this section by November 1 of each year.

E. The governor's council on workforce policy shall coordinate with state agencies and state community colleges to produce outcome-based performance measures for all state workforce development programs.

Sec. 51. Section 41-1543, Arizona Revised Statutes, is amended to read:

41-1543. Application criteria

The ~~director of the department of commerce in accordance with~~ CHIEF EXECUTIVE OFFICER PURSUANT TO the guidelines established by the governor's council on workforce policy shall consider the following before any award of monies pursuant to this article:

1. THE training cost per employee.

2. The ability to leverage other job training resources.

3. The quality of jobs resulting from the training proposal, including a requirement that a business receiving monies pursuant to this article pay compensation at least equal to the qualifying wage rate per county that is prescribed for the year in which the award is considered.

4. The use of the local labor force, dislocated workers, the chronically unemployed and other special populations, including the disabled and veterans.

5. The location or expansion of the business in rural or economically depressed areas.

6. The diversity provided to the economy and the promotion of existing and expanding businesses and businesses undergoing economic conversion.

7. The number of jobs resulting from the training proposal.

8. The ability to expand cluster industries. For purposes of this paragraph, "cluster industries" means concentrations of firms across several industries that share common economic foundation needs.

9. The extent to which the benefit package including health insurance reflects the needs of the employees.

Sec. 52. Section 41-1544, Arizona Revised Statutes, is amended to read:

41-1544. Arizona job training fund; definitions

A. The Arizona job training fund is established consisting of legislative appropriations, monies deposited pursuant to section 23-769, gifts, grants and other monies. The ~~department~~ AUTHORITY shall administer the fund. On notice from the ~~department~~ CHIEF EXECUTIVE OFFICER, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund. ~~Before any monies are disbursed pursuant to this section, the legislature may appropriate monies in the Arizona job training fund to be used for the department of economic security's jobs program to provide job training for welfare clients.~~

B. The ~~director~~ CHIEF EXECUTIVE OFFICER may accept and expend federal monies and private grants, gifts and contributions to assist in carrying out the purposes of this article. All monies for the program shall be expended only for the costs related to training, except that the ~~department of commerce~~ AUTHORITY shall reimburse the department of economic security for the development costs for establishing a system to collect the job training employer tax imposed pursuant to section 23-769 in an amount of not more than four hundred thousand dollars and for incremental costs incurred by the department of economic security relating to the collection of the job training employer tax imposed pursuant to section 23-769. Monies in the Arizona job training fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

C. The Arizona job training fund monies shall be spent on approval of the ~~department~~ AUTHORITY at the direction of the ~~director~~ CHIEF EXECUTIVE OFFICER in accordance with the guidelines and procedures adopted by the governor's council on workforce policy.

D. A minimum of twenty-five per cent of the monies appropriated to the Arizona job training fund shall be used to provide training to small businesses employing fewer than one hundred employees.

E. A minimum of twenty-five per cent of the monies appropriated to the Arizona job training fund shall be used to provide training to businesses located in rural areas of the state.

F. If a business receives monies for training from the Arizona job training fund and the business employs fewer than one hundred employees and is located in a rural area of this state, the business shall be included in the minimum percentages prescribed in subsections D and E of this section.

G. No more than fifty per cent of the monies in the Arizona job training fund shall be used to provide incumbent worker training.

H. A single grant awarded pursuant to this article shall not be more than ten per cent of the estimated annual total of monies deposited in the Arizona job training fund.

I. The ~~department~~ AUTHORITY shall not approve grant monies for reimbursement of the following employer costs:

1. Fringe benefits, food and beverages, recruitment and signing bonuses for trainees and trainers.

2. Employer costs to complete a program application.

3. Except for small businesses, training expenses for partners or corporate officers.

4. Employee relocation expenses.

5. Training or course development costs that are not part of the employer's approved training plan.

6. Costs for assessing the training needs of employees.

7. Drug or other testing costs for employee screening or prescreening purposes.

8. Costs for trade shows and conferences or seminars that do not result in a skill certificate that is earned by an employee.

9. Other costs prohibited by rule.

J. For the purposes of this section:

1. "Rural area" means either:

(a) A county with a population of less than ~~four~~ SEVEN hundred FIFTY thousand persons according to the most recent United States decennial census.

(b) A census county division with less than fifty thousand persons in a county with a population of ~~four~~ SEVEN hundred FIFTY thousand or more persons according to the most recent United States decennial census.

2. "Small business" means a concern, including its affiliates, that employs fewer than one hundred employees.

Sec. 53. Title 41, chapter 10, Arizona Revised Statutes, is amended by adding article 5, to read:

ARTICLE 5. ARIZONA COMPETES

41-1545. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "ARIZONA BASIC ENTERPRISE" MEANS ANY ENTERPRISE THAT IS LOCATED OR PRINCIPALLY BASED IN THIS STATE AND THAT CAN PROVIDE DEMONSTRABLE EVIDENCE THAT IT MEETS ONE OR MORE OF THE FOLLOWING:

(a) IT IS PRIMARILY ENGAGED IN ONE OR MORE OF THE ARIZONA BASIC INDUSTRIES.

(b) IT IS THE NATIONAL OR REGIONAL CORPORATE HEADQUARTERS OF AN ARIZONA BASIC INDUSTRY OR THE CORPORATE OR REGIONAL HEADQUARTERS OF A MULTISTATE ENTERPRISE THAT IS PRIMARILY ENGAGED IN OUT-OF-STATE INDUSTRIAL ACTIVITIES.

(c) IT IS PRIMARILY ENGAGED IN DEVELOPING OR PRODUCING GOODS OR PROVIDING SERVICES FOR OUT-OF-STATE SALE.

2. "ARIZONA BASIC INDUSTRY" MEANS ANY OF THE FOLLOWING:

(a) MANUFACTURING INDUSTRIES IDENTIFIED BY NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM CODE SECTORS 31, 32 AND 33.

(b) PRODUCING GOODS OR SERVICES THAT DERIVE AT LEAST SIXTY-FIVE PER CENT OF REVENUE FROM OUT-OF-STATE SALES.

(c) RESEARCH AND DEVELOPMENT OF NEW PRODUCTS, PROCESSES OR TECHNOLOGIES.

(d) NATIONAL OR REGIONAL HEADQUARTERS OR BACK-OFFICE OPERATIONS SUPPORTING A NATIONAL OR REGIONAL COMPANY.

(e) WAREHOUSE DISTRIBUTION OPERATIONS IDENTIFIED BY NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM CODE SECTOR 42 IF SIXTY-FIVE PER CENT OF INVENTORY IS SHIPPED OUT OF STATE.

3. "AUTHORITY" MEANS THE ARIZONA COMMERCE AUTHORITY.

4. "EMPLOYEE" MEANS A PERSON EMPLOYED IN A NEW JOB.

5. "EMPLOYER" MEANS AN ARIZONA BASIC ENTERPRISE PROVIDING NEW JOBS IN CONJUNCTION WITH A PROJECT, EXCEPT THAT THE FOLLOWING DO NOT QUALIFY FOR THE PURPOSES OF THIS ARTICLE:

(a) ANY CORPORATION, PARTNERSHIP OR OTHER ENTITY CONDUCTING A BUSINESS IDENTIFIED BY ANY OF THE FOLLOWING NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM CODE GROUPS, SECTORS OR SUBSECTORS:

(i) INDUSTRY GROUP 7132 OR 8131.

(ii) SECTOR 44, 45, 61, 92 OR 221, INCLUDING WATER AND SEWER SERVICES.

(iii) SUBSECTOR 722.

(b) ANY CORPORATION, PARTNERSHIP OR OTHER ENTITY THAT IS DELINQUENT IN THE PAYMENT OF ANY UNPROTESTED TAXES OR OTHER AMOUNTS DUE TO THE FEDERAL GOVERNMENT, THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE.

(c) ANY CORPORATION, PARTNERSHIP OR OTHER ENTITY THAT IS CURRENTLY IN BANKRUPTCY OR HAS PUBLICLY ANNOUNCED ITS INTENTION TO FILE FOR BANKRUPTCY PROTECTION.

6. "FULL-TIME" MEANS PERMANENT EMPLOYMENT FOR AT LEAST ONE THOUSAND SEVEN HUNDRED FIFTY HOURS PER YEAR.

7. "HEADQUARTERS" MEANS A PRINCIPAL CENTRAL ADMINISTRATIVE OFFICE WHERE PRIMARY HEADQUARTERS RELATED FUNCTIONS AND SERVICES ARE PERFORMED, INCLUDING FINANCIAL, PERSONNEL, ADMINISTRATIVE, LEGAL, PLANNING AND SIMILAR BUSINESS FUNCTIONS.

8. "NEW JOB" MEANS FULL-TIME EMPLOYMENT IN A NEW OR EXPANDING ARIZONA BASIC ENTERPRISE THAT PAYS AN AVERAGE ANNUAL WAGE EQUAL TO AT LEAST ONE HUNDRED PER CENT OF THE MEDIAN WAGE BY COUNTY AS DETERMINED ANNUALLY BY THE ARIZONA COMMERCE AUTHORITY AND INCLUDES HEALTH INSURANCE FOR EMPLOYEES FOR WHICH THE EMPLOYER PAYS AT LEAST SIXTY-FIVE PER CENT OF THE PREMIUM OR MEMBERSHIP COST, BUT NOT INCLUDING JOBS OF RECALLED WORKERS OR EXISTING JOBS THAT ARE VACANT OR OTHER JOBS THAT FORMERLY EXISTED IN THE ENTERPRISE IN THIS STATE.

9. "PRIMARILY ENGAGED" MEANS AT LEAST ONE-HALF OF THE GROSS INCOME OF THE ENTERPRISE IS DERIVED FROM THE ENGAGEMENT.

41-1545.01. <u>Arizona competes fund</u>

A. THE ARIZONA COMPETES FUND IS ESTABLISHED CONSISTING OF:

1. WITHHOLDING TAX REVENUES ALLOCATED TO THE FUND FROM THE JOB CREATION WITHHOLDINGS CLEARING ACCOUNT PURSUANT TO SECTION 43-409, SUBSECTION B, PARAGRAPH 2.

2. ANY OTHER AMOUNTS DEDICATED TO THE FUND BY LAW.

3. GIFTS, GRANTS AND OTHER DONATIONS RECEIVED FOR THAT PURPOSE.

4. ANY AVAILABLE MONIES RECEIVED FROM THE UNITED STATES GOVERNMENT, INCLUDING MONIES FROM THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (P.L. 111-5).

B. MONIES CREDITED TO THE FUND MAY BE DEPOSITED IN THE STATE TREASURY OR IN A BANK OR OTHER DEPOSITORY PURSUANT TO SECTION 41-1504, SUBSECTION D, PARAGRAPH 5.

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

D. THE CHIEF EXECUTIVE OFFICER SHALL USE MONIES IN THE FUND EXCLUSIVELY FOR THE PURPOSES OF THIS ARTICLE.

41-1545.02. Grants from the Arizona competes fund

A. THE CHIEF EXECUTIVE OFFICER MAY NEGOTIATE THE AWARD OF MONIES FROM THE ARIZONA COMPETES FUND. THE MONIES SHALL BE PAID, BY GRANT, FOR THE PURPOSES OF:

1. ATTRACTING, EXPANDING OR RETAINING ARIZONA BASIC ENTERPRISES THAT MEET THE REQUIREMENTS PRESCRIBED BY SUBSECTION B, THAT ACHIEVE THE PERFORMANCE AND QUALIFICATION TARGETS DEVELOPED UNDER SUBSECTION C AND THAT ENTER INTO AN AGREEMENT WITH THE CHIEF EXECUTIVE OFFICER AS PROVIDED BY SUBSECTION C. IN AWARDING MONIES PURSUANT TO THIS PARAGRAPH, THE CHIEF EXECUTIVE OFFICER SHALL GIVE PREFERENCE TO JOB TRAINING AND INFRASTRUCTURE ACTIVITIES THAT CREATE PRIVATE SECTOR JOBS.

2. SUPPORTING AND ADVANCING PROGRAMS AND PROJECTS FOR RURAL BUSINESSES, SMALL BUSINESSES AND BUSINESS DEVELOPMENT THAT ENHANCE ECONOMIC DEVELOPMENT.

B. TO BE ELIGIBLE TO RECEIVE A DEAL CLOSING GRANT UNDER SUBSECTION A, PARAGRAPH 1, AN APPLICANT MUST:

1. BE IN GOOD STANDING UNDER THE LAWS OF THE STATE IN WHICH THE APPLICANT WAS FORMED OR ORGANIZED, AS EVIDENCED BY A CERTIFICATE ISSUED BY THE SECRETARY OF STATE OR OTHER STATE OFFICIAL HAVING CUSTODY OF THE RECORDS PERTAINING TO ENTITIES OR OTHER ORGANIZATIONS FORMED UNDER THE LAWS OF THAT STATE.

2. OWE NO DELINQUENT TAXES TO A TAXING JURISDICTION IN THIS STATE.

3. QUALIFY AS AN ARIZONA BASIC INDUSTRY.

4. PAY COMPENSATION THAT EXCEEDS, ON AVERAGE, ONE HUNDRED PER CENT OF THE MEDIAN WAGE BY COUNTY AS DETERMINED ANNUALLY BY THE AUTHORITY.

5. INCLUDE HEALTH INSURANCE FOR EMPLOYEES FOR WHICH THE APPLICANT PAYS AT LEAST SIXTY-FIVE PER CENT OF THE PREMIUM OR MEMBERSHIP COST.

6. DEMONSTRATE BY ANALYSIS BY AN INDEPENDENT THIRD PARTY THAT ESTIMATED INCOME, PROPERTY AND TRANSACTION PRIVILEGE TAX AND GOVERNMENT FEE REVENUES IN THIS STATE WILL EXCEED STATE INCENTIVES.

C. BEFORE AWARDING A GRANT FROM THE FUND UNDER THIS SECTION, THE CHIEF EXECUTIVE OFFICER MUST ENTER INTO A WRITTEN AGREEMENT WITH THE APPLICANT SPECIFYING THAT:

1. A REASONABLE PERCENTAGE OF THE TOTAL AMOUNT OF THE GRANT MAY BE WITHHELD UNTIL THE RECIPIENT MEETS SPECIFIED PERFORMANCE TARGETS.

2. IF THE CHIEF EXECUTIVE OFFICER FINDS THAT THE GRANT RECIPIENT HAS NOT MET EACH OF THE PERFORMANCE TARGETS SPECIFIED IN THE AGREEMENT AS OF A DATE STATED IN THE AGREEMENT:

(a) THE RECIPIENT MUST REPAY THE GRANT AND ANY RELATED INTEREST TO THIS STATE AT AN AGREED RATE AND ON AGREED TERMS. THE REPAYMENT MAY BE PRORATED TO REFLECT PARTIAL ATTAINMENT OF PERFORMANCE TARGETS.

(b) THE CHIEF EXECUTIVE OFFICER SHALL NOT DISBURSE ANY REMAINING GRANT MONEY TO THE RECIPIENT UNDER THE AGREEMENT.

(c) THE CHIEF EXECUTIVE OFFICER MAY ASSESS SPECIFIED PENALTIES AGAINST THE RECIPIENT FOR NONCOMPLIANCE.

3. IF ANY PART OF THE GRANT IS USED TO BUILD A CAPITAL IMPROVEMENT, THIS STATE MAY:

(a) RETAIN A LIEN OR OTHER SECURITY INTEREST IN THE IMPROVEMENT IN PROPORTION TO THE PERCENTAGE OF THE GRANT AMOUNT USED TO PAY FOR THE IMPROVEMENT.

(b) REQUIRE THE RECIPIENT, IF THE IMPROVEMENT IS SOLD, TO:

(i) REPAY TO THIS STATE THE GRANT MONIES USED TO PAY FOR THE IMPROVEMENT, WITH INTEREST AT A RATE AND ACCORDING TO TERMS STATED IN THE AGREEMENT.

(ii) SHARE WITH THIS STATE A PROPORTIONATE AMOUNT OF ANY PROFIT REALIZED FROM THE SALE.

D. THE CHIEF EXECUTIVE OFFICER MUST DETERMINE:

1. THE PERFORMANCE TARGETS AND DATES REQUIRED TO BE INCLUDED IN EACH GRANT AGREEMENT.

2. IF THE GRANT AGREEMENT INCLUDES WITHHOLDING A PERCENTAGE OF THE GRANT UNTIL THE RECIPIENT MEETS THE PERFORMANCE TARGETS, THE PERCENTAGE OF THE GRANT MONEY TO BE WITHHELD.

E. BEFORE AWARDING A GRANT FROM THE FUND UNDER THIS SECTION, THE AUTHORITY MUST PREPARE A WRITTEN STATEMENT, SIGNED BY THE CHIEF EXECUTIVE OFFICER, THAT, SPECIFICALLY AND IN DETAIL, ASSESSES THE DIRECT ECONOMIC IMPACT OF THE GRANT. THE STATEMENT MUST:

1. INCLUDE A FINDING THAT THE ENTERPRISE IS CLEARLY IN THE BEST INTERESTS OF THIS STATE.

2. SET FORTH THE EVIDENCE AND REASONS SUPPORTING THIS FINDING, INCLUDING:

(a) THE ESTIMATED ANNUAL TAX REVENUE ACCRUING TO THIS STATE AND ITS POLITICAL SUBDIVISIONS AS A DIRECT OR INDIRECT RESULT OF THE ENTERPRISE.

(b) THE PUBLIC BENEFIT OF THE ENTERPRISE FROM THE EMPLOYMENT BASE, INCLUDING THE ESTIMATED NUMBER AND THE MEDIAN WAGE OF JOBS TO BE CREATED IN THIS STATE BY THE POTENTIAL RECIPIENT EACH YEAR.

(c) THE EXTENT TO WHICH THE ECONOMIC DEVELOPMENT FROM THE ENTERPRISE WILL RAISE THE STANDARD OF LIVING OF AFFECTED PERSONS, INCREASES FREE ENTERPRISE GROWTH AND INCREASES THE QUALITY OF LIFE IN THIS STATE.

(d) THE RATIO OF ECONOMIC BENEFIT FROM WAGES PAID AND CAPITAL INVESTMENT MADE BY THE ENTERPRISE TO THE AMOUNT OF THE GRANT.

(e) THE CONTRIBUTION FROM THE ENTERPRISE TO THE GROWTH OF EXISTING BUSINESSES AND CREATION OF NEW BUSINESSES AND BUSINESS CLUSTERS.

(f) WHETHER THE ENTERPRISE WILL PROVIDE ITS EMPLOYEES WITH BENEFITS SUCH AS RETIREMENT, CHILD CARE, EDUCATIONAL REIMBURSEMENTS AND TRAINING.

(g) THE PERCENTAGE OF THE PRODUCTS OR SERVICES THE ENTERPRISE WILL EXPORT OUTSIDE OF THIS STATE OVER THE FIRST FIVE YEARS OF OPERATION.

(h) ANY OTHER INFORMATION THE CHIEF EXECUTIVE OFFICER CONSIDERS TO BE NECESSARY FOR INCLUSION IN THE STATEMENT.

41-1545.03. Annual report by grant recipient

ON OR BEFORE DECEMBER 31 OF EACH YEAR, EACH ENTITY THAT RECEIVES A GRANT UNDER THIS ARTICLE SHALL SUBMIT TO THE CHIEF EXECUTIVE OFFICER A PROGRESS REPORT CONTAINING THE INFORMATION COMPILED DURING THE PRECEDING CALENDAR YEAR REGARDING THE ATTAINMENT OF EACH OF THE PERFORMANCE TARGETS IN THE GRANT AGREEMENT.

41-1545.04. Report on use of monies in the Arizona competes fund

A. ON OR BEFORE NOVEMBER 1 OF EACH YEAR, THE AUTHORITY SHALL SUBMIT TO THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE JOINT LEGISLATIVE BUDGET COMMITTEE A REPORT ON GRANTS MADE FROM THE ARIZONA COMPETES FUND UNDER THIS ARTICLE IN THE PRECEDING FISCAL YEAR AND ALL PROJECTS CURRENTLY BEING FUNDED FROM THE ARIZONA COMPETES FUND. THE AUTHORITY SHALL PROVIDE A COPY OF THE REPORT TO THE SECRETARY OF STATE. THE REPORT SHALL INCLUDE:

1. THE NUMBER OF DIRECT JOBS EACH RECIPIENT COMMITTED TO CREATE IN THIS STATE.

2. THE NUMBER OF DIRECT JOBS EACH RECIPIENT ACTUALLY CREATED IN THIS STATE.

3. THE MEDIAN WAGE OF THE JOBS EACH RECIPIENT CREATED IN THIS STATE.

4. THE AMOUNT OF CAPITAL INVESTMENT EACH RECIPIENT COMMITTED TO SPEND OR ALLOCATE PER PROJECT IN THIS STATE.

5. THE AMOUNT OF CAPITAL INVESTMENT EACH RECIPIENT ACTUALLY SPENT OR ALLOCATED PER PROJECT IN THIS STATE.

6. THE TOTAL AMOUNT OF GRANTS MADE TO EACH RECIPIENT.

7. THE AVERAGE AMOUNT OF MONEY GRANTED FROM THE ARIZONA COMPETES FUND FOR EACH JOB CREATED IN THIS STATE BY GRANT RECIPIENTS.

8. THE NUMBER OF JOBS CREATED IN THIS STATE BY GRANT RECIPIENTS IN EACH SECTOR OF THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM.

9. OF THE NUMBER OF DIRECT JOBS EACH RECIPIENT CREATED IN THIS STATE, THE NUMBER OF POSITIONS CREATED THAT PROVIDE HEALTH BENEFITS FOR EMPLOYEES.

B. THE REPORT SHALL NOT INCLUDE INFORMATION THAT IS MADE CONFIDENTIAL BY LAW.

C. THE AUTHORITY MAY REQUIRE GRANT RECIPIENTS TO SUBMIT INFORMATION IN A FORM REQUIRED TO COMPLETE THE REPORT.

41-1545.05. Program termination

THE PROGRAM ESTABLISHED BY THIS ARTICLE ENDS ON JULY 1, 2016.

Sec. 54. Repeal

Title 41, chapter 10, article 6, Arizona Revised Statutes, is repealed.

Sec. 55. Title 41, chapter 10, Arizona Revised Statutes, is amended by adding a new article 6, to read:

ARTICLE 6. ARIZONA AEROSPACE AND DEFENSE COMMISSION

Sec. 56. Transfer and renumber

Sections 41-1561, 41-1562, 41-1563 and 41-1564, Arizona Revised Statutes, are transferred and renumbered for placement in title 41, chapter 10, article 6, Arizona Revised Statutes, as added by this act, as sections 41-1552, 41-1552.01, 41-1552.02 and 41-1552.03, respectively.

Sec. 57. Repeal

The chapter heading of title 41, chapter 10.1, Arizona Revised Statutes, and the article heading of title 41, chapter 10.1, article 1, Arizona Revised Statutes, are repealed.

Sec. 58. Section 41-1552.01, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

41-1552.01. Arizona aerospace and defense commission; definition

A. An Arizona aerospace and defense commission is established IN THE ARIZONA COMMERCE AUTHORITY consisting of:

1. One advisory member who is a member of the senate and who is appointed by the president of the senate.

2. One advisory member who is a member of the house of representatives and who is appointed by the speaker of the house of representatives.

~~3. The director of the department of commerce or the director's designee.~~

3. THE CHIEF EXECUTIVE OFFICER OF THE ARIZONA COMMERCE AUTHORITY OR THE CHIEF EXECUTIVE OFFICER'S DESIGNEE.

4. One advisory member who is a director of a privately funded organization for economic development or a business development director for an airport in this state and who is appointed by the governor.

5. Two advisory members from a university under the jurisdiction of the Arizona board of regents with expertise in educational or research and development systems that support the aerospace and defense industries and who are appointed by the governor.

6. Nine private sector members who are appointed by the governor under section 38-211, who are residents of this state and who have knowledge of or expertise in one or more of the following areas:

(a) The aerospace and defense industries.

(b) Aerospace and defense related research and development.

(c) Existing resources that may support the Aerospace and defense related industries in this state.

(d) Aerospace and defense related business ventures in this state.

(e) Mechanisms for infrastructure improvement.

(f) Educational systems that support the aerospace and defense industries.

~~B. The director of the department of commerce shall serve as acting chairman until the members elect a chairman at the first meeting.~~

B. THE COMMISSION SHALL ELECT ONE OF ITS MEMBERS TO SERVE AS CHAIRPERSON.

C. Commission members who are appointed shall serve two year terms to begin and end on the third Monday in January. No commission member who is appointed may serve more than three consecutive terms.

D. Commission members are not eligible for compensation but are eligible for reimbursement for expenses pursuant to title 38, chapter 4, article 2.

E. For the purposes of this section, "advisory member" means a member who gives advice to the other members of the commission at meetings of the commission but who is not eligible to vote, is not a member for purposes of determining whether a quorum is present and is not eligible to receive any compensation by the commission.

Sec. 59. Section 41-1552.02, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

41-1552.02. Duties

A. The commission is designated as this state's sole coordinator of all aerospace and defense related commercial partnerships.

B. The commission shall:

1. Provide technical support to the ~~department of commerce~~ AUTHORITY, local and regional industrial development organizations, local agencies and other groups concerning infrastructure improvements and any other projects designated by the governor.

2. Adopt rules it deems necessary or desirable to further the objectives and programs of the commission.

3. Develop goals and objectives, establish guidelines, recommend legislation and provide general direction regarding this state's interests in aerospace and defense related commerce.

4. Make contracts and incur obligations within the general scope of its activities and operations subject to the availability of monies.

5. Subject to section 35-149, accept, spend and account for grants, monies and direct payments from public or private sources and other grants of

money or property to conduct programs that are consistent with the overall purposes and objectives of the commission.

6. Have an official seal that shall be judicially noticed.

Sec. 60. Title 41, Arizona Revised Statutes, is amended by adding chapter 18, to read:

CHAPTER 18

GREATER ARIZONA DEVELOPMENT AUTHORITY

ARTICLE 1. GENERAL PROVISIONS

Sec. 61. Transfer and renumber

Sections 41-1554 and 41-1554.01 through 41-1554.12, Arizona Revised Statutes, are transferred and renumbered for placement in title 41, chapter 18, article 1, Arizona Revised Statutes, as added by this act, as sections 41-2251 through 41-2263, respectively.

Sec. 62. Repeal

The article heading of title 41, chapter 10, article 8, Arizona Revised Statutes, is repealed.

Sec. 63. Section 41-2251, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

41-2251. Definitions

In this article, unless the context otherwise requires:

1. "Authority" means the greater Arizona development authority.

2. "Board" means the board of directors of the authority AS ESTABLISHED BY SECTION 41-2252.

3. "Financial assistance" means assistance provided by the authority to eligible political subdivisions, special districts and Indian tribes pursuant to section ~~41-1554.06~~ 41-2257.

4. "Fund" means the greater Arizona development authority revolving fund established by section ~~41-1554.03~~ 41-2254.

5. "Indian tribe" means any Indian tribe, band, group or community that is recognized by the United States secretary of the interior and that exercises governmental authority within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent and including rights-of-way running through the reservation.

6. "Infrastructure" means any land, building or other improvement and equipment or other personal property that will make up part of a facility that is located in this state for public use and that is owned by a political subdivision, special district or Indian tribe that retains ultimate responsibility for its operation and maintenance.

7. "Loan" means bonds, leases, loans or other evidences of indebtedness.

8. "Loan repayment agreement" means an agreement to repay a loan entered into by a political subdivision, special district or Indian tribe.

9. "Pledged revenues" means any monies to be received by a political subdivision, special district or Indian tribe, including property taxes,

other local taxes, fees, assessments or charges pledged by a political subdivision, special district or Indian tribe as a source for repayment of a loan repayment agreement.

10. "Political subdivision" means a county, city or town.

11. "Short-term assistance" means assistance provided by the authority to political subdivisions, special districts and Indian tribes in connection with the financing of infrastructure.

12. "Special district" means any of the following entities established pursuant to title 48:

(a) Municipal improvement district.

(b) Fire district.

(c) County improvement district.

(d) Special road district.

(e) Sanitary district.

(f) Drainage or flood protection district.

(g) County flood control district.

(h) County jail district.

(i) Regional public transportation authority.

(j) Regional transportation authority.

13. "Technical assistance" means assistance provided pursuant to section ~~41-1554.05~~ 41-2256.

14. "Technical assistance repayment agreement" means an agreement to repay assistance provided pursuant to section ~~41-1554.05~~ 41-2256.

15. "Tribal subdivision" means any chapter, district or village that is recognized by an Indian tribe by resolution or through tribal constitution and that receives technical assistance.

Sec. 64. Section 41-2252, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

41-2252. Greater Arizona development authority; board; staff; conflict of interest prohibited; violation; classification

A. The greater Arizona development authority is established. The authority shall be governed by a board of directors consisting of the following members:

1. The ~~director~~ CHIEF EXECUTIVE OFFICER of the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY or the director's designee who shall serve as the chairperson.

2. The director of the department of environmental quality or the director's designee.

3. The director of the department of transportation or the director's designee.

4. The state treasurer or the state treasurer's designee.

5. Five members, one of whom is a representative of a tribal nation of Arizona, appointed by the governor pursuant to section 38-211. All appointed

members shall reside in different counties, and no more than three members may be members of the same political party.

B. Members appointed by the governor serve staggered five year terms.

C. Members of the board are not eligible to receive compensation for their services UNDER THIS CHAPTER but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2 FOR THEIR SERVICES UNDER THIS CHAPTER.

D. Members of the board SERVING UNDER THIS CHAPTER are public officers for purposes of title 38, chapter 3, article 8 and the authority is a public body for purposes of title 38, chapter 3, article 3.1.

E. No appointed member may serve more than two consecutive terms, except that service for a partial term of less than three years shall not be counted toward the two term limitation.

F. The ~~department of commerce~~ WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA shall provide general administrative support, equipment and office and meeting space to the GREATER ARIZONA DEVELOPMENT authority.

G. The ~~department of commerce~~ WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA may hire staff to provide administrative and technical assistance on behalf of the authority. Earnings on the monies in the GREATER ARIZONA DEVELOPMENT AUTHORITY REVOLVING fund may be used to pay for staff services.

H. Members of the board shall not participate in any direct discussions or actions related to any project financed under this article in which the member has any direct or indirect personal financial interest. For purposes of this subsection, a member of the board who is an employee or official of a participant in or applicant for a loan shall not be considered to have a direct or indirect personal financial interest in a project by virtue of the member's services alone. A violation of this subsection is a class 1 misdemeanor.

Sec. 65. Section 41-2254, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

41-2254. Greater Arizona development authority revolving fund

A. The greater Arizona development authority revolving fund is established consisting of:

1. Monies appropriated by the legislature.

2. Monies received from the United States government to carry out this article.

3. Monies received from political subdivisions, Indian tribes, tribal subdivisions and special districts as loan repayments, technical assistance repayments, interest, administrative fees and penalties.

4. Interest and other income received from investing monies in the fund.

5. Gifts, grants and donations received from any public or private source to carry out this article.

6. Any other monies received by the authority.

B. The board shall administer the fund in compliance with the requirements of this article. The board shall separately account for monies received from each source listed in subsection A of this section. Monies received pursuant to subsection A, paragraph 1 of this section shall not be used for any purpose except securing bonds issued by the authority and providing assistance under technical assistance repayment agreements if the amount used for providing this assistance is not more than eight hundred thousand dollars. This subsection does not limit the power of the authority to pledge other monies in the fund to secure bonds issued by the authority or to provide assistance under technical assistance repayment agreements.

C. The board may establish accounts and subaccounts as necessary to properly account for and use monies received by the authority.

D. Monies in the fund may be used for securing bonds of the authority.

E. Monies in the fund received pursuant to subsection A, paragraphs 2, 3, 4, 5 and 6 of this section may be used for:

1. Providing technical assistance to political subdivisions, special districts, Indian tribes and tribal subdivisions.

2. Providing financial assistance to political subdivisions, special districts and Indian tribes.

3. Paying the compensation and employment related expenses associated with the employees hired pursuant to section ~~41-1554.01~~ 41-2252, subsection ~~G~~ E.

4. Paying the costs to operate the authority, to administer the fund and to carry out the requirements of this article.

5. Paying the costs of professional assistance hired by the authority pursuant to section ~~41-1554.02~~ 41-2253, subsection B, paragraph 6.

F. On notice from the board, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

G. If the monies pledged to secure the bonds become insufficient to pay the principal and interest on the bonds, the board may direct the state treasurer to divest monies in the fund as may be necessary and may apply those proceeds to make current all payments then due on the bonds. The state treasurer shall immediately notify the attorney general and auditor general of the insufficiency. The auditor general shall audit the circumstances surrounding the depletion of the fund and shall report these findings to the attorney general. The attorney general shall conduct an investigation and report these findings to the governor and the legislature.

Sec. 66. Section 41-2256, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

41-2256. <u>Technical assistance; repayment agreements</u>

A. The authority may provide technical assistance to political subdivisions, special districts, Indian tribes and tribal subdivisions in connection with the development or financing of infrastructure.

B. Technical assistance may include the following:

1. Assistance in selecting outside consultants.

2. Evaluation of design and construction options.

3. Financial advisory services.

4. Assistance in satisfying statutory requirements.

5. Short-term assistance.

C. Assistance provided under a technical assistance repayment agreement:

1. Shall not be more than two hundred fifty thousand dollars for a single project.

2. Shall be repaid not more than three years after the date the monies for the assistance are advanced to the applicant.

3. Shall be in a form and under terms determined by the authority.

D. Short-term assistance represents an advance of financial assistance. The authority shall not provide short-term assistance unless the political subdivision, special district or Indian tribe has an approved financial assistance application on file with the authority. A political subdivision, special district or Indian tribe shall repay short-term assistance pursuant to a technical assistance repayment agreement.

E. The authority shall establish an application process and method of determining the allocation of technical assistance pursuant to section ~~41-1554.04~~ 41-2255.

F. Before technical assistance may be provided, the board shall approve the application for technical assistance.

G. The provision of technical assistance by the authority does not create any liability for the authority or this state regarding the design, construction or operation of any infrastructure project.

Sec. 67. Section 41-2501, Arizona Revised Statutes, is amended to read:

41-2501. Applicability

A. This chapter applies only to procurements initiated after January 1, 1985 unless the parties agree to its application to procurements initiated before that date.

B. This chapter applies to every expenditure of public monies, including federal assistance monies except as otherwise specified in section 41-2637, by this state, acting through a state governmental unit as defined in this chapter, under any contract, except that this chapter does not apply to either grants as defined in this chapter, or contracts between this state and its political subdivisions or other governments, except as provided in chapter 24 of this title and in article 10 of this chapter. This chapter also applies to the disposal of state materials. This chapter and rules adopted under this chapter do not prevent any state governmental unit or political subdivision from complying with the terms of any grant, gift, bequest or cooperative agreement.

C. All political subdivisions and other local public agencies of this state may adopt all or any part of this chapter and the rules adopted pursuant to this chapter.

D. The Arizona board of regents, the legislative and judicial branches of state government and the state compensation fund are not subject to this chapter except as prescribed in subsection E of this section.

E. The Arizona board of regents and the judicial branch shall adopt rules prescribing procurement policies and procedures for themselves and institutions under their jurisdiction. The rules must be substantially equivalent to the policies and procedures prescribed in this chapter.

F. The Arizona state lottery commission is exempt from this chapter for procurement relating to the design and operation of the lottery or purchase of lottery equipment, tickets and related materials. The executive director of the Arizona state lottery commission shall adopt rules substantially equivalent to the policies and procedures in this chapter for procurement relating to the design and operation of the lottery or purchase of lottery equipment, tickets or related materials. All other procurement shall be as prescribed by this chapter.

G. The Arizona health care cost containment system administration is exempt from this chapter for provider contracts pursuant to section 36-2904, subsection A and contracts for goods and services, including program contractor contracts pursuant to title 36, chapter 29, articles 2 and 3. All other procurement, including contracts for the statewide administrator of the program pursuant to section 36-2903, subsection B, shall be as prescribed by this chapter.

H. Arizona industries for the blind is exempt from this chapter for purchases of finished goods from members of national industries for the blind and for purchases of raw materials for use in the manufacture of products for sale pursuant to section 41-1972. All other procurement shall be as prescribed by this chapter.

I. Arizona correctional industries is exempt from this chapter for purchases of raw materials, components and supplies that are used in the manufacture or production of goods or services for sale entered into pursuant to section 41-1622. All other procurement shall be as prescribed by this chapter.

J. The state transportation board and the director of the department of transportation are exempt from this chapter other than section 41-2586 for the procurement of construction or reconstruction, including engineering services, of transportation facilities or highway facilities and any other services that are directly related to land titles, appraisals, real property acquisition, relocation, property management or building facility design and construction for highway development and that are required pursuant to title 28, chapter 20.

K. The Arizona highways magazine is exempt from this chapter for contracts for the production, promotion, distribution and sale of the magazine and related products and for contracts for sole source creative works entered into pursuant to section 28-7314, subsection A, paragraph 5. All other procurement shall be as prescribed by this chapter.

L. The secretary of state is exempt from this chapter for contracts entered into pursuant to section 41-1012 to publish and sell the administrative code. All other procurement shall be as prescribed by this chapter.

M. This chapter is not applicable to contracts for professional witnesses if the purpose of such contracts is to provide for professional services or testimony relating to an existing or probable judicial proceeding in which this state is or may become a party or to contract for special investigative services for law enforcement purposes.

N. The head of any state governmental unit, in relation to any contract exempted by this section from this chapter, has the same authority to adopt rules, procedures or policies as is delegated to the director pursuant to this chapter.

O. Agreements negotiated by legal counsel representing this state in settlement of litigation or threatened litigation are exempt from this chapter.

P. This chapter is not applicable to contracts entered into by the department of economic security:

1. With a provider licensed or certified by an agency of this state to provide child day care services or with a provider of family foster care pursuant to section 8-503 or 36-554.

2. With area agencies on aging created pursuant to the older Americans act of 1965 (P.L. 89-73; 79 Stat. 218; 42 United States Code sections 3001 through 3058ee).

3. For services pursuant to title 36, chapter 29, article 2.

4. With an eligible entity as defined by Public Law 105-285, section 673(1)(a)(i), as amended, for designated community services block grant

1 program monies and any other monies given to the eligible entity that
2 accomplishes the purpose of Public Law 105-285, section 672.
3 Q. The department of health services may not require that persons with
4 whom it contracts follow this chapter for the purposes of subcontracts
5 entered into for the provision of the following:
6 1. Mental health services pursuant to section 36-189, subsection B.
7 2. Services for the seriously mentally ill pursuant to title 36,
8 chapter 5, article 10.
9 3. Drug and alcohol services pursuant to section 36-141.
10 4. Domestic violence services pursuant to title 36, chapter 30,
11 article 1.
12 R. The department of health services is exempt from this chapter for
13 contracts for services of physicians at the Arizona state hospital.
14 S. Contracts for goods and services approved by the board of trustees
15 of the public safety personnel retirement system are exempt from this
16 chapter.
17 T. The Arizona department of agriculture is exempt from this chapter
18 with respect to contracts for private labor and equipment to effect cotton or
19 cotton stubble plow-up pursuant to rules adopted under title 3, chapter 2,
20 article 1. On or before September 1 of each year, the director of the
21 Arizona department of agriculture shall establish and announce costs for each
22 acre of cotton or cotton stubble to be abated by private contractors.
23 U. The Arizona state parks board is exempt from this chapter for
24 purchases of guest supplies and items for resale such as food, linens, gift
25 items, sundries, furniture, china, glassware and utensils for the facilities
26 located in the Tonto natural bridge state park.
27 V. The Arizona state parks board is exempt from this chapter for the
28 purchase, production, promotion, distribution and sale of publications,
29 souvenirs and sundry items obtained and produced for resale.
30 W. The Arizona state schools for the deaf and the blind are exempt
31 from this chapter when purchasing products through a cooperative that is
32 organized and operates in accordance with state law if such products are not
33 available on a statewide contract and are related to the operation of the
34 schools or are products for which special discounts are offered for
35 educational institutions.
36 X. Expenditures of monies in the morale, welfare and recreational fund
37 established by section 26-153 are exempt from this chapter.
38 Y. Notwithstanding section 41-2534, the director of the state
39 department of corrections may contract with local medical providers in
40 counties with a population of less than four hundred thousand persons
41 according to the most recent United States decennial census for the following
42 purposes:
43 1. To acquire hospital and professional medical services for inmates
44 who are incarcerated in state department of corrections facilities that are
45 located in those counties.

2. To ensure the availability of emergency medical services to inmates in all counties by contracting with the closest medical facility that offers emergency treatment and stabilization.

Z. The department of environmental quality is exempt from this chapter for contracting for procurements relating to the water quality assurance revolving fund program established pursuant to title 49, chapter 2, article 5. The department shall engage in a source selection process that is similar to the procedures prescribed by this chapter. The department may contract for remedial actions with a single selection process. The exclusive remedy for disputes or claims relating to contracting pursuant to this subsection is as prescribed by article 9 of this chapter and the rules adopted pursuant to that article. All other procurement by the department shall be as prescribed by this chapter.

AA. The motor vehicle division of the department of transportation is exempt from this chapter for third party authorizations pursuant to title 28, chapter 13, only if all of the following conditions exist:

1. The division does not pay any public monies to an authorized third party.

2. Exclusivity is not granted to an authorized third party.

3. The director has complied with the requirements prescribed in title 28, chapter 13 in selecting an authorized third party.

BB. This section does not exempt third party authorizations pursuant to title 28, chapter 13 from any other applicable law.

CC. The state forester is exempt from this chapter for purchases and contracts relating to wild land fire suppression and pre-positioning equipment resources and for other activities related to combating wild land fires and other unplanned risk activities, including fire, flood, earthquake, wind and hazardous material responses. All other procurement by the state forester shall be as prescribed by this chapter.

DD. The cotton research and protection council is exempt from this chapter for procurements relating to its aflatoxin control program and for contracts for research programs related to cotton production or protection.

EE. Expenditures of monies in the Arizona agricultural protection fund established by section 3-3304 are exempt from this chapter.

FF. THE ARIZONA COMMERCE AUTHORITY IS EXEMPT FROM THIS CHAPTER, EXCEPT ARTICLE 10 FOR THE PURPOSE OF COOPERATIVE PURCHASES. THE AUTHORITY SHALL ADOPT POLICIES, PROCEDURES AND PRACTICES, IN CONSULTATION WITH THE DEPARTMENT OF ADMINISTRATION, THAT ARE SIMILAR TO AND BASED ON THE POLICIES AND PROCEDURES PRESCRIBED BY THIS CHAPTER FOR THE PURPOSE OF INCREASED PUBLIC CONFIDENCE, FAIR AND EQUITABLE TREATMENT OF ALL PERSONS ENGAGED IN THE PROCESS AND FOSTERING BROAD COMPETITION WHILE ACCOMPLISHING FLEXIBILITY TO ACHIEVE THE AUTHORITY'S STATUTORY REQUIREMENTS. THE AUTHORITY SHALL MAKE ITS POLICIES, PROCEDURES AND PRACTICES AVAILABLE TO THE PUBLIC. THE AUTHORITY MAY EXEMPT SPECIFIC EXPENDITURES FROM THE POLICIES, PROCEDURES AND PRACTICES.

1 Sec. 68. Section 41-2706, Arizona Revised Statutes, is amended to
2 read:
3 41-2706. Applicability of chapter
4 A. This chapter applies to the solicitation of grants initiated after
5 August 6, 1999.
6 B. This chapter does not apply to:
7 1. Any grant program that was exempt from chapter 23, article 3 of
8 this title and for which administrative rules establishing grant solicitation
9 procedures were adopted pursuant to chapter 6 of this title before August 6,
10 1999.
11 2. The Arizona board of regents and schools, colleges, institutions
12 and universities under its control if the Arizona board of regents adopts
13 rules or policies governing the award of grants that encourage as much
14 competition as practicable.
15 3. Grants made by the cotton research and protection council for
16 research programs related to cotton production or protection.
17 4. Grants made by the Arizona iceberg lettuce research council for
18 research programs under section 3-526.02, subsection C, paragraph 3 or 5.
19 5. Grants made by the Arizona citrus research council for research
20 programs under section 3-468.02, subsection C, paragraph 3 or 5.
21 6. Grants made by the Arizona grain research and promotion council for
22 research projects and programs under section 3-584, subsection C,
23 paragraph 5.
24 7. Grants made under section 3-268, subsection C.
25 8. GRANTS MADE BY THE ARIZONA COMMERCE AUTHORITY FROM THE ARIZONA
26 COMPETES FUND PURSUANT TO CHAPTER 10, ARTICLE 5 OF THIS TITLE. WITH RESPECT
27 TO OTHER GRANTS, THE AUTHORITY SHALL ADOPT POLICIES, PROCEDURES AND
28 PRACTICES, IN CONSULTATION WITH THE DEPARTMENT OF ADMINISTRATION, THAT ARE
29 SIMILAR TO AND BASED ON THE POLICIES AND PROCEDURES PRESCRIBED BY THIS
30 CHAPTER FOR THE PURPOSE OF INCREASED PUBLIC CONFIDENCE, FAIR AND EQUITABLE
31 TREATMENT OF ALL PERSONS ENGAGED IN THE PROCESS AND FOSTERING BROAD
32 COMPETITION WHILE ACCOMPLISHING FLEXIBILITY TO ACHIEVE THE AUTHORITY'S
33 STATUTORY REQUIREMENTS. THE AUTHORITY SHALL MAKE ITS POLICIES, PROCEDURES
34 AND PRACTICES AVAILABLE TO THE PUBLIC.
35 Sec. 69. Section 41-2752, Arizona Revised Statutes, is amended to
36 read:
37 41-2752. State competition with private enterprise prohibited;
38 exceptions
39 A. A state agency shall not engage in the manufacturing, processing,
40 sale, offering for sale, rental, leasing, delivery, dispensing, distributing
41 or advertising of goods or services to the public that are also offered by
42 private enterprise unless specifically authorized by law other than
43 administrative law and executive orders.
44 B. A state agency shall not offer or provide goods or services to the
45 public for or through another state agency or a local agency, including by

intergovernmental or interagency agreement, in violation of this section or section 41-2753.

C. The restrictions on activities that compete with private enterprise contained in this section do not apply to:

1. The development, operation and management of state parks, historical monuments and hiking or equestrian trails.

2. Correctional industries established and operated by the state department of corrections if the prices charged for products sold by the correctional industries are not less than the actual cost of producing and marketing the product plus a reasonable allowance for overhead and administrative costs.

3. The Arizona office of tourism.

4. The Arizona highways magazine, operated by the department of transportation.

5. Printing and distributing information to the public if the agency is otherwise authorized to do so, and printing or copying public records or other material relating to the public agency's public business and recovering through fees and charges the costs of such printing, copying and distributing.

6. The department of public safety.

7. The construction, maintenance and operation of state transportation facilities.

8. The development, distribution, maintenance, support, licensing, leasing or sale of computer software by the department of transportation.

9. Agreements executed by the Arizona health care cost containment system administration with other states to design, develop, install and operate information technology systems and related services or other administrative services pursuant to section 36-2925.

10. Agreements executed by the department of economic security with other states to design, develop, install and operate support collection technology systems and related services. The department shall deposit, pursuant to sections 35-146 and 35-147, monies received pursuant to this paragraph in the public assistance collections fund established by section 46-295.

11. Educational, vocational, treatment, training or work programs of the department of juvenile corrections and contracts between the department of juvenile corrections and this state, a political subdivision of this state or a private entity in order to provide employment or vocational educational experience.

12. The aflatoxin control technologies of the cotton research and protection council.

13. The lease or sublease of lands or buildings by the department of economic security pursuant to section 41-1958.

14. THE ARIZONA COMMERCE AUTHORITY.

D. The restrictions on activities that compete with private enterprise contained in subsection A of this section do not apply to community colleges and universities under the jurisdiction of a governing board.

Sec. 70. Repeal

Sections 41-3011.04 and 41-3014.17, Arizona Revised Statutes, are repealed.

Sec. 71. Section 41-3015.01, Arizona Revised Statutes, is amended to read:

41-3015.01. Solar energy advisory council; termination July 1, 2015

A. The solar energy advisory council terminates on July 1, 2015.

B. Section ~~41-1510~~ 41-111 is repealed on January 1, 2016.

Sec. 72. Title 41, chapter 27, article 2, Arizona Revised Statutes, is amended by adding section 41-3016.29, to read:

41-3016.29. Arizona commerce authority; termination July 1, 2016

A. THE ARIZONA COMMERCE AUTHORITY TERMINATES ON JULY 1, 2016.

B. TITLE 41, CHAPTER 10 IS REPEALED ON JANUARY 1, 2017.

Sec. 73. Section 42-2003, Arizona Revised Statutes, is amended to read:

42-2003. Authorized disclosure of confidential information

A. Confidential information relating to:

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

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

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

4. An estate may be disclosed to the personal representative of the estate and to any heir, next of kin or beneficiary under the will of the decedent if the department finds that the heir, next of kin or beneficiary has a material interest which will be affected by the confidential information.

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

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

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

B. Confidential information may be disclosed to:

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

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

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

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

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

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

(b) A state tax official of another state.

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

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

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

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

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

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

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

(c) The collection of the taxpayer's civil liability.

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

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

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

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

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

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

12. The ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY for its use in:

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

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

(c) Qualifying renewable energy operations for the tax incentives under sections 42-12006, 43-1083.01 and 43-1164.01.

(d) Fulfilling its annual reporting responsibility pursuant to section 41-1511, subsections U and V and section 41-1517, subsections S and T.

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

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

15. The department of transportation for its use in administering taxes and surcharges prescribed by title 28.

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

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

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

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

1 taxpayer's civil liability, with respect to any tax imposed under this title
2 or title 43.
3 (c) The treatment of an item reflected on the taxpayer's return is
4 directly related to the resolution of an issue in the proceeding.
5 (d) Return information directly relates to a transactional
6 relationship between a person who is a party to the proceeding and the
7 taxpayer and directly affects the resolution of an issue in the proceeding.
8 2. Confidential information may not be disclosed under this subsection
9 if the disclosure is prohibited by section 42-2002, subsection C or D.
10 D. Identity information may be disclosed for purposes of notifying
11 persons entitled to tax refunds if the department is unable to locate the
12 persons after reasonable effort.
13 E. The department, upon the request of any person, shall provide the
14 names and addresses of bingo licensees as defined in section 5-401, verify
15 whether or not a person has a privilege license and number, a distributor's
16 license and number or a withholding license and number or disclose the
17 information to be posted on the department's website or otherwise publicly
18 accessible pursuant to section 42-1124, subsection F and section 42-3201,
19 subsection A.
20 F. A department employee, in connection with the official duties
21 relating to any audit, collection activity or civil or criminal
22 investigation, may disclose return information to the extent that disclosure
23 is necessary to obtain information which is not otherwise reasonably
24 available. These official duties include the correct determination of and
25 liability for tax, the amount to be collected or the enforcement of other
26 state tax revenue laws.
27 G. If an organization is exempt from this state's income tax as
28 provided in section 43-1201 for any taxable year, the name and address of the
29 organization and the application filed by the organization upon which the
30 department made its determination for exemption together with any papers
31 submitted in support of the application and any letter or document issued by
32 the department concerning the application are open to public inspection.
33 H. Confidential information relating to transaction privilege tax, use
34 tax, severance tax, jet fuel excise and use tax and rental occupancy tax may
35 be disclosed to any county, city or town tax official if the information
36 relates to a taxpayer who is or may be taxable by the county, city or town.
37 Any taxpayer information released by the department to the county, city or
38 town:
39 1. May only be used for internal purposes.
40 2. May not be disclosed to the public in any manner that does not
41 comply with confidentiality standards established by the department. The
42 county, city or town shall agree in writing with the department that any
43 release of confidential information that violates the confidentiality
44 standards adopted by the department will result in the immediate suspension

of any rights of the county, city or town to receive taxpayer information under this subsection.

I. The department may disclose statistical information gathered from confidential information if it does not disclose confidential information attributable to any one taxpayer. The department may disclose statistical information gathered from confidential information, even if it discloses confidential information attributable to a taxpayer, to:

1. The state treasurer in order to comply with the requirements of section 42-5029, subsection A, paragraph 3.

2. The joint legislative income tax credit review committee and the joint legislative budget committee staff in order to comply with the requirements of section 43-221.

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

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

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

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

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

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

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

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

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

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

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

U. For proceedings before the department, the office of administrative hearings, the board of tax appeals or any state or federal court involving penalties that were assessed against a return preparer, an electronic return preparer or a payroll service company pursuant to section 42-1103.02, 42-1125.01 or 43-419, confidential information may be disclosed only before the judge or administrative law judge adjudicating the proceeding, the parties to the proceeding and the parties' representatives in the proceeding prior to its introduction into evidence in the proceeding. The confidential information may be introduced as evidence in the proceeding only if the taxpayer's name, the names of any dependents listed on the return, all social security numbers, the taxpayer's address, the taxpayer's signature and any attachments containing any of the foregoing information are redacted and if either:

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

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

3. The method of payment of the taxpayer's withholding tax liability or the method of filing the taxpayer's withholding tax return is an issue for the period.

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

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

W. The department may provide the name and address of qualifying hospitals and qualifying health care organizations, as defined in section 42-5001, to a business classified and reporting transaction privilege tax under the utilities classification.

Sec. 74. Section 42-5029, Arizona Revised Statutes, is amended to read:

42-5029. Remission and distribution of monies; definition

A. The department shall deposit, pursuant to sections 35-146 and 35-147, all revenues collected under this article and articles 4, 5 and 8 of this chapter pursuant to section 42-1116, separately accounting for:

1. Payments of estimated tax under section 42-5014, subsection D.

2. Revenues collected pursuant to section 42-5070.

3. Revenues collected under this article and article 5 of this chapter from and after June 30, 2000 from sources located on Indian reservations in this state.

4. Revenues collected pursuant to section 42-5010, subsection G and section 42-5155, subsection D.

B. The department shall credit payments of estimated tax to an estimated tax clearing account and each month shall transfer all monies in the estimated tax clearing account to a fund designated as the transaction privilege and severance tax clearing account. The department shall credit all other payments to the transaction privilege and severance tax clearing account, separately accounting for the monies designated as distribution base under sections 42-5010, 42-5164, 42-5205 and 42-5353. Each month the department shall report to the state treasurer the amount of monies collected pursuant to this article and articles 4, 5 and 8 of this chapter.

C. On notification by the department, the state treasurer shall distribute the monies deposited in the transaction privilege and severance tax clearing account in the manner prescribed by this section and by sections 42-5164, 42-5205 and 42-5353, after deducting warrants drawn against the account pursuant to sections 42-1118 and 42-1254.

D. Of the monies designated as distribution base the department shall:

1. Pay twenty-five per cent to the various incorporated municipalities in this state in proportion to their population to be used by the municipalities for any municipal purpose.

2. Pay 38.08 per cent to the counties in this state by averaging the following proportions:

(a) The proportion that the population of each county bears to the total state population.

(b) The proportion that the distribution base monies collected during the calendar month in each county under this article, section 42-5164, subsection B, section 42-5205, subsection B and section 42-5353 bear to the total distribution base monies collected under this article, section 42-5164,

subsection B, section 42-5205, subsection B and section 42-5353 throughout the state for the calendar month.

3. Pay an additional 2.43 per cent to the counties in this state as follows:

(a) Average the following proportions:

(i) The proportion that the assessed valuation used to determine secondary property taxes of each county, after deducting that part of the assessed valuation that is exempt from taxation at the beginning of the month for which the amount is to be paid, bears to the total assessed valuations used to determine secondary property taxes of all the counties after deducting that portion of the assessed valuations that is exempt from taxation at the beginning of the month for which the amount is to be paid. Property of a city or town that is not within or contiguous to the municipal corporate boundaries and from which water is or may be withdrawn or diverted and transported for use on other property is considered to be taxable property in the county for purposes of determining assessed valuation in the county under this item.

(ii) The proportion that the distribution base monies collected during the calendar month in each county under this article, section 42-5164, subsection B, section 42-5205, subsection B and section 42-5353 bear to the total distribution base monies collected under this article, section 42-5164, subsection B, section 42-5205, subsection B and section 42-5353 throughout the state for the calendar month.

(b) If the proportion computed under subdivision (a) of this paragraph for any county is greater than the proportion computed under paragraph 2 of this subsection, the department shall compute the difference between the amount distributed to that county under paragraph 2 of this subsection and the amount that would have been distributed under paragraph 2 of this subsection using the proportion computed under subdivision (a) of this paragraph and shall pay that difference to the county from the amount available for distribution under this paragraph. Any monies remaining after all payments under this subdivision shall be distributed among the counties according to the proportions computed under paragraph 2 of this subsection.

4. After any distributions required by sections 42-5030, 42-5030.01, 42-5031, 42-5032 and 42-5032.01, and after making any transfer to the water quality assurance revolving fund as required by section 49-282, subsection B, credit the remainder of the monies designated as distribution base to the state general fund. From this amount:

(a) The legislature shall annually appropriate to:

(i) The department of revenue sufficient monies to administer and enforce this article and articles 5 and 8 of this chapter.

(ii) The department of economic security monies to be used for the purposes stated in title 46, chapter 1.

(iii) The firearms safety and ranges fund established by section 17-273, fifty thousand dollars derived from the taxes collected from the

retail classification pursuant to section 42-5061 for the current fiscal year.

(b) Subject to separate initial legislative authorization, each year the state treasurer shall transfer to the tourism fund an amount equal to the sum of the following:

(i) Three and one-half per cent of the gross revenues derived from the transient lodging classification pursuant to section 42-5070 during the preceding fiscal year.

(ii) Three per cent of the gross revenues derived from the amusement classification pursuant to section 42-5073 during the preceding fiscal year.

(iii) Two per cent of the gross revenues derived from the restaurant classification pursuant to section 42-5074 during the preceding fiscal year.

E. If approved by the qualified electors voting at a statewide general election, all monies collected pursuant to section 42-5010, subsection G and section 42-5155, subsection D shall be distributed each fiscal year pursuant to this subsection. The monies distributed pursuant to this subsection are in addition to any other appropriation, transfer or other allocation of public or private monies from any other source and shall not supplant, replace or cause a reduction in other school district, charter school, university or community college funding sources. The monies shall be distributed as follows:

1. If there are outstanding state school facilities revenue bonds pursuant to title 15, chapter 16, article 7, each month one-twelfth of the amount that is necessary to pay the fiscal year's debt service on outstanding state school improvement revenue bonds for the current fiscal year shall be transferred each month to the school improvement revenue bond debt service fund established by section 15-2084. The total amount of bonds for which these monies may be allocated for the payment of debt service shall not exceed a principal amount of eight hundred million dollars exclusive of refunding bonds and other refinancing obligations.

2. After any transfer of monies pursuant to paragraph 1 of this subsection, twelve per cent of the remaining monies collected during the preceding month shall be transferred to the technology and research initiative fund established by section 15-1648 to be distributed among the universities for the purpose of investment in technology and research-based initiatives.

3. After the transfer of monies pursuant to paragraph 1 of this subsection, three per cent of the remaining monies collected during the preceding month shall be transferred to the workforce development account established in each community college district pursuant to section 15-1472 for the purpose of investment in workforce development programs.

4. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, one-twelfth of the amount a community college that is owned, operated or chartered by a qualifying Indian tribe on its own Indian reservation would receive pursuant to section 15-1472, subsection D,

paragraph 2 if it were a community college district shall be distributed each month to the treasurer or other designated depository of a qualifying Indian tribe. Monies distributed pursuant to this paragraph are for the exclusive purpose of providing support to one or more community colleges owned, operated or chartered by a qualifying Indian tribe and shall be used in a manner consistent with section 15-1472, subsection B. For the purposes of this paragraph, "qualifying Indian tribe" has the same meaning as defined in section 42-5031.01, subsection D.

5. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, one-twelfth of the following amounts shall be transferred each month to the department of education for the increased cost of basic state aid under section 15-971 due to added school days and associated teacher salary increases enacted in 2000:

(a) In fiscal year 2001-2002, $15,305,900.

(b) In fiscal year 2002-2003, $31,530,100.

(c) In fiscal year 2003-2004, $48,727,700.

(d) In fiscal year 2004-2005, $66,957,200.

(e) In fiscal year 2005-2006 and each fiscal year thereafter, $86,280,500.

6. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, seven million eight hundred thousand dollars is appropriated each fiscal year, to be paid in monthly installments, to the department of education to be used for school safety as provided in section 15-154 and two hundred thousand dollars is appropriated each fiscal year, to be paid in monthly installments to the department of education to be used for the character education matching grant program as provided in section 15-154.01.

7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, no more than seven million dollars may be appropriated by the legislature each fiscal year to the department of education to be used for accountability purposes as described in section 15-241 and title 15, chapter 9, article 8.

8. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, one million five hundred thousand dollars is appropriated each fiscal year, to be paid in monthly installments, to the failing schools tutoring fund established by section 15-241.

9. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, twenty-five million dollars shall be transferred each fiscal year to the state general fund to reimburse the general fund for the cost of the income tax credit allowed by section 43-1072.01.

10. After the payment of monies pursuant to paragraphs 1 through 9 of this subsection, the remaining monies collected during the preceding month shall be transferred to the classroom site fund established by section 15-977. The monies shall be allocated as follows in the manner prescribed by section 15-977:

(a) Forty per cent shall be allocated for teacher compensation based on performance.

(b) Twenty per cent shall be allocated for increases in teacher base compensation and employee related expenses.

(c) Forty per cent shall be allocated for maintenance and operation purposes.

F. The department shall credit the remainder of the monies in the transaction privilege and severance tax clearing account to the state general fund, subject to any distribution required by section 42-5030.01.

G. Notwithstanding subsection D of this section, if a court of competent jurisdiction finally determines that tax monies distributed under this section were illegally collected under this article or articles 5 and 8 of this chapter and orders the monies to be refunded to the taxpayer, the department shall compute the amount of such monies that was distributed to each city, town and county under this section. The department shall notify the state treasurer of that amount plus the proportionate share of additional allocated costs required to be paid to the taxpayer. Each city's, town's and county's proportionate share of the costs shall be based on the amount of the original tax payment each municipality and county received. Each month the state treasurer shall reduce the amount otherwise distributable to the city, town and county under this section by one thirty-sixth of the total amount to be recovered from the city, town or county until the total amount has been recovered, but the monthly reduction for any city, town or county shall not exceed ten per cent of the full monthly distribution to that entity. The reduction shall begin for the first calendar month after the final disposition of the case and shall continue until the total amount, including interest and costs, has been recovered.

H. On receiving a certificate of default from the greater Arizona development authority pursuant to section ~~41-1554.06~~ 41-2257 or ~~41-1554.07~~ 41-2258 and to the extent not otherwise expressly prohibited by law, the state treasurer shall withhold from the next succeeding distribution of monies pursuant to this section due to the defaulting political subdivision the amount specified in the certificate of default and immediately deposit the amount withheld in the greater Arizona development authority revolving fund. The state treasurer shall continue to withhold and deposit the monies until the greater Arizona development authority certifies to the state treasurer that the default has been cured. In no event may the state treasurer withhold any amount that the defaulting political subdivision certifies to the state treasurer and the authority as being necessary to make any required deposits then due for the payment of principal and interest on bonds of the political subdivision that were issued before the date of the loan repayment agreement or bonds and that have been secured by a pledge of distributions made pursuant to this section.

I. Except as provided by sections 42-5033 and 42-5033.01, the population of a county, city or town as determined by the most recent United

States decennial census plus any revisions to the decennial census certified by the United States bureau of the census shall be used as the basis for apportioning monies pursuant to subsection D of this section.

J. Except as otherwise provided by this subsection, on notice from the department of revenue pursuant to section 42-6010, subsection B, the state treasurer shall withhold from the distribution of monies pursuant to this section to the affected city or town the amount of the penalty for business location municipal tax incentives provided by the city or town to a business entity that locates a retail business facility in the city or town. The state treasurer shall continue to withhold monies pursuant to this subsection until the entire amount of the penalty has been withheld. The state treasurer shall credit any monies withheld pursuant to this subsection to the state general fund as provided by subsection D, paragraph 4 of this section. The state treasurer shall not withhold any amount that the city or town certifies to the department of revenue and the state treasurer as being necessary to make any required deposits or payments for debt service on bonds or other long-term obligations of the city or town that were issued or incurred before the location incentives provided by the city or town.

K. On notice from the auditor general pursuant to section 9-626, subsection D, the state treasurer shall withhold from the distribution of monies pursuant to this section to the affected city the amount computed pursuant to section 9-626, subsection D. The state treasurer shall continue to withhold monies pursuant to this subsection until the entire amount specified in the notice has been withheld. The state treasurer shall credit any monies withheld pursuant to this subsection to the state general fund as provided by subsection D, paragraph 4 of this section.

L. For the purposes of this section, "community college district" means a community college district that is established pursuant to sections 15-1402 and 15-1403 and that is a political subdivision of this state.

Sec. 75. Section 42-5159, Arizona Revised Statutes, is amended to read:

42-5159. <u>Exemptions</u>

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13. Tangible personal property purchased by:

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

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

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

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

(e) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind, visually impaired and multihandicapped children from the time of birth to age twenty-one.

(f) A nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for mentally or physically handicapped persons if the programs are exclusively for training, job placement, rehabilitation or testing.

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

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

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

(iii) Incorporated or fabricated by the person into any lake facility development in a commercial enhancement reuse district under conditions prescribed for the deduction allowed by section 42-5075, subsection B, paragraph 8.

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

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

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

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

(l) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

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

15. Tangible personal property sold by:

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

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

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

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

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

18. Prescription eyeglasses and contact lenses.

19. Insulin, insulin syringes and glucose test strips.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Public educational institutions.

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

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

34. Machinery, equipment, technology or related supplies that are only useful to assist a person who is physically disabled as defined in section 46-191, has a developmental disability as defined in section 36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

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

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

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

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

39. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government

1 under the terms of the contract or subcontract. For the purposes of this
2 paragraph:
3 (a) "Overhead materials" means tangible personal property, the gross
4 proceeds of sales or gross income derived from which would otherwise be
5 included in the retail classification, and which are used or consumed in the
6 performance of a contract, the cost of which is charged to an overhead
7 expense account and allocated to various contracts based upon generally
8 accepted accounting principles and consistent with government contract
9 accounting standards.
10 (b) "Subcontract" means an agreement between a contractor and any
11 person who is not an employee of the contractor for furnishing of supplies or
12 services that, in whole or in part, are necessary to the performance of one
13 or more government contracts, or under which any portion of the contractor's
14 obligation under one or more government contracts is performed, undertaken or
15 assumed, and that includes provisions causing title to overhead materials or
16 other tangible personal property used in the performance of the subcontract
17 to pass to the government or that includes provisions incorporating such
18 title passing clauses in a government contract into the subcontract.
19 40. Through December 31, 1994, tangible personal property sold pursuant
20 to a personal property liquidation transaction, as defined in section
21 42-5061. From and after December 31, 1994, tangible personal property sold
22 pursuant to a personal property liquidation transaction, as defined in
23 section 42-5061, if the gross proceeds of the sales were included in the
24 measure of the tax imposed by article 1 of this chapter or if the personal
25 property liquidation was a casual activity or transaction.
26 41. Wireless telecommunications equipment that is held for sale or
27 transfer to a customer as an inducement to enter into or continue a contract
28 for telecommunications services that are taxable under section 42-5064.
29 42. Alternative fuel, as defined in section 1-215, purchased by a used
30 oil fuel burner who has received a permit to burn used oil or used oil fuel
31 under section 49-426 or 49-480.
32 43. Tangible personal property purchased by a commercial airline and
33 consisting of food, beverages and condiments and accessories used for serving
34 the food and beverages, if those items are to be provided without additional
35 charge to passengers for consumption in flight. For the purposes of this
36 paragraph, "commercial airline" means a person holding a federal certificate
37 of public convenience and necessity or foreign air carrier permit for air
38 transportation to transport persons, property or United States mail in
39 intrastate, interstate or foreign commerce.
40 44. Alternative fuel vehicles if the vehicle was manufactured as a
41 diesel fuel vehicle and converted to operate on alternative fuel and
42 equipment that is installed in a conventional diesel fuel motor vehicle to
43 convert the vehicle to operate on an alternative fuel, as defined in section
44 1-215.

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

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

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

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

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

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

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

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

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

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

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

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

2. Machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or

transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

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

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

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

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

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

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

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

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

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

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

11. Buses or other urban mass transit vehicles which are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and which are sold to bus companies holding a federal certificate of convenience and necessity

or operated by any city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

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

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

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

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

14. Machinery or equipment used in research and development. For the purposes of this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

15. Machinery and equipment that are purchased by or on behalf of the owners of a soundstage complex and primarily used for motion picture, multimedia or interactive video production in the complex. This paragraph applies only if the initial construction of the soundstage complex begins after June 30, 1996 and before January 1, 2002 and the machinery and equipment are purchased before the expiration of five years after the start of initial construction. For the purposes of this paragraph:

(a) "Motion picture, multimedia or interactive video production" includes products for theatrical and television release, educational presentations, electronic retailing, documentaries, music videos, industrial films, CD-ROM, video game production, commercial advertising and television episode production and other genres that are introduced through developing technology.

(b) "Soundstage complex" means a facility of multiple stages including production offices, construction shops and related areas, prop and costume shops, storage areas, parking for production vehicles and areas that are

leased to businesses that complement the production needs and orientation of the overall facility.

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

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

(b) Any satellite television or data transmission facility, if both of the following conditions are met:

(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations part 25.

(ii) Over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services.

For the purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

17. Clean rooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph 14 of this subsection, of semiconductor products. For the purposes of this paragraph, "clean room" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

18. Machinery and equipment that are used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

19. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating,

job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

20. Machinery and equipment that are used in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state and that are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

21. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:

(a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.

(b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.

(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

22. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2014 by a qualified business under section 41-1516 for harvesting or the initial processing of qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this exemption, the qualified business must obtain and present its certification from the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY at the time of purchase.

23. Machinery, equipment and other tangible personal property used directly in motion picture production by a motion picture production company. To qualify for this exemption, at the time of purchase, the motion picture production company must present to the retailer its certificate that is issued pursuant to section 42-5009, subsection H and that establishes its qualification for the exemption.

C. The exemptions provided by subsection B of this section do not include:

1. Expendable materials. For the purposes of this paragraph, expendable materials do not include any of the categories of tangible

1 personal property specified in subsection B of this section regardless of the
2 cost or useful life of that property.
3 2. Janitorial equipment and hand tools.
4 3. Office equipment, furniture and supplies.
5 4. Tangible personal property used in selling or distributing
6 activities, other than the telecommunications transmissions described in
7 subsection B, paragraph 16 of this section.
8 5. Motor vehicles required to be licensed by this state, except buses
9 or other urban mass transit vehicles specifically exempted pursuant to
10 subsection B, paragraph 11 of this section, without regard to the use of such
11 motor vehicles.
12 6. Shops, buildings, docks, depots and all other materials of whatever
13 kind or character not specifically included as exempt.
14 7. Motors and pumps used in drip irrigation systems.
15 D. The following shall be deducted in computing the purchase price of
16 electricity by a retail electric customer from a utility business:
17 1. Revenues received from sales of ancillary services, electric
18 distribution services, electric generation services, electric transmission
19 services and other services related to providing electricity to a retail
20 electric customer who is located outside this state for use outside this
21 state if the electricity is delivered to a point of sale outside this state.
22 2. Revenues received from providing electricity, including ancillary
23 services, electric distribution services, electric generation services,
24 electric transmission services and other services related to providing
25 electricity with respect to which the transaction privilege tax imposed under
26 section 42-5063 has been paid.
27 E. The tax levied by this article does not apply to:
28 1. The storage, use or consumption in Arizona of machinery, equipment,
29 materials or other tangible personal property if used directly and
30 predominantly to construct a qualified environmental technology
31 manufacturing, producing or processing facility, as described in section
32 41-1514.02. This paragraph applies for ten full consecutive calendar or
33 fiscal years after the start of initial construction.
34 2. The purchase of electricity by a qualified environmental technology
35 manufacturer, producer or processor as defined in section 41-1514.02 that is
36 used directly in environmental technology manufacturing, producing or
37 processing. This paragraph shall apply for twenty full consecutive calendar
38 or fiscal years from the date the first paper manufacturing machine is placed
39 in service. In the case of an environmental technology manufacturer,
40 producer or processor who does not manufacture paper, the time period shall
41 begin with the date the first manufacturing, processing or production
42 equipment is placed in service.
43 3. The purchase of solar energy devices from a retailer that is
44 registered with the department as a solar energy retailer or a solar energy
45 contractor.

F. The following shall be deducted in computing the purchase price of electricity by a retail electric customer from a utility business:

1. Fees charged by a municipally owned utility to persons constructing residential, commercial or industrial developments or connecting residential, commercial or industrial developments to a municipal utility system or systems if the fees are segregated and used only for capital expansion, system enlargement or debt service of the utility system or systems.

2. Reimbursement or contribution compensation to any person or persons owning a utility system for property and equipment installed to provide utility access to, on or across the land of an actual utility consumer if the property and equipment become the property of the utility. This deduction shall not exceed the value of such property and equipment.

G. For the purposes of subsection B of this section:

1. "Aircraft" includes:

(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.

(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

2. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

H. For the purposes of subsection D of this section, "ancillary services", "electric distribution service", "electric generation service", "electric transmission service" and "other services" have the same meanings prescribed in section 42-5063.

Sec. 76. Section 42-11127, Arizona Revised Statutes, is amended to read:

42-11127. Exempt personal property

A. Pursuant to article IX, section 2, subsection (6), Constitution of Arizona, personal property that is class two property pursuant to section 42-12002, paragraph 2, subdivision (a) or (b) that is used for agricultural purposes or personal property that is class one property pursuant to section 42-12001 that is used in a trade or business as described in section 42-12001, paragraphs 8 through 11 or 13 is exempt from taxation up to a maximum amount of fifty thousand dollars of full cash value for each taxpayer.

B. On or before December 31 OF each year THROUGH 2010, the department shall increase the maximum amount of the exemption for the following tax year THROUGH 2011 based on the average annual percentage increase, if any, in the GDP price deflator in the two most recent complete state fiscal years.

~~C. In~~ FOR THE PURPOSES OF this ~~section~~ SUBSECTION, "GDP price deflator" means the average of the four implicit price deflators for the

gross domestic product reported by the United States department of commerce or its successor for the four quarters of the state fiscal year.

C. ON OR BEFORE DECEMBER 31 OF EACH YEAR BEGINNING IN 2011, THE DEPARTMENT SHALL INCREASE THE MAXIMUM AMOUNT OF THE EXEMPTION FOR THE FOLLOWING TAX YEAR BEGINNING IN 2012 BASED ON THE AVERAGE ANNUAL PERCENTAGE INCREASE, IF ANY, IN THE EMPLOYMENT COST INDEX IN THE TWO MOST RECENT COMPLETE STATE FISCAL YEARS. FOR THE PURPOSES OF THIS SUBSECTION, "EMPLOYMENT COST INDEX" MEANS THE AVERAGE OF THE FOUR EMPLOYMENT COST INDICES REPORTED BY THE BUREAU OF LABOR STATISTICS OF THE UNITED STATES DEPARTMENT OF LABOR OR ITS SUCCESSOR FOR THE FOUR QUARTERS OF THE STATE FISCAL YEAR.

Sec. 77. Section 42-12003, Arizona Revised Statutes, is amended to read:

42-12003. Class three property; definition

A. For purposes of taxation, class three is established consisting of real and personal property and improvements to the property that are used ~~for residential purposes~~ AS THE OWNER'S PRIMARY RESIDENCE OR LEASED OR RENTED TO A RELATIVE OF THE OWNER, AS PROVIDED BY SECTION 42-12053, AND USED AS THE RELATIVE'S PRIMARY RESIDENCE, that are not otherwise included in class one, two, four, six, seven or eight and that are valued at full cash value. ONLY AN OWNER'S OR A RELATIVE'S PRIMARY RESIDENCE MAY BE CLASSIFIED AS CLASS THREE, EXCEPT THAT the homesite that is included in class three may include:

1. Up to ten acres on a single parcel of real property on which the residential improvement is located.

2. More than ten, but not more than forty, acres on a single parcel of real property on which the residential improvement is located if it is zoned exclusively for residential purposes or contains legal restrictions or physical conditions that prevent the division of the parcel.

B. For THE purposes of this section, "physical conditions" means topography, mountains, washes, rivers, roads or any other configuration that limits the residential usable land area.

Sec. 78. Section 42-12004, Arizona Revised Statutes, is amended to read:

42-12004. Class four property

A. For purposes of taxation, class four is established consisting of:

1. REAL AND PERSONAL PROPERTY AND IMPROVEMENTS TO THE PROPERTY THAT ARE USED FOR RESIDENTIAL PURPOSES, INCLUDING RESIDENTIAL PROPERTY THAT IS OWNED IN FORECLOSURE BY A FINANCIAL INSTITUTION, THAT IS NOT OTHERWISE INCLUDED IN ANOTHER CLASSIFICATION AND THAT IS VALUED AT FULL CASH VALUE. THE HOMESITE THAT IS INCLUDED IN CLASS FOUR MAY INCLUDE:

(a) UP TO TEN ACRES ON A SINGLE PARCEL OF REAL PROPERTY ON WHICH THE RESIDENTIAL IMPROVEMENT IS LOCATED.

(b) MORE THAN TEN, BUT NOT MORE THAN FORTY, ACRES ON A SINGLE PARCEL OF REAL PROPERTY ON WHICH THE RESIDENTIAL IMPROVEMENT IS LOCATED IF IT IS ZONED EXCLUSIVELY FOR RESIDENTIAL PURPOSES OR CONTAINS LEGAL RESTRICTIONS OR PHYSICAL CONDITIONS THAT PREVENT THE DIVISION OF THE PARCEL. FOR THE

PURPOSES OF THIS PARAGRAPH, "PHYSICAL CONDITIONS" MEANS TOPOGRAPHY, MOUNTAINS, WASHES, RIVERS, ROADS OR ANY OTHER CONFIGURATION THAT LIMITS THE RESIDENTIAL USABLE LAND AREA.

~~1.~~ 2. Real and personal property and improvements to the property that are used solely as leased or rented property for residential purposes, that are not included in class one, two, three, six, seven or eight and that are valued at full cash value.

~~2.~~ 3. Child care facilities that are licensed under title 36, chapter 7.1 and that are valued at full cash value.

~~3.~~ 4. Real and personal property and improvements to property that are used to operate nonprofit residential housing facilities that are structured to house or care for persons who are handicapped or sixty-two years of age or older and that are valued at full cash value.

~~4.~~ 5. Real and personal property and improvements that are used to operate licensed residential care institutions or licensed nursing care institutions that provide medical services, nursing services or health related services and that are structured to house or care for persons who are handicapped or sixty-two years of age or older and that are valued at full cash value.

~~5.~~ 6. Real and personal property consisting of no more than six rooms of owner-occupied residential property that are leased or rented to transient lodgers at no more than a fifty per cent average annual occupancy rate, together with furnishing no more than a breakfast meal, by the owner of the property and that is valued at full cash value.

~~6.~~ 7. Real and personal property consisting of residential dwellings that are maintained for occupancy by agricultural employees as a condition of employment or as a convenience to the employer, that is not included in class three and that is valued at full cash value. The land associated with these dwellings shall be valued as agricultural land pursuant to chapter 13, article 3 of this title.

~~7.~~ 8. Real property and improvements to property constituting common areas that are valued pursuant to chapter 13, article 9 of this title.

~~8.~~ 9. Real and personal property that is defined as timeshare property by section 32-2197 and valued pursuant to chapter 13, article 10 of this title, except for any property used for commercial, industrial or transient occupancy purposes and included in class one to the extent of that use.

B. Subsection A, paragraphs ~~3 and~~ 4 AND 5 of this section shall not be construed to limit eligibility for exemption from taxation under chapter 11, article 3 of this title.

Sec. 79. Section 42-12006, Arizona Revised Statutes, is amended to read:

42-12006. <u>Class six property</u>

For purposes of taxation, class six is established consisting of:

1. Noncommercial historic property as defined in section 42-12101 and valued at full cash value.

2. Real and personal property that is located within the area of a foreign trade zone or subzone established under 19 United States Code section 81 and title 44, chapter 18, that is activated for foreign trade zone use by the district director of the United States customs service pursuant to 19 Code of Federal Regulations section 146.6 and that is valued at full cash value. Property that is classified under this paragraph shall not thereafter be classified under paragraph ~~7~~ 6 of this section.

3. Real and personal property and improvements that are located in a military reuse zone that is established under title 41, chapter 10, article 3 and that is devoted to providing aviation or aerospace services or to manufacturing, assembling or fabricating aviation or aerospace products, valued at full cash value and subject to the following terms and conditions:

(a) Property may not be classified under this paragraph for more than five tax years.

(b) Any new addition or improvement to property already classified under this paragraph qualifies separately for classification under this paragraph for not more than five tax years.

(c) If a military reuse zone is terminated, the property in that zone that was previously classified under this paragraph shall be reclassified as prescribed by this article.

(d) Property that is classified under this paragraph shall not thereafter be classified under paragraph ~~4 or 7~~ 6 of this section.

~~4. Real and personal property and improvements that are located in an enterprise zone, that are owned or used by a small manufacturing or small commercial printing business that is certified by the department of commerce pursuant to section 41-1525.01 and that are valued at full cash value, subject to the following terms and conditions:~~

~~(a) Property may not be classified under this paragraph for more than five tax years.~~

~~(b) Property that is classified under this paragraph shall not thereafter be classified under paragraph 3 or 7 of this section.~~

~~5.~~ 4. Real and personal property and improvements or a portion of such property comprising ~~a qualified~~ AN environmental technology manufacturing, producing or processing facility ~~as described in~~ THAT QUALIFIED UNDER section 41-1514.02, valued at full cash value and subject to the following terms and conditions:

(a) Property shall be classified under this paragraph for twenty tax years from the date placed in service.

(b) Any addition or improvement to property already classified under this paragraph qualifies separately for classification under this subdivision for an additional twenty tax years from the date placed in service.

(c) After revocation of certification under section 41-1514.02, property that was previously classified under this paragraph shall be reclassified as prescribed by this article.

(d) Property that is classified under this paragraph shall not thereafter be classified under paragraph ~~7~~ 6 of this section.

~~6.~~ 5. That portion of real and personal property that is used on or after January 1, 1999 specifically and solely for remediation of the environment by an action that has been determined to be reasonable and necessary to respond to the release or threatened release of a hazardous substance by the department of environmental quality pursuant to section 49-282.06 or pursuant to its corrective action authority under rules adopted pursuant to section 49-922, subsection B, paragraph 4 or by the United States environmental protection agency pursuant to the national contingency plan (40 Code of Federal Regulations part 300) and that is valued at full cash value. Property that is not being used specifically and solely for the remediation objectives described in this paragraph shall not be classified under this paragraph. For the purposes of this paragraph, "remediation of the environment" means one or more of the following actions:

(a) Monitoring, assessing or evaluating the release or threatened release.

(b) Excavating, removing, transporting, treating and disposing of contaminated soil.

(c) Pumping and treating contaminated water.

(d) Treatment, containment or removal of contaminants in groundwater or soil.

~~7.~~ 6. Real and personal property and improvements constructed or installed from and after December 31, 2004 through December 31, 2010 and owned by a qualified business under section 41-1516 and used solely for the purpose of harvesting, transporting or the initial processing of qualifying forest products removed from qualifying projects as defined in section 41-1516. The classification under this paragraph is subject to the following terms and conditions:

(a) Property may be initially classified under this paragraph only in valuation years 2005 through 2010.

(b) Property may not be classified under this paragraph for more than five years.

(c) Any new addition or improvement, constructed or installed from and after December 31, 2004 through December 31, 2010, to property already classified under this paragraph qualifies separately for classification and assessment under this paragraph for not more than five years.

(d) Property that is classified under this paragraph shall not thereafter be classified under paragraph 2, 3~~,~~ OR 4 ~~or 5~~ of this section.

~~8.~~ 7. Real and personal property and improvements to the property that are used specifically and solely to manufacture from and after December 31, 2006 through December 31, 2016 biodiesel fuel that is one hundred per

cent biodiesel and its by-products and that are valued at full cash value. This paragraph applies only to the portion of property that is used specifically for manufacturing and processing one hundred per cent biodiesel fuel, or its related by-products, from raw feedstock obtained from off-site sources, including necessary on-site storage facilities that are intrinsically associated with the manufacturing process. Any other commercial or industrial use disqualifies the entire property from classification under this paragraph.

~~9.~~ 8. Real and personal property and improvements that are certified pursuant to section 41-1511, subsection C, paragraph 2 and that are used for renewable energy manufacturing or headquarters operations as provided by section 42-12057. This paragraph applies only to property that is used in manufacturing and headquarters operations of renewable energy companies, including necessary on-site research and development, testing and storage facilities that are associated with the manufacturing process. Up to ten per cent of the aggregate full cash value of the property may be derived from uses that are ancillary to and intrinsically associated with the manufacturing process or headquarters operation. Any additional ancillary property is not qualified for classification under this paragraph. No new properties may be classified pursuant to this paragraph from and after December 31, 2014. Classification under this paragraph is limited to the time periods determined by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY pursuant to section 41-1511, subsection C, paragraph 2, subdivision (a) or (b). Property that is classified under this paragraph shall not thereafter be classified under any other paragraph of this section.

Sec. 80. Section 42-12052, Arizona Revised Statutes, is amended to read:

42-12052. Review and verification of class three property; owner's affidavit and notice; civil penalty; appeals

A. Each county assessor shall review assessment information, on a continuing basis, to ensure proper classification of residential dwellings. The assessor may enter into intergovernmental agreements with the department for an exchange of information to ensure a coordinated and comprehensive review and identification of property that may be rented while classified as class three pursuant to section 42-12003.

B. BEGINNING IN 2012 AND EACH EVEN-NUMBERED YEAR THEREAFTER THE COUNTY ASSESSOR SHALL INCLUDE WITH THE NOTICE OF FULL CASH VALUE SENT TO OWNERS OF CLASS THREE PROPERTY PURSUANT TO SECTION 42-15101 AN AFFIDAVIT, IN A FORM PRESCRIBED BY THE DEPARTMENT, ON WHICH THE OWNER MUST DECLARE, UNDER PENALTY OF PERJURY, WHETHER THE PROPERTY IS THE OWNER'S PRIMARY RESIDENCE, OR LEASED OR RENTED TO A RELATIVE OF THE OWNER, AS PROVIDED BY SECTION 42-12053, AND USED AS THE RELATIVE'S PRIMARY RESIDENCE, IN THE CURRENT VALUATION YEAR. THE OWNER MUST RETURN THE COMPLETED AFFIDAVIT FORM TO THE COUNTY ASSESSOR WITHIN SIXTY DAYS. IF THE OWNER INDICATES ON THE AFFIDAVIT THAT THE PROPERTY IS NOT

THE OWNER'S OR RELATIVE'S PRIMARY RESIDENCE, IF THE OWNER INDICATES ON MORE THAN ONE AFFIDAVIT THAT MORE THAN ONE PARCEL IS THE OWNER'S PRIMARY RESIDENCE, OR IF THE OWNER FAILS TO RETURN THE AFFIDAVIT TIMELY TO THE ASSESSOR, THE ASSESSOR SHALL RECLASSIFY THE PROPERTY AS CLASS FOUR PURSUANT TO SECTION 42-12004 OR IN ANOTHER CLASSIFICATION ACCORDING TO THE PROPERTY'S USE AND WITHIN FIFTEEN DAYS NOTIFY THE OWNER OF THE RECLASSIFICATION AND OF THE OWNER'S THE RIGHT TO APPEAL THE RECLASSIFICATION. IF FOR ANY REASON AN OWNER BELIEVES THAT RECLASSIFICATION PURSUANT TO THIS SUBSECTION IS ERRONEOUS, THE OWNER MAY FILE A NOTICE OF CLAIM WITH THE ASSESSOR PURSUANT TO SECTION 42-16254 TO RESOLVE THE CORRECT CLASSIFICATION.

~~B.~~ C. If the assessor has reason to believe that a parcel of property that is classified as class three pursuant to section 42-12003 IS NOT USED AS THE OWNER'S PRIMARY RESIDENCE OR is being rented, the assessor shall notify the owner, in a form prescribed by the department as provided by subsection ~~H~~ D of this section, and request that the owner respond as to whether the property is occupied ~~by the owner~~ AS THE OWNER'S PRIMARY RESIDENCE, IS A SECONDARY RESIDENCE or is used as a rental property. IF THE OWNER RESPONDS THAT THE PROPERTY IS NOT THE OWNER'S PRIMARY RESIDENCE, OR if the owner fails to respond to the assessor within thirty days after the notice is mailed, the assessor shall mail the owner a final notice WITHIN THIRTY DAYS requesting that the owner provide information as to whether or not the property is ~~occupied by the owner~~ THE OWNER'S PRIMARY RESIDENCE, A SECONDARY RESIDENCE or used as a rental property.

~~C.~~ If the owner fails to respond to the assessor within fifteen days after the final notice is mailed, the assessor shall:

1. Reclassify the property as class four. IN ADDITION TO OTHER APPEAL PROCEDURES PROVIDED BY LAW, THE OWNER OF THE PROPERTY THAT IS RECLASSIFIED AS CLASS FOUR UNDER THIS PARAGRAPH MAY APPEAL THE RECLASSIFICATION TO THE COUNTY BOARD OF SUPERVISORS WITHIN THIRTY DAYS AFTER THE NOTICE OF CLASSIFICATION IS MAILED. IF THE OWNER PROVES TO THE BOARD'S SATISFACTION THAT THE PROPERTY IS OCCUPIED AS THE OWNER'S PRIMARY RESIDENCE, THE BOARD SHALL ORDER THE PROPERTY TO BE RECLASSIFIED AS CLASS THREE PROPERTY PURSUANT TO SECTION 42-12003.

2. Notify the county treasurer who shall assess a civil penalty against the property equal to twice the amount of ~~the property taxes that would have been levied against the property if the property had been classified as class four pursuant to section 42-12004~~ ADDITIONAL STATE AID PAID PURSUANT TO SECTION 15-972 WITH RESPECT TO THE PROPERTY in the preceding tax year.

~~D.~~ The owner of the property shall pay a penalty under ~~subsection C,~~ THIS paragraph ~~2 of this section~~ to the county treasurer within thirty days after the notice of the penalty is mailed.

~~E.~~ The owner may appeal the penalty to the county board of supervisors within the time required for payment. If the owner proves to the board's satisfaction that the property is occupied by the owner, the board shall waive the penalty, and the property shall be listed as class three pursuant

to section 42-12003. Until paid or waived, the penalty constitutes a lien against the property.

~~F. In addition to other appeal procedures provided by law, the owner of property that is reclassified as class four under subsection C, paragraph 1 of this section may appeal the reclassification to the county board of supervisors within thirty days after the notice of classification is mailed. If the owner proves to the board's satisfaction that the owner occupies the property, the board shall order the property to be reclassified as class three property pursuant to section 42-12003.~~

~~G.~~ The county treasurer shall deposit all revenue received from penalties assessed under this ~~section~~ PARAGRAPH in the county general fund.

~~H.~~ D. The department shall:

1. Prescribe all forms used to notify property owners under this section. The forms shall contain information as to criteria for the reclassification of property and the civil penalties that may result if the owner fails to respond to the notice.

2. Monitor and review the procedures and practices used by assessors and treasurers to accomplish the ~~review and~~ verification of class three property and the assessment and collection of penalties prescribed by this section and propose suggested improvements to establish uniform processes and performance among the counties.

E. THE DEPARTMENT MAY INSPECT THE RECORDS OF COUNTY ASSESSORS AND COUNTY TREASURERS TO DETERMINE COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION AND THE ACCURACY OF THE CLASSIFICATION OF OWNER-OCCUPIED RESIDENTIAL PROPERTY AND RENTAL PROPERTY.

Sec. 81. Section 42-12053, Arizona Revised Statutes, is amended to read:

42-12053. <u>Criteria for distinguishing residential property from rental property and the owner's primary residence</u>

A. For the purpose of classifying residential property under sections 42-12003, 42-12004 and 42-12052, a parcel is not considered rental property and shall be classified as class three property, if either:

1. The property was not rented by the owner for more than three months in the preceding twelve consecutive months and the owner does not intend to rent it for more than three months during the next twelve consecutive months.

2. The owner rents the property to a member of the owner's family, who must be:

(a) The owner's natural or adopted child or a descendant of the owner's child.

(b) The owner's parent or an ancestor of the owner's parent.

(c) The owner's stepchild or stepparent.

(d) The owner's child-in-law or parent-in-law.

(e) The owner's natural or adopted sibling.

B. FOR THE PURPOSE OF CLASSIFYING OWNER-OCCUPIED RESIDENTIAL PROPERTY UNDER SECTIONS 42-12003, 42-12004 AND 42-12052, THE DEPARTMENT SHALL ADOPT

STANDARD CRITERIA FOR USE IN DETERMINING WHETHER THE PROPERTY IS CONSIDERED TO BE THE OWNER'S OR RELATIVE'S PRIMARY RESIDENCE, INCLUDING:

1. THE PERIOD OF OCCUPANCY EACH YEAR.
2. THE OWNER'S REGISTERED VOTING PRECINCT.
3. THE OWNER'S DRIVER LICENSE ADDRESS.
4. THE REGISTRATION ADDRESS OF THE OWNER'S MOTOR VEHICLES.
5. OTHER APPROPRIATE INDICATORS OF PRIMARY RESIDENCY.

Sec. 82. Section 42-12054, Arizona Revised Statutes, is amended to read:

42-12054. Change in classification of owner-occupied residence

A. If a person purchases or converts property that is listed as class one, paragraph 12~~,~~ OR class two ~~or class four~~ pursuant to article 1 of this chapter and occupies the property as a residence, the person may have the classification reviewed for change to class three from the date of conversion AND OCCUPANCY AS A PRIMARY RESIDENCE and may appeal from the decision resulting from the review in the same manner as provided by law for review of a valuation for ad valorem property taxes and appeal from that review.

B. IF A PERSON PURCHASES OR CONVERTS PROPERTY THAT IS LISTED AS CLASS FOUR PURSUANT TO SECTION 42-12004 AND OCCUPIES THE PROPERTY AS THE PERSON'S PRIMARY RESIDENCE, THE PERSON MAY HAVE THE CLASSIFICATION REVIEWED FOR CHANGE TO CLASS THREE FROM THE DATE OF OCCUPANCY AND MAY APPEAL THE DECISION RESULTING FROM THE REVIEW IN THE SAME MANNER AS PROVIDED BY LAW FOR REVIEW OF A VALUATION FOR AD VALOREM PROPERTY TAXES AND APPEAL FROM THAT REVIEW.

~~B.~~ C. If a person makes such a conversion OR OCCUPANCY or appeals the classification after the county assessor has closed the rolls, the person may petition the county board of supervisors to change the classification and reduce the assessed valuation from the date of conversion OR OCCUPANCY.

~~C.~~ D. The board of supervisors shall entertain the petition in the same manner as a board of equalization hears a request for reduction in valuation.

~~D.~~ E. The petitioner may appeal the board of supervisors' decision in the same manner as provided in section 42-16111, except that the petitioner shall file the notice of appeal within fifteen days after the board's finding.

~~E.~~ F. If the board of supervisors finds that the property is in fact being used for ~~residential purposes~~ THE OWNER'S PRIMARY RESIDENCE and should be listed as class three property, it shall change the classification on the roll and fix the assessed valuation from the date of ~~conversion~~ OCCUPANCY. The amount of taxes that is assessed against the property shall be computed by applying the current tax rate to the original assessed valuation prorated for the portion of the tax year before the property was ~~converted~~ OCCUPIED plus the current tax rate applied to the reassessed value of the property prorated for the balance of the year.

~~F.~~ G. The board of supervisors shall notify the department, assessor and county treasurer of the change in classification, the change in assessed

valuation and the amount of tax assessed. The department and the assessor may appeal any such decision in the same manner as provided in section 42-16111. The assessor and treasurer shall note the change on their records, and the treasurer may issue a future tax credit, endorsed by the board, to the person whose property is liable for the tax. The tax credit shall be used on the next or several succeeding property tax assessments that the person may owe thereafter.

Sec. 83. Section 42-13054, Arizona Revised Statutes, is amended to read:

42-13054. Taxable value of personal property; depreciated values of personal property in class one and class two (P)

A. The taxable value of personal property that is valued by the county assessor is the result of acquisition cost less any appropriate depreciation as prescribed by tables adopted by the department. The taxable value shall not exceed the market value.

B. Except as provided in subsection C of this section and notwithstanding any other statute, the assessor shall adjust the depreciation schedules prescribed by the department as follows to determine the valuation of personal property:

1. For personal property that is initially classified during tax year 1994 through tax year 2007 as class one, paragraph 8, 9, 10 or 13 pursuant to section 42-12001 and personal property that is initially classified during tax year 1995 through tax year 2007 as class two (P) pursuant to section 42-12002:

(a) For the first tax year of assessment, the assessor shall use thirty-five per cent of the scheduled depreciated value.

(b) For the second tax year of assessment, the assessor shall use fifty-one per cent of the scheduled depreciated value.

(c) For the third tax year of assessment, the assessor shall use sixty-seven per cent of the scheduled depreciated value.

(d) For the fourth tax year of assessment, the assessor shall use eighty-three per cent of the scheduled depreciated value.

(e) For the fifth and subsequent tax years of assessment, the assessor shall use the scheduled depreciated value as prescribed in the department's guidelines.

2. For personal property that is initially classified during ~~or after~~ tax year 2008 THROUGH TAX YEAR 2011 as class one, paragraph 8, 9, 10 or 13 pursuant to section 42-12001 and personal property that is initially classified during ~~or after~~ tax year 2008 THROUGH TAX YEAR 2011 as class two (P) pursuant to section 42-12002:

(a) For the first tax year of assessment, the assessor shall use thirty per cent of the scheduled depreciated value.

(b) For the second tax year of assessment, the assessor shall use forty-six per cent of the scheduled depreciated value.

(c) For the third tax year of assessment, the assessor shall use sixty-two per cent of the scheduled depreciated value.

(d) For the fourth tax year of assessment, the assessor shall use seventy-eight per cent of the scheduled depreciated value.

(e) For the fifth tax year of assessment, the assessor shall use ninety-four per cent of the scheduled depreciated value.

(f) For the sixth and subsequent tax years of assessment, the assessor shall use the scheduled depreciated value as prescribed in the department's guidelines.

3. FOR PERSONAL PROPERTY THAT IS INITIALLY CLASSIFIED DURING OR AFTER TAX YEAR 2012 AS CLASS ONE, PARAGRAPH 8, 9, 10 OR 13 PURSUANT TO SECTION 42-12001 AND PERSONAL PROPERTY THAT IS INITIALLY CLASSIFIED DURING OR AFTER TAX YEAR 2012 AS CLASS TWO (P) PURSUANT TO SECTION 42-12002:

(a) FOR THE FIRST TAX YEAR OF ASSESSMENT, THE ASSESSOR SHALL USE TWENTY-FIVE PER CENT OF THE SCHEDULED DEPRECIATED VALUE.

(b) FOR THE SECOND TAX YEAR OF ASSESSMENT, THE ASSESSOR SHALL USE FORTY-ONE PER CENT OF THE SCHEDULED DEPRECIATED VALUE.

(c) FOR THE THIRD TAX YEAR OF ASSESSMENT, THE ASSESSOR SHALL USE FIFTY-SEVEN PER CENT OF THE SCHEDULED DEPRECIATED VALUE.

(d) FOR THE FOURTH TAX YEAR OF ASSESSMENT, THE ASSESSOR SHALL USE SEVENTY-THREE PER CENT OF THE SCHEDULED DEPRECIATED VALUE.

(e) FOR THE FIFTH TAX YEAR OF ASSESSMENT, THE ASSESSOR SHALL USE EIGHTY-NINE PER CENT OF THE SCHEDULED DEPRECIATED VALUE.

(f) FOR THE SIXTH AND SUBSEQUENT TAX YEARS OF ASSESSMENT, THE ASSESSOR SHALL USE THE SCHEDULED DEPRECIATED VALUE AS PRESCRIBED IN THE DEPARTMENT'S GUIDELINES.

C. The additional depreciation prescribed in subsection B of this section:

1. Does not apply to any property valued by the department.

2. Shall not reduce the valuation below the minimum value prescribed by the department for property in use.

Sec. 84. Section 42-15001, Arizona Revised Statutes, is amended to read:

42-15001. <u>Assessed valuation of class one property</u>

The assessed valuation of class one property described in section 42-12001 is the following percentage of its full cash value or limited valuation, as applicable:

1. Twenty-five per cent through December 31, 2005.

2. Twenty-four and one-half per cent beginning from and after December 31, 2005 through December 31, 2006.

3. Twenty-four per cent beginning from and after December 31, 2006 through December 31, 2007.

4. Twenty-three per cent beginning from and after December 31, 2007 through December 31, 2008.

5. Twenty-two per cent beginning from and after December 31, 2008 through December 31, 2009.

6. Twenty-one per cent beginning from and after December 31, 2009 through December 31, 2010.

7. Twenty per cent beginning from and after December 31, 2010 THROUGH DECEMBER 31, 2012.

8. NINETEEN AND ONE-HALF PER CENT BEGINNING FROM AND AFTER DECEMBER 31, 2012 THROUGH DECEMBER 31, 2013.

9. NINETEEN PER CENT BEGINNING FROM AND AFTER DECEMBER 31, 2013 THROUGH DECEMBER 31, 2014.

10. EIGHTEEN AND ONE-HALF PER CENT BEGINNING FROM AND AFTER DECEMBER 31, 2014 THROUGH DECEMBER 31, 2015.

11. EIGHTEEN PER CENT BEGINNING FROM AND AFTER DECEMBER 31, 2015.

Sec. 85. Section 42-15002, Arizona Revised Statutes, is amended to read:

42-15002. Assessed valuation of class two property

The following percentages apply to the full cash value or limited valuation, as applicable, as a basis for determining the assessed valuation of class two property described in section 42-12002:

1. Class two (R): sixteen per cent THROUGH DECEMBER 31, 2015 AND FIFTEEN PER CENT BEGINNING FROM AND AFTER DECEMBER 31, 2015.

2. Class two (P): sixteen per cent THROUGH DECEMBER 31, 2015, AND FIFTEEN PER CENT BEGINNING FROM AND AFTER DECEMBER 31, 2015, of the value exceeding the maximum amount of valuation of personal property that is exempt from taxation pursuant to section 42-11127.

Sec. 86. Section 42-15102, Arizona Revised Statutes, is amended to read:

42-15102. Notice information entered by assessor

A. The assessor shall include in the assessment notice:

1. The full cash value found by the assessor for the property for the preceding valuation year.

2. The classification of the property pursuant to chapter 12 of this title.

3. The mailing date of the notice.

4. The last date on which the owner may file an appeal from the valuation or classification assigned to the property.

B. Except for property that is listed as class three property under section 42-12003, OWNER-OCCUPIED RESIDENTIAL PROPERTY THAT IS LISTED AS CLASS FOUR PROPERTY UNDER SECTION 42-12004, SUBSECTION A, PARAGRAPH 1 and single family rented residential property that is listed as class four property under section 42-12004, subsection A, paragraph ~~1~~ 2, the notice shall separately list the full cash value of the land and the full cash value of the improvement or improvements associated with the land.

Sec. 87. Section 42-15103, Arizona Revised Statutes, is amended to read:

42-15103. Contents of notice form

The notice form shall:

1. Prominently display a statement:

(a) IN EVEN NUMBERED VALUATION YEARS INFORMING PROPERTY OWNERS THAT IF THE PARCEL OF PROPERTY IS LISTED ON THE NOTICE AS CLASS THREE PURSUANT TO SECTION 42-12003, THE OWNER MUST COMPLETE AND RETURN THE ENCLOSED AFFIDAVIT TO THE COUNTY ASSESSOR DECLARING WHETHER THE PROPERTY IS THE OWNER'S RESIDENCE, OR LEASED OR RENTED TO A RELATIVE OF THE OWNER, AS PROVIDED BY SECTION 42-12053, AND USED AS THE RELATIVE'S PRIMARY RESIDENCE, FOR THE CURRENT YEAR. THE STATEMENT SHALL INCLUDE THE FOLLOWING TEXT IN AT LEAST TWELVE POINT TYPE:

IF YOUR PROPERTY QUALIFIES AS YOUR PRIMARY RESIDENCE, YOU MAY RECEIVE A REDUCTION ON YOUR PROPERTY TAXES UP TO $600.

(b) Informing property owners that if a parcel of property is used as a rental unit and the property is listed on the notice as class three pursuant to section 42-12003, the owner must notify the county assessor of the rental use of the property or be subject to a civil penalty prescribed by section 42-12052.

2. INCLUDE WITH EACH NOTICE FOR PROPERTY CLASSIFIED AS CLASS THREE AN AFFIDAVIT FORM DESCRIBED BY SECTION 42-12052, SUBSECTION B, WITH SIMPLIFIED INSTRUCTIONS, FOR THE OWNER TO DECLARE WHETHER THE PROPERTY IS THE OWNER'S PRIMARY RESIDENCE.

~~2.~~ 3. Include a form with instructions on the procedure and deadlines for appealing the assessed valuation shown on the notice. The appeal form for property that is listed as class three pursuant to section 42-12003 shall contain simplified instructions and shall be separate from the appeal form for other classes of property.

~~3.~~ 4. Provide in a separate addendum a statement informing ~~property~~ owners of ~~all of the following~~ PROPERTY THAT IS USED FOR RESIDENTIAL RENTAL PURPOSES THAT:

(a) ~~If a parcel of property is used for residential rental purposes,~~ The parcel must be listed on the notice as class four, and the owner must register the residential rental property with the county assessor pursuant to section 33-1902 or the owner may be subject to a penalty.

(b) If the owner is required to register the rental property with the county assessor and fails to do so after receipt of this notice, the city or town may impose a civil penalty payable to the city or town in the amount of one hundred fifty dollars per day for each day of violation, and the city or town may impose enhanced inspection and enforcement measures on the property.

(c) If the city or town in which the property is located requires the lessor to pay transaction privilege tax on residential rent, a notice of applicable requirements imposed by the city or town and that failure to pay

the applicable ~~sales~~ tax could result in a penalty or fine by the city or town.

(d) ~~A notice that~~ Residential rental properties are required to comply with the landlord tenant law pursuant to title 33, chapters 10 and 11.

Sec. 88. Section 42-16251, Arizona Revised Statutes, is amended to read:

42-16251. Definitions

In this article, unless the context otherwise requires:

1. "Board" means the county board of equalization or the state board of equalization, as appropriate.

2. "Court" means either the superior court or tax court.

3. "Error" means any mistake in assessing or collecting property taxes resulting from:

(a) An imposition of an incorrect, erroneous or illegal tax rate that resulted in assessing or collecting excessive taxes.

(b) An incorrect designation or description of the use OR OCCUPANCY of property or its classification pursuant to chapter 12, article 1 of this title.

(c) Applying the incorrect assessment ratio percentages prescribed by chapter 15, article 1 of this title.

(d) Misreporting or failing to report property if a statutory duty exists to report the property.

(e) Subject to the requirements of section 42-16255, subsection B, a valuation or legal classification that is based on an error that is exclusively factual in nature or due to a specific legal restriction that affects the subject property and that is objectively verifiable without the exercise of discretion, opinion or judgment and that is demonstrated by clear and convincing evidence, such as:

(i) A mistake in the description of the size, use or ownership of land, improvements or personal property.

(ii) Clerical or typographical errors in reporting or entering data that was used directly to establish valuation.

(iii) A failure to timely capture on the tax roll a change in value or legal classification caused by new construction, the destruction or demolition of improvements, the splitting of one parcel of real property into two or more new parcels or the consolidating of two or more parcels of real property into one new parcel existing on the valuation date.

(iv) The existence or nonexistence of the property on the valuation date.

(v) Any other objectively verifiable error that does not require the exercise of discretion, opinion or judgment.

Error does not include a correction that results from a change in the law as a result of a final nonappealable ruling by a court of competent jurisdiction in a case that does not involve the property for which a correction is claimed.

4. "Taxpayer" means the owner of real or personal property that is liable for tax.

Sec. 89. Section 43-206, Arizona Revised Statutes, is amended to read:

43-206. Urban revenue sharing fund; allocation; distribution

A. There is established an urban revenue sharing fund. The fund shall consist of an amount equal to fifteen per cent of the net proceeds of the state income taxes for the fiscal year two years preceding the current fiscal year. The fund shall be distributed to incorporated cities and towns as provided in this section, except that a city or town shall receive at least an amount equal to what a city or town with a population of fifteen hundred or more persons would receive. The transfer of net proceeds prescribed by section 49-282, subsection B does not affect the calculation of net proceeds prescribed by this subsection.

B. Each city or town shall share in the urban revenue sharing fund in the proportion that the population of each bears to the population of all. Except as provided by sections 42-5033 and 42-5033.01, the population of a city or town as determined by the most recent United States decennial census plus any revisions to the decennial census certified by the United States bureau of the census shall be used as the basis for apportioning monies pursuant to this subsection.

C. The treasurer, upon instruction from the department, shall transmit, no later than the tenth day of each month, to each city or town an amount equal to one-twelfth of that city's or town's total entitlement for the current fiscal year from the urban revenue sharing fund as determined by the department.

D. A newly incorporated city or town shall share in the urban revenue sharing fund beginning the first month of the first full fiscal year following incorporation.

E. On receipt of a certificate of default from the greater Arizona development authority pursuant to section ~~41-1554.06~~ 41-2257 or ~~41-1554.07~~ 41-2258, the state treasurer, to the extent not otherwise expressly prohibited by law, shall withhold from the next succeeding distribution of monies pursuant to this section due to the city or town the amount specified in the certificate of default and immediately deposit the amount withheld in the greater Arizona development authority revolving fund. The state treasurer shall continue to withhold and deposit the monies until the authority certifies to the state treasurer that the default has been cured. In no event shall the state treasurer withhold any amount that is necessary, as certified by the defaulting political subdivision to the state treasurer and the authority, to make any required deposits then due for the payment of principal and interest on bonds of the political subdivision that were issued prior to the date of the loan repayment agreement or bonds and that have been secured by a pledge of distributions made pursuant to this section.

Sec. 90. Title 43, chapter 4, article 1, Arizona Revised Statutes, is amended by adding section 43-409, to read:

43-409. Job creation withholdings clearing account

A. THE JOB CREATION WITHHOLDINGS CLEARING ACCOUNT IS ESTABLISHED CONSISTING OF THE SUM OF THIRTY-ONE MILLION FIVE HUNDRED THOUSAND DOLLARS OF WITHHOLDING TAX REVENUES IN EACH FISCAL YEAR.

B. ON THE TWENTIETH DAY OF EACH MONTH THE STATE TREASURER SHALL CREDIT THE FOLLOWING AMOUNTS FROM THE CLEARING ACCOUNT:

1. TO THE ARIZONA COMMERCE AUTHORITY FUND ESTABLISHED BY SECTION 41-1506, ONE-TWELFTH OF THE ANNUAL SUM OF TEN MILLION DOLLARS IN EACH FISCAL YEAR.

2. TO THE ARIZONA COMPETES FUND ESTABLISHED BY SECTION 41-1545.01, ONE-TWELFTH OF THE ANNUAL SUM OF TWENTY-ONE MILLION FIVE HUNDRED THOUSAND DOLLARS IN EACH FISCAL YEAR.

Sec. 91. Section 43-1022, Arizona Revised Statutes, is amended to read:

43-1022. Subtractions from Arizona gross income

In computing Arizona adjusted gross income, the following amounts shall be subtracted from Arizona gross income:

1. The amount of exemptions allowed by section 43-1023.

2. Benefits, annuities and pensions in an amount totaling not more than two thousand five hundred dollars received from one or more of the following:

(a) The United States government service retirement and disability fund, retired or retainer pay of the uniformed services of the United States, the United States foreign service retirement and disability system and any other retirement system or plan established by federal law.

(b) The Arizona state retirement system, the corrections officer retirement plan, the public safety personnel retirement system, the elected officials' retirement plan, an optional retirement program established by the Arizona board of regents under section 15-1628, an optional retirement program established by a community college district board under section 15-1451 or a retirement plan established for employees of a county, city or town in this state.

3. A beneficiary's share of the fiduciary adjustment to the extent that the amount determined by section 43-1333 decreases the beneficiary's Arizona gross income.

4. The amount of any distributions from an individual retirement account as provided for in section 408 of the internal revenue code or from a qualified retirement plan of a self-employed individual as provided for in section 401 of the internal revenue code to the extent that total adjustments made pursuant to this paragraph in all tax years do not exceed the total of all contributions made by the taxpayer to such plans prior to December 31, 1975, which were included in computing Arizona taxable income.

5. The amount of income on an installment receivable which is recognized pursuant to the internal revenue code and which has already been recognized on the death of the taxpayer for purposes of this title for tax years ending before January 1, 1990.

6. Interest income received on obligations of the United States, less any interest on indebtedness, or other related expenses, and deducted in arriving at Arizona gross income, which were incurred or continued to purchase or carry such obligations.

7. The amount of any income tax refunds which were received from states other than Arizona and which were included as income in computing federal adjusted gross income.

8. Annuity income included in federal adjusted gross income pursuant to section 72 of the internal revenue code if the first payment with respect to such annuity was received prior to December 31, 1978.

9. The excess of a partner's share of income required to be included under section 702(a)(8) of the internal revenue code over the income required to be included under chapter 14, article 2 of this title.

10. The excess of a partner's share of partnership losses determined pursuant to chapter 14, article 2 of this title over the losses allowable under section 702(a)(8) of the internal revenue code.

11. The amount by which the adjusted basis of property described in this paragraph and computed pursuant to this title and the income tax act of 1954, as amended, exceeds the adjusted basis of such property computed pursuant to the internal revenue code. This paragraph shall apply to all property which is held for the production of income and which is sold or otherwise disposed of during the taxable year other than depreciable property used in a trade or business.

12. The amount allowed by section 43-1024 for amortization, by a qualified defense contractor certified by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY under section 41-1508, of a capital investment for private commercial activities.

13. The amount of gain included in federal adjusted gross income on the sale or other disposition of a capital investment that a qualified defense contractor has elected to amortize pursuant to section 43-1024.

14. The amount allowed by section 43-1025 for contributions during the taxable year of agricultural crops to charitable organizations.

15. The portion of any wages or salaries paid or incurred by the taxpayer for the taxable year that is equal to the amount of the federal work opportunity credit, the empowerment zone employment credit, the credit for employer paid social security taxes on employee cash tips and the Indian employment credit that the taxpayer received under sections 45A, 45B, 51(a) and 1396 of the internal revenue code.

16. The amount of prizes or winnings less than five thousand dollars in a single taxable year from any of the state lotteries established and operated pursuant to title 5, chapter 5, article 1, except that all such

winnings before March 22, 1983, including periodic distributions from such winnings made after March 22, 1983, may be subtracted.

17. The amount of exploration expenses that is determined pursuant to section 617 of the internal revenue code, that has been deferred in a taxable year ending before January 1, 1990 and for which a subtraction has not previously been made. The subtraction shall be made on a ratable basis as the units of produced ores or minerals discovered or explored as a result of this exploration are sold.

18. The amount included in federal adjusted gross income pursuant to section 86 of the internal revenue code, relating to taxation of social security and railroad retirement benefits.

19. To the extent not already excluded from Arizona gross income under the internal revenue code, compensation received for active service as a member of the reserves, the national guard or the armed forces of the United States, including compensation for service in a combat zone as determined under section 112 of the internal revenue code.

20. The amount of unreimbursed medical and hospital costs, adoption counseling, legal and agency fees and other nonrecurring costs of adoption not to exceed three thousand dollars. In the case of a husband and wife who file separate returns, the subtraction may be taken by either taxpayer or may be divided between them, but the total subtractions allowed both husband and wife shall not exceed three thousand dollars. The subtraction under this paragraph may be taken for the costs that are described in this paragraph and that are incurred in prior years, but the subtraction may be taken only in the year during which the final adoption order is granted.

21. The amount authorized by section 43-1027 for the taxable year relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.

22. With respect to a medical savings account established pursuant to section 43-1028:

(a) An eligible individual may subtract:

(i) The amount of contributions made by the individual's employer during the taxable year to the individual's medical savings account pursuant to section 43-1028 to the extent that the employer contributions are included in the individual's federal adjusted gross income.

(ii) The amount deposited by the individual in the account during the taxable year to the extent that the individual's contributions are included in the individual's federal adjusted gross income.

(b) The individual's employer may subtract the amount of contributions made by the employer to a medical savings account established on the individual's behalf to the extent that the contributions are not deductible under the internal revenue code.

23. The amount by which a net operating loss carryover or capital loss carryover allowable pursuant to section 43-1029, subsection F exceeds the net operating loss carryover or capital loss carryover allowable pursuant to section 1341(b)(5) of the internal revenue code.

24. Any amount of qualified educational expenses that is distributed from a qualified state tuition program determined pursuant to section 529 of the internal revenue code and that is included in income in computing federal adjusted gross income.

25. Any item of income resulting from an installment sale that has been properly subjected to income tax in another state in a previous taxable year and that is included in Arizona gross income in the current taxable year.

26. The amount authorized by section 43-1030 relating to holocaust survivors.

27. The amount authorized by section 43-1031 for constructing an energy efficient residence.

28. An amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year computed as if the election described in section 168(k)(2)(D)(iii) of the internal revenue code had been made for each applicable class of property in the year the property was placed in service.

29. With respect to property that is sold or otherwise disposed of during the taxable year by a taxpayer that complied with section 43-1021, paragraph 26 with respect to that property, the amount of depreciation that has been allowed pursuant to section 167(a) of the internal revenue code to the extent that the amount has not already reduced Arizona taxable income in the current or prior taxable years.

30. With respect to property for which an adjustment was made under section 43-1021, paragraph 27, an amount equal to one-fifth of the amount of the adjustment pursuant to section 43-1021, paragraph 27 in the year in which the amount was adjusted under section 43-1021, paragraph 27 and in each of the following four years.

31. For taxable years beginning from and after December 31, 2007 through December 31, 2012, the amount contributed during the taxable year to college savings plans established pursuant to section 529 of the internal revenue code to the extent that the contributions were not deducted in computing federal adjusted gross income. The amount subtracted shall not exceed:

(a) Seven hundred fifty dollars for a single individual or a head of household.

(b) One thousand five hundred dollars for a married couple filing a joint return. In the case of a husband and wife who file separate returns, the subtraction may be taken by either taxpayer or may be divided between them, but the total subtractions allowed both husband and wife shall not exceed one thousand five hundred dollars.

32. To the extent not already excluded from Arizona gross income under the internal revenue code, the amount authorized by section 43-1032 for displaced pupils choice grants.

33. The amount of any original issue discount that was deferred and not allowed to be deducted in computing federal adjusted gross income or federal

taxable income in the current taxable year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5).

34. The amount of previously deferred discharge of indebtedness income that is included in the computation of federal adjusted gross income or federal taxable income in the current taxable year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5), to the extent that the amount was previously added to Arizona gross income pursuant to section 43-1021, paragraph 33.

35. The portion of the net operating loss carryforward that would have been allowed as a deduction in the current year pursuant to section 172 of the internal revenue code if the election described in section 172(b)(1)(H) of the internal revenue code had not been made in the year of the loss that exceeds the actual net operating loss carryforward that was deducted in arriving at federal adjusted gross income. This subtraction only applies to taxpayers who made an election under section 172(b)(1)(H) of the internal revenue code as amended by section 1211 of the American recovery and reinvestment act of 2009 (P.L. 111-5) or as amended by section 13 of the worker, homeownership, and business assistance act of 2009 (P.L. 111-92).

36. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2013, THE AMOUNT OF ANY NET CAPITAL GAIN INCLUDED IN FEDERAL ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR DERIVED FROM INVESTMENT IN A QUALIFIED SMALL BUSINESS AS DETERMINED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1518.

Sec. 92. Section 43-1024, Arizona Revised Statutes, is amended to read:

43-1024. <u>Amortization of private commercial capital investment by qualified defense contractor</u>

A. A qualified defense contractor that is certified by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY under section 41-1508 may elect pursuant to this section to amortize the cost of any new device, machinery, equipment or other capital investment that is used exclusively for private commercial activities in this state. The period of amortization allowed by this section is equal to one-half of the time period allowed pursuant to the internal revenue code for the same class of property. In computing Arizona taxable income, the amortization is allowed as a subtraction ratably over the period allowed by this section beginning with the month in which the device, machinery, equipment or other capital investment is placed in exclusively private commercial service in this state.

B. The taxpayer shall make the election under this section by an appropriate statement in the income tax return for the initial taxable year. The taxpayer may also elect to discontinue amortization with respect to the remainder of the amortization period by an appropriate statement in the income tax return for the taxable year in which the election to discontinue is made.

C. In determining the adjusted basis for the purposes of subsection A of this section, the device, machinery, equipment or other capital investment shall include only an amount that is properly attributable to constructing, installing or acquiring the device, machinery, equipment or other investment as certified by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY. The taxpayer shall use the adjusted basis determined pursuant to this section in determining the gain on the sale or other disposition of a capital investment that is amortized under this section.

D. The subtraction provided by this section is in lieu of any allowance for exhaustion, wear and tear of the property allowed by section 167 or 179 of the internal revenue code.

Sec. 93. Section 43-1031, Arizona Revised Statutes, is amended to read:

43-1031. Subtraction for constructing an energy efficient residence

A. For taxable years beginning from and after December 31, 2001 through December 31, 2010, in computing Arizona adjusted gross income a taxpayer may subtract five per cent of the sales price, excluding commissions, taxes, interest, points and other brokerage, finance and escrow charges, of one or more new single family residences, condominiums or town houses that are sold by the taxpayer and that exceed the 1995 model energy code by fifty per cent or more as determined by an approved rating program. Rating programs shall meet the United States department of energy's home energy rating system guidelines or other guidelines approved by the ~~department of commerce~~ GOVERNOR'S energy office. The amount of the subtraction shall not exceed five thousand dollars with respect to each new single family residence, condominium or town house.

B. The ~~department of commerce~~ GOVERNOR'S energy office shall:

1. Annually review the threshold rating used to determine eligibility for the subtraction.

2. If the number of homes receiving a subtraction in a single year exceeds five per cent of the new homes built in this state as estimated by the department of commerce, increase the qualifying rating by five per cent for the next taxable year.

3. Provide an annual list to the department of revenue of the criteria used to determine an energy efficiency rating that qualifies for a subtraction pursuant to this section.

C. The taxpayer may elect to transfer a subtraction under this section to the purchaser of the residence or to the financial institution that secures a mortgage or deed of trust on the residence. If the taxpayer transfers the subtraction, the taxpayer shall deliver to the purchaser or financial institution a written statement that the taxpayer has elected not to claim the subtraction and that the purchaser or financial institution may claim the subtraction, subject to the conditions and limitations prescribed by this section.

Sec. 94. Section 43-1042, Arizona Revised Statutes, is amended to read:

43-1042. Itemized deductions

A. Except as provided by subsections B, D, E and G of this section, at the election of the taxpayer, and in lieu of the standard deduction allowed by section 43-1041, in computing taxable income the taxpayer may take the amount of itemized deductions allowable for the taxable year pursuant to subtitle A, chapter 1, subchapter B, parts VI and VII, but subject to the limitations prescribed by sections 67, 68 and 274, of the internal revenue code.

B. In lieu of the amount of the federal itemized deduction for expenses paid for medical care allowed under section 213 of the internal revenue code, the taxpayer may deduct the full amount of such expenses.

C. Notwithstanding subsection B of this section, expenses for medical care that are paid or reimbursed from the taxpayer's medical savings account pursuant to section 43-1028 shall not be deducted pursuant to this section.

D. A qualified defense contractor that is identified and certified by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY pursuant to section 41-1508 shall not claim both a deduction as provided by this section and a credit under section 43-1078 with respect to the same property taxes paid.

E. A taxpayer shall not claim both a deduction provided by this section and a credit allowed by this title with respect to the same charitable contributions.

F. The taxpayer may add any interest expense paid by the taxpayer for the taxable year that is equal to the amount of federal credit for interest on certain home mortgages allowed by section 25 of the internal revenue code.

G. A taxpayer shall not claim any amount that was deducted pursuant to section 164(b)(6) of the internal revenue code, as added by section 1008 of the American recovery and reinvestment act of 2009 (P.L. 111-5), for qualified motor vehicle taxes.

Sec. 95. Title 43, chapter 10, article 5, Arizona Revised Statutes, is amended by adding section 43-1074, to read:

43-1074. Credit for new employment

A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR NET INCREASES IN FULL-TIME EMPLOYEES HIRED IN QUALIFIED EMPLOYMENT POSITIONS AS CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1525.

B. SUBJECT TO SUBSECTION E OF THIS SECTION, THE AMOUNT OF THE CREDIT IS EQUAL TO THREE THOUSAND DOLLARS FOR EACH FULL-TIME EMPLOYEE HIRED FOR THE FULL TAXABLE YEAR IN A QUALIFIED EMPLOYMENT POSITION IN EACH OF THE FIRST THREE YEARS OF EMPLOYMENT, BUT NOT MORE THAN FOUR HUNDRED EMPLOYEES IN ANY TAXABLE YEAR.

C. TO QUALIFY FOR A CREDIT UNDER THIS SECTION, THE TAXPAYER AND THE EMPLOYMENT POSITIONS MUST MEET THE REQUIREMENTS PRESCRIBED BY SECTION 41-1525.

D. A CREDIT IS ALLOWED FOR EMPLOYMENT IN THE SECOND AND THIRD YEAR ONLY FOR QUALIFIED EMPLOYMENT POSITIONS FOR WHICH A CREDIT WAS CLAIMED AND ALLOWED IN THE FIRST YEAR.

E. THE NET INCREASE IN THE NUMBER OF QUALIFIED EMPLOYMENT POSITIONS IS THE LESSER OF THE TOTAL NUMBER OF FILLED QUALIFIED EMPLOYMENT POSITIONS CREATED DURING THE TAXABLE YEAR OR THE DIFFERENCE BETWEEN THE AVERAGE NUMBER OF FULL-TIME EMPLOYEES IN THE CURRENT TAX YEAR AND THE AVERAGE NUMBER OF FULL-TIME EMPLOYEES DURING THE IMMEDIATELY PRECEDING TAXABLE YEAR. THE NET INCREASE IN THE NUMBER OF QUALIFIED EMPLOYMENT POSITIONS COMPUTED UNDER THIS SUBSECTION MAY NOT EXCEED FOUR HUNDRED QUALIFIED EMPLOYMENT POSITIONS PER TAXPAYER EACH YEAR.

F. A TAXPAYER WHO CLAIMS A CREDIT UNDER SECTION 43-1077, 43-1079 OR 43-1083.01 SHALL NOT CLAIM A CREDIT UNDER THIS SECTION WITH RESPECT TO THE SAME EMPLOYMENT POSITIONS.

G. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE INCOME TAXES OTHERWISE DUE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO STATE INCOME TAXES DUE ON THE CLAIMANT'S INCOME, THE AMOUNT OF THE CLAIM NOT USED AS AN OFFSET AGAINST THE INCOME TAXES MAY BE CARRIED FORWARD AS A TAX CREDIT AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY FOR A PERIOD NOT EXCEEDING FIVE TAXABLE YEARS.

H. CO-OWNERS OF A BUSINESS, INCLUDING PARTNERS IN A PARTNERSHIP AND SHAREHOLDERS OF AN S CORPORATION, AS DEFINED IN SECTION 1361 OF THE INTERNAL REVENUE CODE, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH OWNERS OF THE BUSINESS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN ALLOWED FOR A SOLE OWNER OF THE BUSINESS.

I. IF THE BUSINESS IS SOLD OR CHANGES OWNERSHIP THROUGH REORGANIZATION, STOCK PURCHASE OR MERGER, THE NEW TAXPAYER MAY CLAIM FIRST YEAR CREDITS ONLY FOR THE QUALIFIED EMPLOYMENT POSITIONS THAT IT CREATED AND FILLED WITH AN ELIGIBLE EMPLOYEE AFTER THE PURCHASE OR REORGANIZATION WAS COMPLETE. IF A PERSON PURCHASES A TAXPAYER THAT HAD QUALIFIED FOR FIRST OR SECOND YEAR CREDITS OR CHANGES OWNERSHIP THROUGH REORGANIZATION, STOCK PURCHASE OR MERGER, THE NEW TAXPAYER MAY CLAIM THE SECOND OR THIRD YEAR CREDITS IF IT MEETS OTHER ELIGIBILITY REQUIREMENTS OF THIS SECTION. CREDITS FOR WHICH A TAXPAYER QUALIFIED BEFORE THE CHANGES DESCRIBED IN THIS SUBSECTION ARE TERMINATED AND LOST AT THE TIME THE CHANGES ARE IMPLEMENTED.

J. A FAILURE TO TIMELY REPORT AND CERTIFY TO THE ARIZONA COMMERCE AUTHORITY THE INFORMATION PRESCRIBED BY SECTION 41-1525, SUBSECTION D, AND IN THE MANNER PRESCRIBED BY SECTION 41-1525, SUBSECTION E DISQUALIFIES THE TAXPAYER FROM THE CREDIT UNDER THIS SECTION. THE DEPARTMENT SHALL REQUIRE WRITTEN EVIDENCE OF THE TIMELY REPORT TO THE ARIZONA COMMERCE AUTHORITY.

K. A TAX CREDIT UNDER THIS SECTION IS SUBJECT TO RECOVERY FOR A VIOLATION DESCRIBED IN SECTION 41-1525, SUBSECTION G.

Sec. 96. Section 43-1074.01, Arizona Revised Statutes, as amended by Laws 2010, chapter 289, section 2 and chapter 312, section 3, is amended to read:

43-1074.01. Credit for increased research activities

A. A credit is allowed against the taxes imposed by this title in an amount determined pursuant to section 41 of the internal revenue code, except that:

1. The amount of the credit is based on the excess, if any, of the qualified research expenses for the taxable year over the base amount as defined in section 41(c) of the internal revenue code and is computed as follows:

(a) If the excess is two million five hundred thousand dollars or less, the credit is equal to twenty-four per cent of that amount.

(b) If the excess is over two million five hundred thousand dollars, the credit is equal to six hundred thousand dollars plus fifteen per cent of any amount exceeding two million five hundred thousand dollars, except that:

(i) For taxable years beginning from and after December 31, 2000 through December 31, 2001, the credit shall not exceed one million five hundred thousand dollars.

(ii) For taxable years beginning from and after December 31, 2001 through December 31, 2002, the credit shall not exceed two million five hundred thousand dollars.

(c) FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2011, AN ADDITIONAL CREDIT AMOUNT IS ALLOWED IF THE TAXPAYER MADE BASIC RESEARCH PAYMENTS DURING THE TAXABLE YEAR TO A UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS. THE ADDITIONAL CREDIT AMOUNT IS EQUAL TO TEN PER CENT OF THE BASIC RESEARCH PAYMENTS THAT CONSTITUTE EXCESS EXPENSES FOR THE TAXABLE YEAR OVER THE BASE AMOUNT. THE DEPARTMENT SHALL NOT ALLOW CREDIT AMOUNTS UNDER THIS SUBDIVISION AND SECTION 43-1168, SUBSECTION A, PARAGRAPH 1, SUBDIVISION (d) THAT EXCEED, IN THE AGGREGATE, A COMBINED TOTAL OF TEN MILLION DOLLARS IN ANY CALENDAR YEAR. SUBJECT TO THAT LIMIT, ON APPLICATION BY THE TAXPAYER, THE DEPARTMENT SHALL PREAPPROVE CREDIT AMOUNTS UNDER THIS SUBDIVISION AND SECTION 43-1168, SUBSECTION A, PARAGRAPH 1, SUBDIVISION (d) BASED ON PRIORITY PLACEMENT ESTABLISHED BY THE DATE THAT THE TAXPAYER FILED THE APPLICATION. NOTWITHSTANDING SUBSECTIONS B AND C OF THIS SECTION, ANY AMOUNT OF THE ADDITIONAL CREDIT UNDER THIS SUBDIVISION THAT EXCEEDS THE TAXES OTHERWISE DUE UNDER THIS TITLE IS NOT REFUNDABLE, BUT MAY BE CARRIED FORWARD TO THE NEXT FIVE CONSECUTIVE TAXABLE YEARS. FOR THE PURPOSES OF THIS SUBDIVISION, "BASIC RESEARCH PAYMENTS" HAS THE SAME MEANING PRESCRIBED BY SECTION 41(e) OF THE INTERNAL REVENUE CODE WITHOUT REGARD WHETHER THE TAXPAYER IS OR IS NOT A CORPORATION.

2. Qualified research includes only research conducted in this state including research conducted at a university in this state and paid for by the taxpayer.

1 3. If two or more taxpayers, including partners in a partnership and
2 shareholders of an S corporation, as defined in section 1361 of the internal
3 revenue code, share in the eligible expenses, each taxpayer is eligible to
4 receive a proportionate share of the credit.
5 4. The credit under this section applies only to expenses incurred
6 from and after December 31, 2000.
7 5. The termination provisions of section 41 of the internal revenue
8 code do not apply.
9 B. Except as provided by subsection C of this section, if the
10 allowable credit under this section exceeds the taxes otherwise due under
11 this title on the claimant's income, or if there are no taxes due under this
12 title, the amount of the credit not used to offset taxes may be carried
13 forward to the next fifteen consecutive taxable years. The amount of credit
14 carryforward from taxable years beginning from and after December 31, 2000
15 through December 31, 2002 that may be used in any taxable year may not exceed
16 the taxpayer's tax liability under this title or five hundred thousand
17 dollars, whichever is less, minus the credit under this section for the
18 current taxable year's qualified research expenses. The amount of credit
19 carryforward from taxable years beginning from and after December 31, 2002
20 that may be used in any taxable year may not exceed the taxpayer's tax
21 liability under this title minus the credit under this section for the
22 current taxable year's qualified research expenses. A taxpayer who carries
23 forward any amount of credit under this subsection may not thereafter claim a
24 refund of any amount of the credit under subsection C of this section.
25 C. For taxable years beginning from and after December 31, 2009, if a
26 taxpayer who claims a credit under this section employs fewer than one
27 hundred fifty persons in the taxpayer's trade or business and if the
28 allowable credit under this section exceeds the taxes otherwise due under
29 this title on the claimant's income, or if there are no taxes due under this
30 title, in lieu of carrying the excess amount of credit forward to subsequent
31 taxable years under subsection B of this section, the taxpayer may elect to
32 receive a refund as follows:
33 1. The taxpayer must apply to the department of commerce for
34 qualification for the refund pursuant to section 41-1507 and submit a copy of
35 the department of commerce's certificate of qualification to the department
36 of revenue with the taxpayer's income tax return.
37 2. The amount of the refund is limited to seventy-five per cent of the
38 amount by which the allowable credit under this section exceeds the
39 taxpayer's tax liability under this title for the taxable year. The
40 remainder of the excess amount of the credit is waived.
41 3. The refund shall be paid in the manner prescribed by section
42 42-1118.
43 4. The refund is subject to setoff under section 42-1122.

5. If the department determines that a credit refunded pursuant to this subsection is incorrect or invalid, the excess credit issued may be treated as a tax deficiency pursuant to section 42-1108.

D. A taxpayer that claims a credit for increased research and development activity under this section shall not claim a credit under section 43-1085.01 for the same expenses.

Sec. 97. Section 43-1074.01, Arizona Revised Statutes, as amended by Laws 2010, chapter 289, section 3 and chapter 312, section 4, is amended to read:

43-1074.01. Credit for increased research activities

A. A credit is allowed against the taxes imposed by this title in an amount determined pursuant to section 41 of the internal revenue code, except that:

1. The amount of the credit is based on the excess, if any, of the qualified research expenses for the taxable year over the base amount as defined in section 41(c) of the internal revenue code and is computed as follows:

(a) If the excess is two million five hundred thousand dollars or less, the credit is equal to twenty per cent of that amount.

(b) If the excess is over two million five hundred thousand dollars, the credit is equal to five hundred thousand dollars plus eleven per cent of any amount exceeding two million five hundred thousand dollars, except that:

(i) For taxable years beginning from and after December 31, 2000 through December 31, 2001, the credit shall not exceed one million five hundred thousand dollars.

(ii) For taxable years beginning from and after December 31, 2001 through December 31, 2002, the credit shall not exceed two million five hundred thousand dollars.

(c) FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2011, AN ADDITIONAL CREDIT AMOUNT IS ALLOWED IF THE TAXPAYER MADE BASIC RESEARCH PAYMENTS DURING THE TAXABLE YEAR TO A UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS. THE ADDITIONAL CREDIT AMOUNT IS EQUAL TO TEN PER CENT OF THE BASIC RESEARCH PAYMENTS THAT CONSTITUTE EXCESS EXPENSES FOR THE TAXABLE YEAR OVER THE BASE AMOUNT. THE DEPARTMENT SHALL NOT ALLOW CREDIT AMOUNTS UNDER THIS SUBDIVISION AND SECTION 43-1168, SUBSECTION A, PARAGRAPH 1, SUBDIVISION (d) THAT EXCEED, IN THE AGGREGATE, A COMBINED TOTAL OF TEN MILLION DOLLARS IN ANY CALENDAR YEAR. SUBJECT TO THAT LIMIT, ON APPLICATION BY THE TAXPAYER, THE DEPARTMENT SHALL PREAPPROVE CREDIT AMOUNTS UNDER THIS SUBDIVISION AND SECTION 43-1168, SUBSECTION A, PARAGRAPH 1, SUBDIVISION (d) BASED ON PRIORITY PLACEMENT ESTABLISHED BY THE DATE THAT THE TAXPAYER FILED THE APPLICATION. NOTWITHSTANDING SUBSECTIONS B AND C OF THIS SECTION, ANY AMOUNT OF THE ADDITIONAL CREDIT UNDER THIS SUBDIVISION THAT EXCEEDS THE TAXES OTHERWISE DUE UNDER THIS TITLE IS NOT REFUNDABLE, BUT MAY BE CARRIED FORWARD TO THE NEXT FIVE CONSECUTIVE TAXABLE YEARS. FOR THE PURPOSES OF THIS SUBDIVISION, "BASIC RESEARCH PAYMENTS" HAS THE SAME MEANING PRESCRIBED BY

1 SECTION 41(e) OF THE INTERNAL REVENUE CODE WITHOUT REGARD WHETHER THE
2 TAXPAYER IS OR IS NOT A CORPORATION.
3 2. Qualified research includes only research conducted in this state
4 including research conducted at a university in this state and paid for by
5 the taxpayer.
6 3. If two or more taxpayers, including partners in a partnership and
7 shareholders of an S corporation, as defined in section 1361 of the internal
8 revenue code, share in the eligible expenses, each taxpayer is eligible to
9 receive a proportionate share of the credit.
10 4. The credit under this section applies only to expenses incurred
11 from and after December 31, 2000.
12 5. The termination provisions of section 41 of the internal revenue
13 code do not apply.
14 B. Except as provided by subsection C of this section, if the
15 allowable credit under this section exceeds the taxes otherwise due under
16 this title on the claimant's income, or if there are no taxes due under this
17 title, the amount of the credit not used to offset taxes may be carried
18 forward to the next fifteen consecutive taxable years. The amount of credit
19 carryforward from taxable years beginning from and after December 31, 2000
20 through December 31, 2002 that may be used in any taxable year may not exceed
21 the taxpayer's tax liability under this title or five hundred thousand
22 dollars, whichever is less, minus the credit under this section for the
23 current taxable year's qualified research expenses. The amount of credit
24 carryforward from taxable years beginning from and after December 31, 2002
25 that may be used in any taxable year may not exceed the taxpayer's tax
26 liability under this title minus the credit under this section for the
27 current taxable year's qualified research expenses. A taxpayer who carries
28 forward any amount of credit under this subsection may not thereafter claim a
29 refund of any amount of the credit under subsection C of this section.
30 C. For taxable years beginning from and after December 31, 2009, if a
31 taxpayer who claims a credit under this section employs fewer than one
32 hundred fifty persons in the taxpayer's trade or business and if the
33 allowable credit under this section exceeds the taxes otherwise due under
34 this title on the claimant's income, or if there are no taxes due under this
35 title, in lieu of carrying the excess amount of credit forward to subsequent
36 taxable years under subsection B of this section, the taxpayer may elect to
37 receive a refund as follows:
38 1. The taxpayer must apply to the department of commerce for
39 qualification for the refund pursuant to section 41-1507 and submit a copy of
40 the department of commerce's certificate of qualification to the department
41 of revenue with the taxpayer's income tax return.
42 2. The amount of the refund is limited to seventy-five per cent of the
43 amount by which the allowable credit under this section exceeds the
44 taxpayer's tax liability under this title for the taxable year. The
45 remainder of the excess amount of the credit is waived.

3. The refund shall be paid in the manner prescribed by section 42-1118.

4. The refund is subject to setoff under section 42-1122.

5. If the department determines that a credit refunded pursuant to this subsection is incorrect or invalid, the excess credit issued may be treated as a tax deficiency pursuant to section 42-1108.

D. A taxpayer that claims a credit for increased research and development activity under this section shall not claim a credit under section 43-1085.01 for the same expenses.

Sec. 98. Section 43-1074.02, Arizona Revised Statutes, is amended to read:

43-1074.02. Credit for investment in qualified small businesses

A. For taxable years beginning from and after December 31, 2006 through December 31, ~~2014~~ 2019, a credit is allowed against the taxes imposed by this title for investment made after June 30, 2006 in qualified small businesses. The amount of the credit is the amount determined and authorized by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY as provided by section 41-1518.

B. To claim the credit under this section, the taxpayer shall attach to its tax return a copy of the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY certification provided pursuant to section 41-1518. No credit is allowed under this section unless the taxpayer provides the certification.

C. The basis of any investment with respect to which the taxpayer has claimed a credit under this section shall be reduced by the amount of the credit claimed with respect to that investment.

D. If the allowable tax credit exceeds the taxes due under this title on the claimant's income, or if there are no taxes due under this title, the amount of the claim not used to offset the taxes under this title may be carried forward to the next three consecutive taxable years as a credit against subsequent years' income tax liability.

E. Individuals who are co-owners of a business, including partners in a partnership and shareholders of an S corporation as defined in section 1361 of the internal revenue code, may each claim only their individual pro rata shares of the credit allowed under this section based on their ownership interests. The total of the credits allowed all such owners may not exceed the amount that would have been allowed a sole owner.

F. If the department of revenue determines that there has been a misrepresentation on an application submitted to the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY under section 41-1518, the department of revenue shall deny the credit if the misrepresentation relates to whether the applicant was a qualified investor or made a qualified investment. If the misrepresentation relates to whether the investment was made to:

1. A qualified small business, the department of revenue shall deny the credit only if the applicant knew or should have known at any time before the certification that the representation was false.

2. A bioscience enterprise or a business that maintains its principal place of business in a rural county in this state, the department of revenue shall decrease the amount of the credit that would have been allowed only if the applicant knew or should have known at any time before the certification that the representation was false.

Sec. 99. Section 43-1076, Arizona Revised Statutes, is amended to read:

43-1076. Credit for employment by a healthy forest enterprise

A. For taxable years beginning from and after December 31, 2004 through December 31, 2014, a credit is allowed against the taxes imposed by this title for net increases in qualified employment positions by a qualified business that is certified by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY as a healthy forest enterprise pursuant to section 41-1516.

B. Subject to subsection E of this section, the amount of the credit is equal to:

1. One-fourth of the taxable wages paid to an employee in a qualified employment position, not to exceed five hundred dollars per qualified employment position, in the first year or partial year of employment.

2. One-third of the taxable wages paid to an employee in a qualified employment position, not to exceed one thousand dollars per qualified employment position, in the second year of continuous employment.

3. One-half of the taxable wages paid to an employee in a qualified employment position, not to exceed one thousand five hundred dollars per qualified employment position, in the third year of continuous employment.

C. To qualify for a credit under this section:

1. The business must employ at least three new full-time employees in qualified employment positions in the first taxable year in which the credit is claimed.

2. All of the employees with respect to whom a credit is claimed must reside in this state on the date of hire.

3. A qualified employment position must meet all of the following requirements:

(a) The position must be full-time employment for a minimum of one thousand five hundred fifty hours per year, unless a shorter period of employment is due to forest closures or weather conditions beyond the taxpayer's control.

(b) The job duties must primarily involve or directly support the harvesting, transporting or the initial processing of qualifying forest products removed from qualifying projects as defined in section 41-1516 into a product having commercial value.

(c) The employer must pay compensation at least equal to the wage offer by county as computed annually by the department of economic security research administration division.

(d) The employee must have been employed for at least ninety days during the first taxable year. An employee who is hired during the last

ninety days of the taxable year shall be considered a new employee during the next taxable year. A qualified employment position that is filled during the last ninety days of the taxable year is considered to be a new qualified employment position for the next taxable year.

(e) The employee has not been previously employed by the taxpayer within twelve months before the current date of hire.

4. The employer shall provide health insurance coverage for employees as follows:

(a) The employer shall pay:

(i) At least twenty-five per cent of the premium or membership cost of the insurance program in the third year the taxpayer claims a credit under this section. If the taxpayer is self-insured, the taxpayer must pay at least twenty-five per cent of a predetermined fixed cost per employee for an insurance program that is payable whether or not the employee has filed claims.

(ii) At least forty per cent of the premium or membership cost in the fourth year the taxpayer claims a credit under this section. If the taxpayer is self-insured, the taxpayer must pay at least forty per cent of a predetermined fixed cost per employee for an insurance program that is payable whether or not the employee has filed claims.

(iii) At least fifty per cent of the premium or membership cost of the insurance program in the fifth and each subsequent year the taxpayer claims a credit under this section. If the taxpayer is self-insured, the taxpayer must pay at least fifty per cent of a predetermined fixed cost per employee for an insurance program that is payable whether or not the employee has filed claims.

(b) An employer shall not reduce the amount of health insurance coverage provided to employees before certification by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY.

D. A credit is allowed for employment in the second and third year only for qualified employment positions for which a credit was allowed and claimed by the taxpayer on the original first and second year tax returns.

E. The net increase in the number of qualified employment positions is the lesser of the total number of filled qualified employment positions created during the taxable year or the difference between the average number of full-time employees in the current taxable year and the average number of full-time employees during the immediately preceding taxable year. The net increase in the number of qualified employment positions computed under this subsection may not exceed two hundred qualified employment positions per taxpayer each year.

F. A taxpayer who claims a credit under section 43-1074, 43-1077 or 43-1079 may not claim a credit under this section with respect to the same employees.

G. If the allowable tax credit exceeds the income taxes otherwise due on the claimant's income, or if there are no state income taxes due on the

claimant's income, the amount of the claim not used as an offset against income taxes may be carried forward as a tax credit against subsequent years' income tax liability for the period not to exceed five taxable years, provided the business maintains its certification under section 41-1516.

H. Co-owners of a business, including partners in a partnership and shareholders of an S corporation as defined in section 1361 of the internal revenue code, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners of the business may not exceed the amount that would have been allowed for a sole owner of the business.

I. If a qualified business changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim first year credits only for one or more qualified employment positions that it created and filled with an eligible employee after the purchase or reorganization was complete. If a person purchases a business that had qualified for first or second year credits or changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim the second or third year credits if it meets the other eligibility requirements of this section. Credits for which a taxpayer qualified before the changes described in this subsection are terminated and lost at the time the changes are implemented.

J. If, within five taxable years after first receiving a credit pursuant to this section, the certification of qualification of a business is terminated or revoked under section 41-1516 other than for reasons beyond the control of the business as determined by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY, the credits allowed the business pursuant to this section are subject to recapture pursuant to this subsection. This subsection applies only in the case of the termination or revocation of a certification of qualification. This subsection does not apply if, in any taxable year, a taxpayer otherwise does not qualify for or fails to claim the credit under this section. The recapture of credits under this subsection is computed by increasing the amount of taxes imposed in the year following the year in which the qualification of the business was terminated or revoked by an amount determined by multiplying the full amount of all credits previously allowed under this section by a percentage determined as follows:

1. If the initial credit under this section was allowed for the taxable year immediately preceding the taxable year in which the certification of qualification of a business is terminated or revoked, one hundred per cent.

2. If the initial credit under this section was allowed two taxable years before the taxable year in which the certification of qualification of a business is terminated or revoked, eighty per cent.

3. If the initial credit under this section was allowed three taxable years before the taxable year in which the certification of qualification of a business is terminated or revoked, sixty per cent.

4. If the initial credit under this section was allowed four taxable years before the taxable year in which the certification of qualification of a business is terminated or revoked, forty per cent.

5. If the initial credit under this section was allowed five taxable years before the taxable year in which the certification of qualification of a business is terminated or revoked, twenty per cent.

Sec. 100. Section 43-1077, Arizona Revised Statutes, is amended to read:

43-1077. Credit for employment by qualified defense contractor

A. A credit is allowed against the taxes imposed by this title for:

1. Net increases in employment under United States department of defense contracts during the taxable year, as computed under subsection D of this section, by a qualified defense contractor who is certified by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY under section 41-1508.

2. Net increases in private commercial employment during the taxable year, as computed under subsection E of this section, by a qualified defense contractor who is certified by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY under section 41-1508 due to full-time equivalent employee positions transferred during the taxable year by the taxpayer from exclusively defense related activities to employment by the taxpayer in exclusively private commercial activities.

B. The amount of the credit is a dollar amount allowed for each full-time equivalent employee position created, determined as follows:

1st year	$2,500
2nd year	$2,000
3rd year	$1,500
4th year	$1,000
5th year	$ 500

C. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry the amount of the claim not used to offset the taxes under this title forward until taxable years beginning from and after December 31, 2011 as a credit against subsequent years' income tax liability, regardless of continuing certification as a qualified defense contractor.

D. The net increase in employment under defense related contracts shall be determined as follows:

1. Establish an employment baseline for the taxpayer based on a multiyear forecast of employment on United States department of defense contracts that was submitted to the department of defense before June 1, 1992. The annual average employment forecast for the first year the taxpayer qualified is the baseline. If the taxpayer did not make such a forecast before June 1, 1992, the baseline is the average annual employment as reported to the department of economic security during the preceding taxable year. If a taxpayer qualifies in the same year it relocates into this state, the taxpayer's baseline is zero.

2. For the first year of the credit, the taxpayer's net increase in average employment is the increase in employment reported to the department of economic security for the taxable year over the employment baseline.

3. For each succeeding year of the credit, the taxpayer's net increase in average employment is the increase in employment reported to the department of economic security for the taxable year over the preceding taxable year's average employment.

E. In computing the amount of credit allowed under subsection A, paragraph 2 of this section, the taxpayer shall:

1. Prorate employment during the taxable year according to the date of transfer from defense to private commercial activities or the date of transfer from private commercial activities to defense.

2. Compute and subtract an amount pursuant to subsection B of this section for full-time equivalent employee positions that were transferred during the taxable year by the taxpayer from exclusively private commercial activities to exclusively defense related activities.

F. The taxpayer shall account for qualifying full-time equivalent employee positions on a first-in first-out basis. If a decrease in qualifying employment occurs, the taxpayer shall subtract the decrease from the earliest qualifying positions.

G. A credit is not allowed under both subsection A, paragraphs 1 and 2 of this section with respect to the same employee position. A full-time equivalent employee position may be considered for purposes of computing the credit under either subsection A, paragraph 1 or 2 of this section, but not both.

H. A credit is not allowed under this section with respect to employment that was transferred from an outside contractor in this state to in-house employment by the taxpayer solely for purposes of qualifying for the credit.

I. A taxpayer who claims a credit under section 43-1074, 43-1079 or 43-1083.01 may not claim a credit under this section with respect to the same employee positions.

J. Co-owners of a business, including partners in a partnership and shareholders of an S corporation, as defined in section 1361 of the internal revenue code, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners may not exceed the amount that would have been allowed for a sole owner of the business.

Sec. 101. Section 43-1078, Arizona Revised Statutes, is amended to read:

43-1078. <u>Credit for property taxes paid by qualified defense contractor</u>

A. A credit is allowed against the taxes imposed by this title equal to a portion of the amount paid as taxes during the taxable year by a qualified defense contractor that is certified by the ~~department of commerce~~

ARIZONA COMMERCE AUTHORITY under section 41-1508, on property in this state that is classified as class one, paragraphs 12 and 13 pursuant to section 42-12001.

B. The amount of the credit is determined as follows:

1. Multiply the amount paid as taxes on property classified as class one, paragraphs 12 and 13 pursuant to section 42-12001 in this state during the taxable year by a percentage based on net new defense related employment, determined by subtracting the employment baseline determined pursuant to section 43-1077, subsection D, paragraph 1, from average annual employment as reported to the department of economic security for the taxable year, as follows:

New employment	Credit percentage
More than 900	40%
601 - 900	30%
301 - 600	20%
1 - 300	10%

2. Multiply the amount determined under paragraph 1 of this subsection by a percentage determined by dividing the taxpayer's total gross income from United States department of defense contracts apportioned to this state by the taxpayer's total gross income from all sources apportioned to this state.

C. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry the amount of the claim not used to offset the taxes under this title forward until taxable years beginning from and after December 31, 2011 as a credit against subsequent years' income tax liability, regardless of continuing certification as a qualified defense contractor.

D. The credit allowed by this section is in lieu of a deduction for property taxes under section 43-1042 with respect to the same taxes paid.

E. Co-owners of a business, including partners in a partnership and shareholders of an S corporation, as defined in section 1361 of the internal revenue code, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners may not exceed the amount that would have been allowed for a sole owner of the business.

Sec. 102. Section 43-1079, Arizona Revised Statutes, is amended to read:

43-1079. Credit for increased employment in military reuse zones; definition

A. A credit is allowed against the taxes imposed by this title for net increases in employment by the taxpayer of full-time employees working in a military reuse zone, established under title 41, chapter 10, article 3, and who are primarily engaged in providing aviation or aerospace services or in manufacturing, assembling or fabricating aviation or aerospace products. The amount of the credit is a dollar amount allowed for each new employee, determined as follows:

1. With respect to each employee other than a dislocated military base employee:

1st year of employment	$ 500
2nd year of employment	$1,000
3rd year of employment	$1,500
4th year of employment	$2,000
5th year of employment	$2,500

2. With respect to each dislocated military base employee:

1st year of employment	$1,000
2nd year of employment	$1,500
3rd year of employment	$2,000
4th year of employment	$2,500
5th year of employment	$3,000

B. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the amount of the claim not used to offset the taxes under this title may be carried forward as a credit against subsequent years' income tax liability for the period, not to exceed five taxable years, if the business remains in the military reuse zone.

C. The net increase in the number of employees for purposes of this section shall be determined by comparing the taxpayer's average employment in the military reuse zone during the taxable year with the taxpayer's previous year's fourth quarter employment in the zone, based on the taxpayer's report to the department of economic security for unemployment insurance purposes but considering only employment in the zone.

D. Co-owners of a business, including partners in a partnership and shareholders of an S corporation, as defined in section 1361 of the internal revenue code, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners may not exceed the amount that would have been allowed for a sole owner of the business.

E. A credit is not allowed under this section with respect to an employee whose place of employment is relocated by the taxpayer from a location in this state to the military reuse zone, unless the employee is engaged in aviation or aerospace services or in manufacturing, assembling or fabricating aviation or aerospace products and the taxpayer maintains at least the same number of employees in this state but outside the zone.

F. A taxpayer who claims a credit under section 43-1074, 43-1077 or 43-1083.01 may not claim a credit under this section with respect to the same employees.

G. For the purposes of this section, "dislocated military base employee" means a civilian who previously had permanent full-time civilian employment on the military facility as of the date the closure of the facility was finally determined under federal law, as certified by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY.

Sec. 103. Section 43-1083.01, Arizona Revised Statutes, is amended to read:

43-1083.01. Credit for renewable energy industry

A. For taxable years beginning from and after December 31, 2009 through December 31, 2014, a credit is allowed against the taxes imposed by this title for qualified investment and employment in expanding or locating qualified renewable energy operations in this state. To qualify for the credit, the taxpayer must invest in renewable energy manufacturing, or in new regional, national or global renewable energy business headquarters, in this state and produce new full-time employment positions where the job duties are performed at the location of the qualifying investment. The taxpayer must meet the employee compensation and employee health benefit requirements prescribed by section 41-1511.

B. The amount of the credit is computed as follows:

1. Ten per cent of the taxpayer's total capital investment in projects meeting the following minimum employment requirements:

(a) For qualifying renewable energy manufacturing operations, at least one and one-half new full-time employment positions for each five hundred thousand dollar increment of capital investment.

(b) For qualifying renewable energy business headquarters, at least one new full-time employment position for each two hundred thousand dollar increment of capital investment.

2. For other qualifying renewable energy investment, ten per cent of the amount computed as follows:

(a) Five hundred thousand dollars for each one and one-half new full-time employment positions in new renewable energy manufacturing operations.

(b) Two hundred thousand dollars for each new full-time employment position at a new renewable energy business headquarters.

(c) The amount of credit under this paragraph shall not exceed ten per cent of the amount of the taxpayer's total capital investment.

3. The amount of the credit shall not exceed the postapproval amount determined by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY under section 41-1511, subsection P.

4. The credit amount computed under paragraph 1 or 2 of this subsection is apportioned, and the taxpayer shall claim the credit in five equal annual installments in each of five consecutive taxable years.

C. To claim the credit the taxpayer must:

1. Conduct a business that qualifies under section 41-1511.

2. Receive preapproval and postapproval from the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY pursuant to section 41-1511.

3. Submit a copy of a current and valid certification of qualification issued to the taxpayer by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY.

D. To be counted for the purposes of the credit, an employee must have been employed at the qualifying facility for at least ninety days during the taxable year in a permanent full-time employment position of at least one thousand seven hundred fifty hours per year. An employee who is hired during the last ninety days of the taxable year shall be considered a new employee during the next taxable year. To be counted for the purposes of the credit during the first taxable year of employment, the employee must not have been previously employed by the taxpayer within twelve months before the current date of hire. The terms of employment must comply in all cases with the requirements of section 41-1511 and certification by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY.

E. Co-owners of a business, including partners in a partnership, members of a limited liability company and shareholders of an S corporation, as defined in section 1361 of the internal revenue code, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all owners of the business may not exceed the amount that would have been allowed for a sole owner of the business.

F. If the allowable tax credit for a taxable year exceeds the income taxes otherwise due on the claimant's income, or if there are no state income taxes due on the claimant's income, the amount of the claim not used as an offset against income taxes shall be paid to the taxpayer in the same manner as a refund under section 42-1118. Refunds made pursuant to this subsection are subject to setoff under section 42-1122. If the department determines that a refund is incorrect or invalid, the excess refund may be treated as a tax deficiency pursuant to section 42-1108.

G. Except as provided by subsection H of this section, if, within five taxable years after first receiving a credit pursuant to this section, the certification of qualification of a business is terminated or revoked under section 41-1511, other than for reasons beyond the control of the business as determined by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY, the taxpayer is disqualified from credits under this section in subsequent taxable years. On a determination that the taxpayer has committed fraud or relocated outside of this state within five taxable years of first receiving a credit pursuant to this section, the credits allowed the taxpayer in all taxable years pursuant to this section are subject to recapture pursuant to this subsection. This subsection applies only in the case of the termination or revocation of a certification of qualification under section 41-1511. This subsection does not apply if, in any taxable year, a taxpayer otherwise does not qualify for or fails to claim the credit under this section. The recapture of credits is computed by increasing the amount of taxes imposed in the year following the year of termination or revocation by the full amount of all credits previously allowed under this section.

H. A taxpayer who claims a credit under section 43-1074, 43-1077 or 43-1079 may not claim a credit under this section with respect to the same full-time employment positions.

I. The department of revenue shall adopt rules and prescribe forms and procedures as necessary for the purposes of this section. The department of revenue and the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY shall collaborate in adopting rules as necessary to avoid duplication and contradictory requirements while accomplishing the intent and purposes of this section.

J. For the purposes of this section, renewable energy operations are limited to manufacturers of, and headquarters for, systems and components that are used or useful in manufacturing renewable energy equipment for the generation, storage, testing and research and development, transmission or distribution of electricity from renewable resources, including specialized crates necessary to package the renewable energy equipment manufactured at the facility.

Sec. 104. Repeal

Section 43-1088.01, Arizona Revised Statutes, is repealed.

Sec. 105. Section 43-1111, Arizona Revised Statutes, is amended to read:

43-1111. Tax rates for corporations

There shall be levied, collected and paid for each taxable year upon the entire Arizona taxable income of every corporation, unless exempt under section 43-1126 or 43-1201 or as otherwise provided in this title or by law, taxes in an amount of ~~6.968 per cent of net income or fifty dollars, whichever is greater.~~ THE GREATER OF FIFTY DOLLARS OR:

1. FOR TAXABLE YEARS BEGINNING THROUGH DECEMBER 31, 2013, 6.968 PER CENT OF NET INCOME.

2. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2013 THROUGH DECEMBER 31, 2014, 6.5 PER CENT OF NET INCOME.

3. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2014 THROUGH DECEMBER 31, 2015, 6.0 PER CENT OF NET INCOME.

4. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2015 THROUGH DECEMBER 31, 2016, 5.5 PER CENT OF NET INCOME.

5. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2016, 4.9 PER CENT OF NET INCOME.

Sec. 106. Section 43-1139, Arizona Revised Statutes, is amended to read:

43-1139. Allocation of business income

A. Except as provided in subsection B of this section, the taxpayer shall elect to apportion all business income to this state for taxable years beginning from and after:

1. December 31, 2006 through December 31, 2007 by either:

(a) Multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus two times the sales factor, and the denominator of which is four.

(b) Multiplying the income by a fraction, the numerator of which is two times the property factor plus two times the payroll factor plus six times the sales factor, and the denominator of which is ten.

2. December 31, 2007 through December 31, 2008 by either:

(a) Multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus two times the sales factor, and the denominator of which is four.

(b) Multiplying the income by a fraction, the numerator of which is one and one-half times the property factor plus one and one-half times the payroll factor plus seven times the sales factor, and the denominator of which is ten.

3. December 31, 2008 THROUGH DECEMBER 31, 2013 by either:

(a) Multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus two times the sales factor, and the denominator of which is four.

(b) Multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus eight times the sales factor, and the denominator of which is ten.

4. DECEMBER 31, 2013 THROUGH DECEMBER 31, 2014 BY EITHER:

(a) MULTIPLYING THE INCOME BY A FRACTION, THE NUMERATOR OF WHICH IS THE PROPERTY FACTOR PLUS THE PAYROLL FACTOR PLUS TWO TIMES THE SALES FACTOR, AND THE DENOMINATOR OF WHICH IS FOUR.

(b) MULTIPLYING THE INCOME BY A FRACTION, THE NUMERATOR OF WHICH IS SEVEN AND ONE-HALF TIMES THE PROPERTY FACTOR PLUS SEVEN AND ONE-HALF TIMES THE PAYROLL FACTOR PLUS EIGHTY-FIVE TIMES THE SALES FACTOR, AND THE DENOMINATOR OF WHICH IS ONE HUNDRED.

5. DECEMBER 31, 2014 THROUGH DECEMBER 31, 2015 BY EITHER:

(a) MULTIPLYING THE INCOME BY A FRACTION, THE NUMERATOR OF WHICH IS THE PROPERTY FACTOR PLUS THE PAYROLL FACTOR PLUS TWO TIMES THE SALES FACTOR, AND THE DENOMINATOR OF WHICH IS FOUR.

(b) MULTIPLYING THE INCOME BY A FRACTION, THE NUMERATOR OF WHICH IS FIVE TIMES THE PROPERTY FACTOR PLUS FIVE TIMES THE PAYROLL FACTOR PLUS NINETY TIMES THE SALES FACTOR, AND THE DENOMINATOR OF WHICH IS ONE HUNDRED.

6. DECEMBER 31, 2015 THROUGH DECEMBER 31, 2016 BY EITHER:

(a) MULTIPLYING THE INCOME BY A FRACTION, THE NUMERATOR OF WHICH IS THE PROPERTY FACTOR PLUS THE PAYROLL FACTOR PLUS TWO TIMES THE SALES FACTOR, AND THE DENOMINATOR OF WHICH IS FOUR.

(b) MULTIPLYING THE INCOME BY A FRACTION, THE NUMERATOR OF WHICH IS TWO AND ONE-HALF TIMES THE PROPERTY FACTOR PLUS TWO AND ONE-HALF TIMES THE PAYROLL FACTOR PLUS NINETY-FIVE TIMES THE SALES FACTOR, AND THE DENOMINATOR OF WHICH IS ONE HUNDRED.

7. DECEMBER 31, 2016 BY EITHER:

(a) MULTIPLYING THE INCOME BY A FRACTION, THE NUMERATOR OF WHICH IS THE PROPERTY FACTOR PLUS THE PAYROLL FACTOR PLUS TWO TIMES THE SALES FACTOR, AND THE DENOMINATOR OF WHICH IS FOUR.

(b) MULTIPLYING THE INCOME BY THE SALES FACTOR.

B. All business income of a taxpayer engaged in air commerce shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the revenue aircraft miles flown within this state for flights beginning or ending in this state and the denominator of which is the total revenue aircraft miles flown by the taxpayer's aircraft everywhere. This subsection applies to each taxpayer, including a combined group filing a combined return or an affiliated group electing to file a consolidated return under section 43-947, if fifty per cent or more of that taxpayer's gross income is derived from air commerce. For the purposes of this subsection:

1. "Air commerce" means transporting persons or property for hire by aircraft in interstate, intrastate or international transportation.

2. "Revenue aircraft miles flown" has the same meaning prescribed by the United States department of transportation uniform system of accounts and reports for large certificated air carriers (14 Code of Federal Regulations part 241).

Sec. 107. Title 43, chapter 11, article 6, Arizona Revised Statutes, is amended by adding section 43-1161, to read:

43-1161. Credit for new employment

A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR NET INCREASES IN FULL-TIME EMPLOYEES HIRED IN QUALIFIED EMPLOYMENT POSITIONS AS CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1525.

B. SUBJECT TO SUBSECTION E OF THIS SECTION, THE AMOUNT OF THE CREDIT IS EQUAL TO THREE THOUSAND DOLLARS FOR EACH FULL-TIME EMPLOYEE HIRED FOR THE FULL TAXABLE YEAR IN A QUALIFIED EMPLOYMENT POSITION IN EACH OF THE FIRST THREE YEARS OF EMPLOYMENT, BUT NOT MORE THAN FOUR HUNDRED EMPLOYEES IN ANY TAXABLE YEAR.

C. TO QUALIFY FOR A CREDIT UNDER THIS SECTION, THE TAXPAYER AND THE EMPLOYMENT POSITIONS MUST MEET THE REQUIREMENTS PRESCRIBED BY SECTION 41-1525.

D. A CREDIT IS ALLOWED FOR EMPLOYMENT IN THE SECOND AND THIRD YEAR ONLY FOR QUALIFIED EMPLOYMENT POSITIONS FOR WHICH A CREDIT WAS CLAIMED AND ALLOWED IN THE FIRST YEAR.

E. THE NET INCREASE IN THE NUMBER OF QUALIFIED EMPLOYMENT POSITIONS IS THE LESSER OF THE TOTAL NUMBER OF FILLED QUALIFIED EMPLOYMENT POSITIONS CREATED DURING THE TAXABLE YEAR OR THE DIFFERENCE BETWEEN THE AVERAGE NUMBER OF FULL-TIME EMPLOYEES IN THE CURRENT TAX YEAR AND THE AVERAGE NUMBER OF FULL-TIME EMPLOYEES DURING THE IMMEDIATELY PRECEDING TAXABLE YEAR. THE NET INCREASE IN THE NUMBER OF QUALIFIED EMPLOYMENT POSITIONS COMPUTED UNDER THIS SUBSECTION MAY NOT EXCEED FOUR HUNDRED QUALIFIED EMPLOYMENT POSITIONS PER TAXPAYER EACH YEAR.

F. A TAXPAYER WHO CLAIMS A CREDIT UNDER SECTION 43-1164.01, 43-1165 OR 43-1167 SHALL NOT CLAIM A CREDIT UNDER THIS SECTION WITH RESPECT TO THE SAME EMPLOYMENT POSITIONS.

G. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE INCOME TAXES OTHERWISE DUE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO STATE INCOME TAXES DUE ON THE CLAIMANT'S INCOME, THE AMOUNT OF THE CLAIM NOT USED AS AN OFFSET AGAINST THE INCOME TAXES MAY BE CARRIED FORWARD AS A TAX CREDIT AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY FOR A PERIOD NOT EXCEEDING FIVE TAXABLE YEARS.

H. CO-OWNERS OF A BUSINESS, INCLUDING CORPORATE PARTNERS IN A PARTNERSHIP, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH OWNERS OF THE BUSINESS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN ALLOWED FOR A SOLE OWNER OF THE BUSINESS.

I. IF THE BUSINESS IS SOLD OR CHANGES OWNERSHIP THROUGH REORGANIZATION, STOCK PURCHASE OR MERGER, THE NEW TAXPAYER MAY CLAIM FIRST YEAR CREDITS ONLY FOR THE QUALIFIED EMPLOYMENT POSITIONS THAT IT CREATED AND FILLED WITH AN ELIGIBLE EMPLOYEE AFTER THE PURCHASE OR REORGANIZATION WAS COMPLETE. IF A PERSON PURCHASES A TAXPAYER THAT HAD QUALIFIED FOR FIRST OR SECOND YEAR CREDITS OR CHANGES OWNERSHIP THROUGH REORGANIZATION, STOCK PURCHASE OR MERGER, THE NEW TAXPAYER MAY CLAIM THE SECOND OR THIRD YEAR CREDITS IF IT MEETS OTHER ELIGIBILITY REQUIREMENTS OF THIS SECTION. CREDITS FOR WHICH A TAXPAYER QUALIFIED BEFORE THE CHANGES DESCRIBED IN THIS SUBSECTION ARE TERMINATED AND LOST AT THE TIME THE CHANGES ARE IMPLEMENTED.

J. A FAILURE TO TIMELY REPORT AND CERTIFY TO THE ARIZONA COMMERCE AUTHORITY THE INFORMATION PRESCRIBED BY SECTION 41-1525, SUBSECTION D, AND IN THE MANNER PRESCRIBED BY SECTION 41-1525, SUBSECTION E DISQUALIFIES THE TAXPAYER FROM THE CREDIT UNDER THIS SECTION. THE DEPARTMENT SHALL REQUIRE WRITTEN EVIDENCE OF THE TIMELY REPORT TO THE ARIZONA COMMERCE AUTHORITY.

K. A TAX CREDIT UNDER THIS SECTION IS SUBJECT TO RECOVERY FOR A VIOLATION DESCRIBED IN SECTION 41-1525, SUBSECTION G.

Sec. 108. Section 43-1162, Arizona Revised Statutes, is amended to read:

43-1162. Credit for employment by a healthy forest enterprise

A. For taxable years beginning from and after December 31, 2004 through December 31, 2014, a credit is allowed against the taxes imposed by this title for net increases in qualified employment positions by a qualified business that is certified by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY as a healthy forest enterprise pursuant to section 41-1516.

B. Subject to subsection E of this section, the amount of the credit is equal to:

1. One-fourth of the taxable wages paid to an employee in a qualified employment position, not to exceed five hundred dollars per qualified employment position, in the first year or partial year of employment.

2. One-third of the taxable wages paid to an employee in a qualified employment position, not to exceed one thousand dollars per qualified employment position, in the second year of continuous employment.

3. One-half of the taxable wages paid to an employee in a qualified employment position, not to exceed one thousand five hundred dollars per qualified employment position, in the third year of continuous employment.

C. To qualify for a credit under this section:

1. The business must employ at least three new full-time employees in qualified employment positions in the first taxable year in which the credit is claimed.

2. All of the employees with respect to whom a credit is claimed must reside in this state on the date of hire.

3. A qualified employment position must meet all of the following requirements:

(a) The position must be full-time employment for a minimum of one thousand five hundred fifty hours per year, unless a shorter period of employment is due to forest closures or weather conditions beyond the taxpayer's control.

(b) The job duties must primarily involve or directly support the harvesting, transporting or the initial processing of qualifying forest products removed from qualifying projects as defined in section 41-1516 into a product having commercial value.

(c) The employer must pay compensation at least equal to the wage offer by county as computed annually by the department of economic security research administration division.

(d) The employee must have been employed for at least ninety days during the first taxable year. An employee who is hired during the last ninety days of the taxable year shall be considered a new employee during the next taxable year. A qualified employment position that is filled during the last ninety days of the taxable year is considered to be a new qualified employment position for the next taxable year.

(e) The employee has not been previously employed by the taxpayer within twelve months before the current date of hire.

4. The employer shall provide health insurance coverage for employees as follows:

(a) The employer shall pay:

(i) At least twenty-five per cent of the premium or membership cost of the insurance program in the third year the taxpayer claims a credit under this section. If the taxpayer is self-insured, the taxpayer must pay at least twenty-five per cent of a predetermined fixed cost per employee for an insurance program that is payable whether or not the employee has filed claims.

(ii) At least forty per cent of the premium or membership cost in the fourth year the taxpayer claims a credit under this section. If the taxpayer is self-insured, the taxpayer must pay at least forty per cent of a

predetermined fixed cost per employee for an insurance program that is payable whether or not the employee has filed claims.

(iii) At least fifty per cent of the premium or membership cost of the insurance program in the fifth and each subsequent year the taxpayer claims a credit under this section. If the taxpayer is self-insured, the taxpayer must pay at least fifty per cent of a predetermined fixed cost per employee for an insurance program that is payable whether or not the employee has filed claims.

(b) An employer shall not reduce the amount of health insurance coverage provided to employees before certification by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY.

D. A credit is allowed for employment in the second and third year only for qualified employment positions for which a credit was allowed and claimed by the taxpayer on the original first and second year tax returns.

E. The net increase in the number of qualified employment positions is the lesser of the total number of filled qualified employment positions created during the taxable year or the difference between the average number of full-time employees in the current taxable year and the average number of full-time employees during the immediately preceding taxable year. The net increase in the number of qualified employment positions computed under this subsection may not exceed two hundred qualified employment positions per taxpayer each year.

F. A taxpayer who claims a credit under section 43-1161, 43-1165 or 43-1167 may not claim a credit under this section with respect to the same employees.

G. If the allowable tax credit exceeds the income taxes otherwise due on the claimant's income, or if there are no state income taxes due on the claimant's income, the amount of the claim not used as an offset against income taxes may be carried forward as a tax credit against subsequent years' income tax liability for the period not to exceed five taxable years, provided the business maintains its certification under section 41-1516.

H. Co-owners of a business, including partners in a partnership, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners of the business may not exceed the amount that would have been allowed for a sole owner of the business.

I. If a qualified business changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim first year credits only for one or more qualified employment positions that it created and filled with an eligible employee after the purchase or reorganization was complete. If a person purchases a business that had qualified for first or second year credits or changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim the second or third year credits if it meets the other eligibility requirements of this section.

Credits for which a taxpayer qualified before the changes described in this subsection are terminated and lost at the time the changes are implemented.

J. If, within five taxable years after first receiving a credit pursuant to this section, the certification of qualification of a business is terminated or revoked under section 41-1516 other than for reasons beyond the control of the business as determined by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY, the credits allowed the business pursuant to this section are subject to recapture pursuant to this subsection. This subsection applies only in the case of the termination or revocation of a certification of qualification. This subsection does not apply if, in any taxable year, a taxpayer otherwise does not qualify for or fails to claim the credit under this section. The recapture of credits under this subsection is computed by increasing the amount of taxes imposed in the year following the year in which the qualification of the business was terminated or revoked by an amount determined by multiplying the full amount of all credits previously allowed under this section by a percentage determined as follows:

1. If the initial credit under this section was allowed for the taxable year immediately preceding the taxable year in which the certification of qualification of a business is terminated or revoked, one hundred per cent.

2. If the initial credit under this section was allowed two taxable years before the taxable year in which the certification of qualification of a business is terminated or revoked, eighty per cent.

3. If the initial credit under this section was allowed three taxable years before the taxable year in which the certification of qualification of a business is terminated or revoked, sixty per cent.

4. If the initial credit under this section was allowed four taxable years before the taxable year in which the certification of qualification of a business is terminated or revoked, forty per cent.

5. If the initial credit under this section was allowed five taxable years before the taxable year in which the certification of qualification of a business is terminated or revoked, twenty per cent.

Sec. 109. Section 43-1164.01, Arizona Revised Statutes, is amended to read:

43-1164.01. <u>Credit for renewable energy industry</u>

A. For taxable years beginning from and after December 31, 2009 through December 31, 2014, a credit is allowed against the taxes imposed by this title for qualified investment and employment in expanding or locating qualified renewable energy operations in this state. To qualify for the credit, the taxpayer must invest in renewable energy manufacturing, or in new regional, national or global renewable energy business headquarters, in this state and produce new full-time employment positions where the job duties are performed at the location of the qualifying investment. The taxpayer must meet the employee compensation and employee health benefit requirements prescribed by section 41-1511.

B. The amount of the credit is computed as follows:

1. Ten per cent of the taxpayer's total capital investment in projects meeting the following minimum employment requirements:

(a) For qualifying renewable energy manufacturing operations, at least one and one-half new full-time employment positions for each five hundred thousand dollar increment of capital investment.

(b) For qualifying renewable energy business headquarters, at least one new full-time employment position for each two hundred thousand dollar increment of capital investment.

2. For other qualifying renewable energy investment, ten per cent of the amount computed as follows:

(a) Five hundred thousand dollars for each one and one-half new full-time employment positions in new renewable energy manufacturing operations.

(b) Two hundred thousand dollars for each new full-time employment position at a new renewable energy business headquarters.

(c) The amount of credit under this paragraph shall not exceed ten per cent of the amount of the taxpayer's total capital investment.

3. The amount of the credit shall not exceed the postapproval amount determined by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY under section 41-1511, subsection P.

4. The credit amount computed under paragraph 1 or 2 of this subsection is apportioned, and the taxpayer shall claim the credit in five equal annual installments in each of five consecutive taxable years.

C. To claim the credit the taxpayer must:

1. Conduct a business that qualifies under section 41-1511.

2. Receive preapproval and postapproval from the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY pursuant to section 41-1511.

3. Submit a copy of a current and valid certification of qualification issued to the taxpayer by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY.

D. To be counted for the purposes of the credit, an employee must have been employed at the qualifying facility for at least ninety days during the taxable year in a permanent full-time employment position of at least one thousand seven hundred fifty hours per year. An employee who is hired during the last ninety days of the taxable year shall be considered a new employee during the next taxable year. To be counted for the purposes of the credit during the first taxable year of employment, the employee must not have been previously employed by the taxpayer within twelve months before the current date of hire. The terms of employment must comply in all cases with the requirements of section 41-1511 and certification by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY.

E. Co-owners of a business, including corporate partners in a partnership and members of a limited liability company, may each claim only the pro rata share of the credit allowed under this section based on the

ownership interest. The total of the credits allowed all owners of the business may not exceed the amount that would have been allowed for a sole owner of the business.

F. If the allowable tax credit for a taxable year exceeds the income taxes otherwise due on the claimant's income, or if there are no state income taxes due on the claimant's income, the amount of the claim not used as an offset against income taxes shall be paid to the taxpayer in the same manner as a refund under section 42-1118. Refunds made pursuant to this subsection are subject to setoff under section 42-1122. If the department determines that a refund is incorrect or invalid, the excess refund may be treated as a tax deficiency pursuant to section 42-1108.

G. Except as provided by subsection H of this section, if, within five taxable years after first receiving a credit pursuant to this section, the certification of qualification of a business is terminated or revoked under section 41-1511, other than for reasons beyond the control of the business as determined by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY, the taxpayer is disqualified from credits under this section in subsequent taxable years. On a determination that the taxpayer has committed fraud or relocated outside of this state within five taxable years of first receiving a credit pursuant to this section, the credits allowed the taxpayer in all taxable years pursuant to this section are subject to recapture pursuant to this subsection. This subsection applies only in the case of the termination or revocation of a certification of qualification under section 41-1511. This subsection does not apply if, in any taxable year, a taxpayer otherwise does not qualify for or fails to claim the credit under this section. The recapture of credits is computed by increasing the amount of taxes imposed in the year following the year of termination or revocation by the full amount of all credits previously allowed under this section.

H. A taxpayer who claims a credit under section 43-1161, 43-1165 or 43-1167 may not claim a credit under this section with respect to the same full-time employment positions.

I. The department of revenue shall adopt rules and prescribe forms and procedures as necessary for the purposes of this section. The department of revenue and the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY shall collaborate in adopting rules as necessary to avoid duplication and contradictory requirements while accomplishing the intent and purposes of this section.

J. For the purposes of this section, renewable energy operations are limited to manufacturers of, and headquarters for, systems and components that are used or useful in manufacturing renewable energy equipment for the generation, storage, testing and research and development, transmission or distribution of electricity from renewable resources, including specialized crates necessary to package the renewable energy equipment manufactured at the facility.

1 Sec. 110. Section 43-1165, Arizona Revised Statutes, is amended to
2 read:
3 43-1165. Credit for employment by qualified defense contractor
4 A. A credit is allowed against the taxes imposed by this title for:
5 1. Net increases in employment under United States department of
6 defense contracts during the taxable year, as computed under subsection D of
7 this section, by a qualified defense contractor that is certified by the
8 ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY under section 41-1508.
9 2. Net increases in private commercial employment during the taxable
10 year, as computed under subsection E of this section, by a qualified defense
11 contractor that is certified by the ~~department of commerce~~ ARIZONA COMMERCE
12 AUTHORITY under section 41-1508 due to full-time equivalent employee
13 positions transferred during the taxable year by the taxpayer from
14 exclusively defense related activities to employment by the taxpayer in
15 exclusively private commercial activities.
16 B. The amount of the credit is a dollar amount allowed for each
17 full-time equivalent employee position created, determined as follows:
18 1st year $2,500
19 2nd year $2,000
20 3rd year $1,500
21 4th year $1,000
22 5th year $ 500
23 C. If the allowable tax credit exceeds the taxes otherwise due under
24 this title on the claimant's income, or if there are no taxes due under this
25 title, the taxpayer may carry the amount of the claim not used to offset the
26 taxes under this title forward until taxable years beginning from and after
27 December 31, 2011 as a credit against subsequent years' income tax liability,
28 regardless of continuing certification as a qualified defense contractor.
29 D. The net increase in employment under defense related contracts
30 shall be determined as follows:
31 1. Establish an employment baseline for the taxpayer based on a
32 multiyear forecast of employment on United States department of defense
33 contracts that was submitted to the department of defense before June 1,
34 1992. The annual average employment forecast for the first year the taxpayer
35 qualified is the baseline. If the taxpayer did not make such a forecast
36 before June 1, 1992, the baseline is the average annual employment as
37 reported to the department of economic security during the preceding taxable
38 year. If a taxpayer qualifies in the same year it relocates into this state,
39 the taxpayer's baseline is zero.
40 2. For the first year of the credit, the taxpayer's net increase in
41 average employment is the increase in employment reported to the department
42 of economic security for the taxable year over the employment baseline.
43 3. For each succeeding year of the credit, the taxpayer's net increase
44 in average employment is the increase in employment reported to the

department of economic security for the taxable year over the preceding taxable year's average employment.

E. In computing the amount of credit allowed under subsection A, paragraph 2 of this section, the taxpayer shall:

1. Prorate employment during the taxable year according to the date of transfer from defense to private commercial activities or the date of transfer from private commercial activities to defense.

2. Compute and subtract an amount pursuant to subsection B of this section for full-time equivalent employee positions that were transferred during the taxable year by the taxpayer from exclusively private commercial activities to exclusively defense related activities.

F. The taxpayer shall account for qualifying full-time equivalent employee positions on a first-in first-out basis. If a decrease in qualifying employment occurs, the taxpayer shall subtract the decrease from the earliest qualifying positions.

G. A credit is not allowed under both subsection A, paragraphs 1 and 2 of this section with respect to the same employee position. A full-time equivalent employee position may be considered for purposes of computing the credit under either subsection A, paragraph 1 or 2 of this section, but not both.

H. A credit is not allowed under this section with respect to employment that was transferred from an outside contractor in this state to in-house employment by the taxpayer solely for purposes of qualifying for the credit.

I. A taxpayer that claims a credit under section 43-1161, 43-1164.01 or 43-1167 may not claim a credit under this section with respect to the same employee positions.

J. Co-owners of a business, including corporate partners in a partnership, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners may not exceed the amount that would have been allowed for a sole owner of the business.

Sec. 111. Section 43-1166, Arizona Revised Statutes, is amended to read:

43-1166. <u>Credit for property taxes paid by qualified defense contractor</u>

A. A credit is allowed against the taxes imposed by this title equal to a portion of the amount paid as taxes during the taxable year by a qualified defense contractor that is certified by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY under section 41-1508 on property in this state that is classified as class one, paragraphs 12 and 13 pursuant to section 42-12001.

B. The amount of the credit is determined as follows:

1. Multiply the amount paid as taxes on property classified as class one, paragraphs 12 and 13 pursuant to section 42-12001 in this state during

the taxable year by a percentage based on net new defense related employment, determined by subtracting the employment baseline determined pursuant to section 43-1165, subsection D, paragraph 1 from average annual employment as reported to the department of economic security for the taxable year, as follows:

New employment	Credit percentage
More than 900	40%
601 - 900	30%
301 - 600	20%
1 - 300	10%

2. Multiply the amount determined under paragraph 1 of this subsection by a percentage determined by dividing the taxpayer's total gross income from United States department of defense contracts apportioned to this state by the taxpayer's total gross income from all sources apportioned to this state.

C. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry the amount of the claim not used to offset the taxes under this title forward until taxable years beginning from and after December 31, 2011 as a credit against subsequent years' income tax liability, regardless of continuing certification as a qualified defense contractor.

D. Co-owners of a business, including corporate partners in a partnership, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners may not exceed the amount that would have been allowed for a sole owner of the business.

Sec. 112. Section 43-1167, Arizona Revised Statutes, is amended to read:

43-1167. Credit for increased employment in military reuse zones; definition

A. A credit is allowed against the taxes imposed by this title for net increases in employment by the taxpayer of full-time employees working in a military reuse zone, established under title 41, chapter 10, article 3, and who are primarily engaged in providing aviation or aerospace services or in manufacturing, assembling or fabricating aviation or aerospace products. The amount of the credit is a dollar amount allowed for each new employee, determined as follows:

1. With respect to each employee other than a dislocated military base employee:

1st year of employment	$ 500
2nd year of employment	$1,000
3rd year of employment	$1,500
4th year of employment	$2,000
5th year of employment	$2,500

2. With respect to each dislocated military base employee:

1st year of employment	$1,000

2nd year of employment	$1,500
3rd year of employment	$2,000
4th year of employment	$2,500
5th year of employment	$3,000

B. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the amount of the claim not used to offset the taxes under this title may be carried forward as a credit against subsequent years' income tax liability for the period, not to exceed five taxable years, if the business remains in the military reuse zone.

C. The net increase in the number of employees for purposes of this section shall be determined by comparing the taxpayer's average employment in the military reuse zone during the taxable year with the taxpayer's previous year's fourth quarter employment in the zone, based on the taxpayer's report to the department of economic security for unemployment insurance purposes but considering only employment in the zone.

D. Co-owners of a business, including corporate partners in a partnership, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners may not exceed the amount that would have been allowed for a sole owner of the business.

E. A credit is not allowed under this section with respect to an employee whose place of employment is relocated by the taxpayer from a location in this state to the military reuse zone unless the employee is engaged in aviation or aerospace services or in manufacturing, assembling or fabricating aviation or aerospace products and the taxpayer maintains at least the same number of employees in this state but outside the zone.

F. A taxpayer who claims a credit under section 43-1161, 43-1164.01 or 43-1165 may not claim a credit under this section with respect to the same employees.

G. For the purposes of this section, "dislocated military base employee" means a civilian who previously had permanent full-time civilian employment on the military facility as of the date the closure of the facility was finally determined under federal law, as certified by the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY.

Sec. 113. Section 43-1168, Arizona Revised Statutes, as amended by Laws 2010, chapter 289, section 6 and chapter 312, section 7, is amended to read:

43-1168. Credit for increased research activities

A. A credit is allowed against the taxes imposed by this title in an amount determined pursuant to section 41 of the internal revenue code, except that:

1. The amount of the credit is computed as follows:

(a) Add:

(i) The excess, if any, of the qualified research expenses for the taxable year over the base amount as defined in section 41(c) of the internal revenue code.

(ii) The basic research payments determined under section 41(e)(1)(A) of the internal revenue code.

(b) If the sum computed under subdivision (a) is two million five hundred thousand dollars or less, the credit is equal to twenty-four per cent of that amount.

(c) If the sum computed under subdivision (a) is over two million five hundred thousand dollars, the credit is equal to six hundred thousand dollars plus fifteen per cent of any amount exceeding two million five hundred thousand dollars, except that:

(i) For taxable years beginning from and after December 31, 2000 through December 31, 2001, the credit shall not exceed one million five hundred thousand dollars.

(ii) For taxable years beginning from and after December 31, 2001 through December 31, 2002, the credit shall not exceed two million five hundred thousand dollars.

(d) FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2011, AN ADDITIONAL CREDIT AMOUNT IS ALLOWED IF THE TAXPAYER MADE BASIC RESEARCH PAYMENTS DURING THE TAXABLE YEAR TO A UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS. THE ADDITIONAL CREDIT AMOUNT IS EQUAL TO TEN PER CENT OF THE BASIC RESEARCH PAYMENTS THAT CONSTITUTE EXCESS EXPENSES FOR THE TAXABLE YEAR OVER THE BASE AMOUNT. THE DEPARTMENT SHALL NOT ALLOW CREDIT AMOUNTS UNDER THIS SUBDIVISION AND SECTION 43-1074.01, SUBSECTION A, PARAGRAPH 1, SUBDIVISION (c) THAT EXCEED, IN THE AGGREGATE, A COMBINED TOTAL OF TEN MILLION DOLLARS IN ANY CALENDAR YEAR. SUBJECT TO THAT LIMIT, ON APPLICATION BY THE TAXPAYER, THE DEPARTMENT SHALL PREAPPROVE CREDIT AMOUNTS UNDER THIS SUBDIVISION AND SECTION 43-1074.01, SUBSECTION A, PARAGRAPH 1, SUBDIVISION (c) BASED ON PRIORITY PLACEMENT ESTABLISHED BY THE DATE THAT THE TAXPAYER FILED THE APPLICATION. NOTWITHSTANDING SUBSECTIONS B AND D OF THIS SECTION, ANY AMOUNT OF THE ADDITIONAL CREDIT UNDER THIS SUBDIVISION THAT EXCEEDS THE TAXES OTHERWISE DUE UNDER THIS TITLE IS NOT REFUNDABLE, BUT MAY BE CARRIED FORWARD TO THE NEXT FIVE CONSECUTIVE TAXABLE YEARS.

2. Qualified research includes only research conducted in this state including research conducted at a university in this state and paid for by the taxpayer.

3. If two or more taxpayers, including corporate partners in a partnership, share in the eligible expenses, each taxpayer is eligible to receive a proportionate share of the credit.

4. The credit under this section applies only to expenses incurred from and after December 31, 1993.

5. The termination provisions of section 41 of the internal revenue code do not apply.

B. Except as provided by subsection D of this section, if the allowable credit under this section exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the amount of the credit not used to offset taxes may be carried forward to the next fifteen consecutive taxable years. The amount of credit carryforward from taxable years beginning from and after December 31, 2000 through December 31, 2002 that may be used under this subsection in any taxable year may not exceed the taxpayer's tax liability under this title or five hundred thousand dollars, whichever is less, minus the credit under this section for the current taxable year's qualified research expenses. The amount of credit carryforward from taxable years beginning from and after December 31, 2002 that may be used under this subsection in any taxable year may not exceed the taxpayer's tax liability under this title minus the credit under this section for the current taxable year's qualified research expenses. A taxpayer that carries forward any amount of credit under this subsection may not thereafter claim a refund of any amount of the credit under subsection D of this section.

C. If a taxpayer has qualified research expenses that are carried forward from taxable years beginning before January 1, 2001, the amount of the expenses carried forward shall be converted to a credit carryforward by multiplying the amount of the qualified expenses carried forward by twenty per cent. A credit carryforward determined under this subsection may be carried forward to not more than fifteen years from the year in which the expenses were incurred. The amount of credit carryforward from taxable years beginning before January 1, 2001 that may be used under this subsection in any taxable year may not exceed the taxpayer's tax liability under this title or five hundred thousand dollars, whichever is less, minus the credit under this section for the current taxable year's qualified research expenses. The total amount of credit carryforward from taxable years beginning before January 1, 2003 that may be used in any taxable year under subsection B and this subsection may not exceed the taxpayer's tax liability under this title or five hundred thousand dollars, whichever is less, minus the credit under this section for the current taxable year's qualified research expenses.

D. For taxable years beginning from and after December 31, 2009, if a taxpayer who claims a credit under this section employs fewer than one hundred fifty persons in the taxpayer's trade or business and if the allowable credit under this section exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, in lieu of carrying the excess amount of credit forward to subsequent taxable years under subsection B of this section, the taxpayer may elect to receive a refund as follows:

1. The taxpayer must apply to the department of commerce for qualification for the refund pursuant to section 41-1507 and submit a copy of the department of commerce's certificate of qualification to the department of revenue with the taxpayer's income tax return.

2. The amount of the refund is limited to seventy-five per cent of the amount by which the allowable credit under this section exceeds the taxpayer's tax liability under this title for the taxable year. The remainder of the excess amount of the credit is waived.

3. The refund shall be paid in the manner prescribed by section 42-1118.

4. The refund is subject to setoff under section 42-1122.

5. If the department determines that a credit refunded pursuant to this subsection is incorrect or invalid, the excess credit issued may be treated as a tax deficiency pursuant to section 42-1108.

E. A taxpayer that claims a credit for increased research and development activity under this section shall not claim a credit under section 43-1164.02 for the same expenses.

Sec. 114. Section 43-1168, Arizona Revised Statutes, as amended by Laws 2010, chapter 289, section 7 and chapter 312, section 8, is amended to read:

43-1168. Credit for increased research activity

A. A credit is allowed against the taxes imposed by this title in an amount determined pursuant to section 41 of the internal revenue code, except that:

1. The amount of the credit is computed as follows:

(a) Add:

(i) The excess, if any, of the qualified research expenses for the taxable year over the base amount as defined in section 41(c) of the internal revenue code.

(ii) The basic research payments determined under section 41(e)(1)(A) of the internal revenue code.

(b) If the sum computed under subdivision (a) is two million five hundred thousand dollars or less, the credit is equal to twenty per cent of that amount.

(c) If the sum computed under subdivision (a) is over two million five hundred thousand dollars, the credit is equal to five hundred thousand dollars plus eleven per cent of any amount exceeding two million five hundred thousand dollars, except that:

(i) For taxable years beginning from and after December 31, 2000 through December 31, 2001, the credit shall not exceed one million five hundred thousand dollars.

(ii) For taxable years beginning from and after December 31, 2001 through December 31, 2002, the credit shall not exceed two million five hundred thousand dollars.

(d) FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2011, AN ADDITIONAL CREDIT AMOUNT IS ALLOWED IF THE TAXPAYER MADE BASIC RESEARCH PAYMENTS DURING THE TAXABLE YEAR TO A UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS. THE ADDITIONAL CREDIT AMOUNT IS EQUAL TO TEN PER CENT OF THE BASIC RESEARCH PAYMENTS THAT CONSTITUTE EXCESS EXPENSES FOR

1 THE TAXABLE YEAR OVER THE BASE AMOUNT. THE DEPARTMENT SHALL NOT ALLOW CREDIT
2 AMOUNTS UNDER THIS SUBDIVISION AND SECTION 43-1074.01, SUBSECTION A,
3 PARAGRAPH 1, SUBDIVISION (c) THAT EXCEED, IN THE AGGREGATE, A COMBINED TOTAL
4 OF TEN MILLION DOLLARS IN ANY CALENDAR YEAR. SUBJECT TO THAT LIMIT, ON
5 APPLICATION BY THE TAXPAYER, THE DEPARTMENT SHALL PREAPPROVE CREDIT AMOUNTS
6 UNDER THIS SUBDIVISION AND SECTION 43-1074.01, SUBSECTION A, PARAGRAPH 1,
7 SUBDIVISION (c) BASED ON PRIORITY PLACEMENT ESTABLISHED BY THE DATE THAT THE
8 TAXPAYER FILED THE APPLICATION. NOTWITHSTANDING SUBSECTIONS B AND D OF THIS
9 SECTION, ANY AMOUNT OF THE ADDITIONAL CREDIT UNDER THIS SUBDIVISION THAT
10 EXCEEDS THE TAXES OTHERWISE DUE UNDER THIS TITLE IS NOT REFUNDABLE, BUT MAY
11 BE CARRIED FORWARD TO THE NEXT FIVE CONSECUTIVE TAXABLE YEARS.
12 2. Qualified research includes only research conducted in this state
13 including research conducted at a university in this state and paid for by
14 the taxpayer.
15 3. If two or more taxpayers, including corporate partners in a
16 partnership, share in the eligible expenses, each taxpayer is eligible to
17 receive a proportionate share of the credit.
18 4. The credit under this section applies only to expenses incurred
19 from and after December 31, 1993.
20 5. The termination provisions of section 41 of the internal revenue
21 code do not apply.
22 B. Except as provided by subsection D of this section, if the
23 allowable credit under this section exceeds the taxes otherwise due under
24 this title on the claimant's income, or if there are no taxes due under this
25 title, the amount of the credit not used to offset taxes may be carried
26 forward to the next fifteen consecutive taxable years. The amount of credit
27 carryforward from taxable years beginning from and after December 31, 2000
28 through December 31, 2002 that may be used under this subsection in any
29 taxable year may not exceed the taxpayer's tax liability under this title or
30 five hundred thousand dollars, whichever is less, minus the credit under this
31 section for the current taxable year's qualified research expenses. The
32 amount of credit carryforward from taxable years beginning from and after
33 December 31, 2002 that may be used under this subsection in any taxable year
34 may not exceed the taxpayer's tax liability under this title minus the credit
35 under this section for the current taxable year's qualified research
36 expenses. A taxpayer that carries forward any amount of credit under this
37 subsection may not thereafter claim a refund of any amount of the credit
38 under subsection D of this section.
39 C. If a taxpayer has qualified research expenses that are carried
40 forward from taxable years beginning before January 1, 2001, the amount of
41 the expenses carried forward shall be converted to a credit carryforward by
42 multiplying the amount of the qualified expenses carried forward by twenty
43 per cent. A credit carryforward determined under this subsection may be
44 carried forward to not more than fifteen years from the year in which the
45 expenses were incurred. The amount of credit carryforward from taxable years

beginning before January 1, 2001 that may be used under this subsection in any taxable year may not exceed the taxpayer's tax liability under this title or five hundred thousand dollars, whichever is less, minus the credit under this section for the current taxable year's qualified research expenses. The total amount of credit carryforward from taxable years beginning before January 1, 2003 that may be used in any taxable year under subsection B and this subsection may not exceed the taxpayer's tax liability under this title or five hundred thousand dollars, whichever is less, minus the credit under this section for the current taxable year's qualified research expenses.

D. For taxable years beginning from and after December 31, 2009, if a taxpayer who claims a credit under this section employs fewer than one hundred fifty persons in the taxpayer's trade or business and if the allowable credit under this section exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, in lieu of carrying the excess amount of credit forward to subsequent taxable years under subsection B of this section, the taxpayer may elect to receive a refund as follows:

1. The taxpayer must apply to the department of commerce for qualification for the refund pursuant to section 41-1507 and submit a copy of the department of commerce's certificate of qualification to the department of revenue with the taxpayer's income tax return.

2. The amount of the refund is limited to seventy-five per cent of the amount by which the allowable credit under this section exceeds the taxpayer's tax liability under this title for the taxable year. The remainder of the excess amount of the credit is waived.

3. The refund shall be paid in the manner prescribed by section 42-1118.

4. The refund is subject to setoff under section 42-1122.

5. If the department determines that a credit refunded pursuant to this subsection is incorrect or invalid, the excess credit issued may be treated as a tax deficiency pursuant to section 42-1108.

E. A taxpayer that claims a credit for increased research and development activity under this section shall not claim a credit under section 43-1164.02 for the same expenses.

Sec. 115. Repeal

Section 43-1179, Arizona Revised Statutes, is repealed.

Sec. 116. Section 44-1375.02, Arizona Revised Statutes, is amended to read:

44-1375.02. Standards

A. Except as provided in subsection C, the following standards apply beginning January 1, 2008:

1. Automatic commercial icemakers shall meet the requirements of section 1605.3 of the California Code of Regulations, title 20: division 2, chapter 4, article 4, in effect on August 12, 2005.

2. Commercial clothes washers shall meet the requirements of section 1605.3 of the California Code of Regulations, title 20: division 2, chapter 4, article 4, in effect on August 12, 2005.

3. Commercial prerinse spray valves shall have a flow rate equal to or less than 1.6 gallons per minute.

4. Commercial refrigerators, freezers and refrigerator freezers shall meet the requirements of section 1605.3 of the California Code of Regulations, title 20: division 2, chapter 4, article 4, in effect on August 12, 2005, except that pulldown refrigerators with transparent doors shall meet a requirement five per cent less stringent than shown in the California regulations.

5. Illuminated exit signs shall have an input power demand of five watts or less per illuminated face and shall either have a power factor of at least 0.70 or meet the power factor product specification of the energy star program requirements, whichever is higher.

6. Large packaged air conditioning equipment shall meet a minimum energy efficiency ratio of 10.0 for air conditioning without an integrated heating component or with electric resistance heating integrated into the unit, 9.8 for air conditioning with heating other than electric resistance integrated into the unit, 9.5 for air conditioning heat pumps without an integrated heating component or with electric resistance heating integrated into the unit and 9.3 for air conditioning heat pump equipment with heating other than electric resistance integrated into the unit. Large packaged air conditioning heat pumps shall meet a minimum coefficient of performance in the heating mode of 3.2 measured at a high temperature rating of forty-seven degrees Fahrenheit.

7. Through December 31, 2010, low voltage dry type distribution transformers shall meet the class 1 efficiency levels for low voltage distribution transformers specified in table 4-2 of the guide for determining energy efficiency for distribution transformers, published by the national electrical manufacturers association (NEMA standard TP-1-2002), in effect on August 12, 2005.

8. Metal halide lamp fixtures designed to be operated with lamps rated greater than or equal to one hundred fifty watts but less than or equal to five hundred watts shall not contain a probe start metal halide lamp ballast.

9. Single voltage external AC to DC power supplies shall meet the tier one energy efficiency requirements of section 1605.3 of the California Code of Regulations, title 20: division 2, chapter 4, article 4, in effect on August 12, 2005. This standard applies to single voltage AC to DC power supplies that are sold individually and to those that are sold as a component of or in conjunction with another product.

10. Torchieres shall not use more than one hundred ninety watts. A torchiere shall be deemed to use more than one hundred ninety watts if any commercially available lamp or combination of lamps can be inserted in its

socket and cause the torchiere to draw more than one hundred ninety watts when operated at full brightness.

11. Traffic signal modules shall meet the product specification of the energy star program requirements for traffic signals developed by the United States environmental protection agency that took effect in February 2001, shall have a power factor of at least 0.90 and shall be installed with compatible, electrically connected signal control interface devices and conflict monitoring systems.

12. Unit heaters shall be equipped with an intermittent ignition device and shall have either power venting or an automatic flue damper.

B. Beginning January 1, 2012, the following standards apply:

1. Portable electric spas shall not have a normalized standby power greater than five times the spa's fill volume in gallons raised to the two-thirds power.

2. Residential pool pumps and residential pool pump motors shall comply with both of the following:

(a) Motors shall not be split-phase or capacitor start-induction run type motors, except for the following:

(i) The low-speed section of two-speed motors may be capacitor start-induction run type.

(ii) Forty-eight-frame motors designed for use with aboveground pools are exempt from this requirement.

(b) Motors with a total horsepower capacity of one or more shall have the capability of operating at two or more speeds with a low speed having a rotation rate that is no more than one-half of the motor's maximum rotation rate and shall be operated with a pump control with the capability of operating the pump at two or more speeds. Residential pool pump motor controls that are sold for use with a two or more speed motor shall have a default circulation speed setting no more than one-half of the motor's maximum rotation rate. Any high speed override capability shall be for a temporary period not to exceed one twenty-four hour cycle without resetting to the default setting.

C. The standards prescribed by subsection A apply beginning January 1, 2010, if the product is a commercial refrigerator, freezer or refrigerator freezer or large packaged air conditioning equipment.

D. Beginning on May 31, 2008, and every three years thereafter, the ~~department of commerce~~ GOVERNOR'S energy office shall conduct a comparative review and assessment of the standards prescribed by subsection A and energy efficiency standards adopted in other states. The ~~department of commerce~~ energy office shall:

1. Submit a report of its findings and recommendations to the speaker of the house of representatives and president of the senate.

2. Provide a copy of the report to the ~~director of the Arizona state library, archives and public records~~ SECRETARY OF STATE.

Sec. 117. Section 44-1375.03, Arizona Revised Statutes, is amended to read:

44-1375.03. Certification and compliance; violation; civil penalty

A. Except as provided in subsection B of this section, beginning January 1, 2008:

1. A person engages in a deceptive trade practice when, in the course of the person's business, vocation or occupation, the person knowingly sells or installs a product that does not meet or exceed an applicable energy efficiency standard set forth in section 44-1375.02.

2. Manufacturers shall certify in writing to the ~~department of commerce~~ GOVERNOR'S energy office that products sold in this state meet efficiency standards of this article. Certification to other states with like standards that publish databases of compliant products shall be permitted as an alternative to certifying to the ~~department of commerce~~ energy office.

B. The requirements prescribed by subsection A of this section apply beginning January 1, 2010, if the product is a commercial refrigerator, freezer or refrigerator freezer or large packaged air conditioning equipment.

C. A deceptive trade practice pursuant to subsection A, paragraph 1 of this section is an unlawful practice under section 44-1522 and subject to enforcement by the attorney general. The attorney general may investigate and take appropriate action as prescribed by chapter 10, article 7 of this title. Notwithstanding section 44-1531, the penalty for violation of this section shall be a civil penalty of not more than five hundred dollars per violation. All monies collected as civil penalties pursuant to this subsection shall be deposited into the state general fund.

Sec. 118. Section 44-1843, Arizona Revised Statutes, is amended to read:

44-1843. Exempt securities; fee; filing

A. Sections 44-1841 and 44-1842, section 44-1843.02, subsections B and C and sections 44-3321 and 44-3325 do not apply to any of the following classes of securities:

1. Securities issued or guaranteed by the United States, by any state, territory or insular possession of the United States, by any political subdivision of such state, territory or insular possession, by the District of Columbia or by any agency or instrumentality of one or more of any of the foregoing. This exemption shall not apply to securities regulated pursuant to section 44-1843.01.

2. Securities issued by a national bank, a bank or a credit or loan association organized pursuant to an act of Congress and supervised by the United States or an agency of the United States, or issued by a state bank or savings institution the business of which is supervised and regulated by an agency of this state or of the United States.

3. Securities issued by a savings and loan association subject to supervision by an agency of this state.

4. Insurance or endowment policies, variable contracts, annuity contracts or optional annuity contracts issued by a person subject to the supervision of and licensed by the insurance commissioner, the bank commissioner or any agency of the United States, any state or the District of Columbia performing like functions.

5. Securities issued or guaranteed either as to principal, interest or dividend by a railroad or public utility if the issuance of its securities is regulated by an agency of the United States, a state, territory or insular possession of the United States, an agency of the District of Columbia or an agency of the Dominion of Canada or any province of the Dominion of Canada, and also equipment trust certificates in respect to equipment conditionally sold or leased to a railroad or public utility, if other securities issued by such railroad or public utility would be exempt under this paragraph.

6. Securities issued by a person that is organized and operated exclusively for religious, educational, benevolent, fraternal, charitable or reformatory purposes and not for pecuniary profit, and no part of the net earnings of which inures to the benefit of any person, private stockholder or individual and securities issued by or any interest or participation in any pooled income fund, collective trust fund, collective investment fund or similar fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the investment company act of 1940. The exemption prescribed in this paragraph does not apply to any of the following, unless excluded from the definition of an investment company under section 3(c)(10)(B) of the investment company act of 1940:

(a) Securities made liens upon revenue producing property subject to taxation.

(b) Securities issued by a nonprofit organization that is engaged in, intends to engage in, controls, finances or lends funds or property to other entities engaged in the construction, operation, maintenance or management of a hospital, sanitarium, rest home, clinic, medical hotel, mortuary, cemetery, mausoleum or other similar facilities.

(c) Interest bearing or noninterest bearing debt securities.

(d) Securities whose terms include significant features that are common to debt securities and that the commission finds are the functional equivalent of debt securities.

7. Securities listed or approved for listing upon the issuance thereof upon the New York stock exchange, the American stock exchange, the midwest stock exchange or any other national securities exchange that is registered under the securities exchange act of 1934 and that is designated by the commission as provided in this paragraph, and securities designated or approved for designation on notice of issuance on the national market system of a national securities association registered under the securities exchange act of 1934, and all securities senior or equal in rank to any securities so

listed or approved for listing, designated or approved for designation or represented by subscription rights or warrants that have been so listed, designated or approved and any warrant or right to purchase or subscribe to any of the foregoing. In addition to the securities exchanges prescribed in this paragraph, the commission may by order designate any registered national securities exchange if it finds that it would be in the public interest for securities listed on the exchange to be exempt. The commission may at any time by order withdraw a designation of an exchange or association made under this paragraph.

8. Commercial paper that arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, that evidences an obligation to pay cash within nine months of the date of issuance or sale, exclusive of days of grace, or any renewal of such paper that is likewise limited, or any guarantee of such paper or of any such renewal.

9. Securities issued or guaranteed by any foreign government with which the United States is at the time of the sale maintaining diplomatic relations, or securities issued or guaranteed by a political subdivision of such foreign government having the power of taxation, if none of the securities of the foreign government or political subdivision are in default either as to principal or interest, and which securities when offered for sale in this state are acknowledged as valid obligations by the foreign government or political subdivision and registered under the securities act of 1933.

10. Notes or bonds secured by a mortgage or deed of trust on real estate or chattels, or a contract or agreement for the sale of real estate or chattels, if the entire mortgage, contract or agreement together with all notes or bonds secured thereby is sold or offered for sale as a unit, except for real property investment contracts.

11. Mortgage related securities, as defined in section 3(a)(41) of the securities exchange act of 1934.

B. Issuers of securities that are exempt under subsection A, paragraphs 6, 7 and 9 of this section, within thirty days after the first sale of the securities in this state, shall pay to the commission a fee of two hundred dollars for each offering, and the commission shall deposit the fees in the ~~commerce and economic development commission~~ ARIZONA COMPETES fund established ~~in~~ BY section ~~41-1505.10~~ 41-1545.01.

C. Any securities that are offered and sold pursuant to section 4(5) of the securities act of 1933 or that are mortgage related securities as the term is defined in section 3(a)(41) of the securities exchange act of 1934 are not preempted by federal law. These instruments, commonly referred to as private mortgage backed securities, may be exempt from the registration requirements of this chapter if the transaction or the securities are otherwise exempt under this chapter. This subsection specifically overrides

the preemption of state law contained in section 106(c) of the secondary mortgage market enhancement act of 1984 (P.L. 98-440).

D. Noncompliance with the requirements in subsection B of this section to pay fees shall not result in the loss of the exemption allowed by this section.

Sec. 119. Section 44-1861, Arizona Revised Statutes, is amended to read:

44-1861. Fees; deposit; abandonment

A. By the affirmative vote of at least four commissioners, the commission may establish by rule an annual fee for the registration of a dealer or a salesman. The fee shall be remitted on or before the last working day of December, and the commission shall deposit the fee, pursuant to sections 35-146 and 35-147, in the securities regulatory and enforcement fund established by section 44-2039.

B. The registration fee for any dealer who deals exclusively in securities of which the dealer is the issuer is one hundred dollars.

C. For registration of securities by description, there shall be paid to the commission a nonrefundable registration fee of one-tenth of one per cent of the aggregate offering price of the securities that are to be sold in this state, but in no event shall the registration fee be less than two hundred dollars nor more than two thousand dollars. The amount by which a registration fee exceeds one thousand five hundred dollars shall be allocated to the ~~commerce and economic development commission~~ ARIZONA COMPETES fund established by section ~~41-1505.10~~ 41-1545.01.

D. By the affirmative vote of at least four commissioners, the commission may establish by rule a transfer fee for a salesman transferring the salesman's registration from one registered dealer to another registered dealer. The commission shall deposit the fee, pursuant to sections 35-146 and 35-147, in the securities regulatory and enforcement fund established by section 44-2039.

E. The initial filing of a form required for safe harbor exemptions provided for in the securities act of 1933 (15 United States Code section 77(a) et seq.) pursuant to the rules of the commission shall be accompanied by a filing fee of two hundred fifty dollars, of which fifty dollars shall be allocated to the ~~commerce and economic development commission~~ ARIZONA COMPETES fund established by section ~~41-1505.10~~ 41-1545.01. The final filing of the form, if separate from the initial filing, shall be accompanied by a filing fee of one hundred dollars that is allocated to the ~~commerce and economic development commission~~ ARIZONA COMPETES fund established by section ~~41-1505.10~~ 41-1545.01.

F. For a name change of securities registered by qualification or description, a filing fee of one hundred dollars is payable to the commission.

G. For filing a notice required by the commission by rule pursuant to section 44-1845, a filing fee of one hundred dollars is payable to the commission.

H. For filing a petition pursuant to section 44-1846, a filing fee of two hundred fifty dollars is payable to the commission.

I. Except as provided in subsections A, C, D, E and P of this section, section 44-1843 and section 44-1892, paragraph 3, all fees collected under this chapter shall be deposited in the state general fund.

J. An issuer who sells securities in this state in excess of the aggregate amount of securities registered in this state, while the registration is still effective, may apply to register the excess securities by paying three times the difference between the initial registration fee paid and the registration fee required under subsection C of this section or section 44-1892, paragraph 3. Registration of the excess securities, if granted, is effective retroactively to the date of the existing registration.

K. An application for registration of securities or registration of a dealer or salesman or an incomplete notice filing is deemed abandoned if both:

1. The application or notice filing has been on file with the commission for at least six months or the applicant or notice filer has failed to respond to a request for information for at least two months after the date of the request.

2. The applicant or notice filer has failed to respond to the commission's notice of warning of abandonment within sixty calendar days after the date of the warning.

L. The commission shall retain fees collected in connection with abandoned applications or notice filings for deposit in the state general fund.

M. The nonrefundable filing fee for a request for a no-action letter from the securities division is two hundred dollars.

N. The nonrefundable filing fee for an application for registration pursuant to section 44-1902 is two hundred fifty dollars.

O. The fee for submitting fingerprint cards to the department of public safety is the fee required by that department.

P. Any securities exchange established in this state shall pay to the commission on or before March 15 of each calendar year an exchange registration fee in an amount equal to two-tenths of one cent for each share, bond or option or any other single unit of a security that is exchanged during each preceding calendar year. The commission shall deposit the fee, pursuant to sections 35-146 and 35-147, in the securities regulatory and enforcement fund established by section 44-2039 for the purpose of regulating the securities exchange. The commission, by rule, may exempt any sale of securities or any class of sales of securities from the fee imposed by this subsection if it finds that an exemption is consistent with the public interest and the equal regulation of the market and brokers and dealers.

Sec. 120. Section 44-1892, Arizona Revised Statutes, is amended to read:

44-1892. Documents required for application for registration by qualification; fee

Application for registration of securities by qualification shall be made by the issuer of the securities by filing with the commission the following documents:

1. An application for registration of securities by qualification as provided by section 44-1893.

2. A prospectus as provided by section 44-1894, except as provided in section 44-1901.

3. A nonrefundable registration fee of one-tenth of one per cent of the aggregate offering price of securities to be sold in this state, but the registration fee shall not be less than two hundred nor more than two thousand dollars. The amount by which a registration fee exceeds one thousand five hundred dollars shall be allocated to the ~~commerce and economic development commission~~ ARIZONA COMPETES fund established by section ~~41-1505.10~~ 41-1545.01.

4. A consent to service of process as provided by section 44-1862, if the issuer is not domiciled in this state and is not an entity organized under the laws of this state.

Sec. 121. Section 44-2053, Arizona Revised Statutes, is amended to read:

44-2053. Limitation on liability

Neither the state nor any political subdivision, nor the commission, the ~~commerce and economic development commission~~ ARIZONA COMMERCE AUTHORITY, nor any state officer, agent or employee acting in good faith, except as otherwise explicitly provided by statute, shall be liable for any injury or damage to investors, exchange members, their subsidiaries, affiliates or employees or the general public resulting from any actual or opportunity losses suffered through the activities of the securities exchange. For these purposes, the term "activities" is to be construed as any actual and anticipated exchange matter.

Sec. 122. Repeal

Section 44-2054, Arizona Revised Statutes, is repealed.

Sec. 123. Section 44-3324, Arizona Revised Statutes, is amended to read:

44-3324. Notice filing fees

A. When filing its initial notice filing, an open-end company shall pay a nonrefundable notice filing fee for sales to be made during the initial notice period. The open-end company may elect to pay either a minimum fee of two hundred dollars or a maximum fee of three thousand five hundred dollars. If paying the maximum fee, an open-end company is not required to file a sales report at the expiration of the notice period.

B. An open-end company that renews its notice filing in accordance with section 44-3322, subsection B shall pay both of the following nonrefundable notice filing fees no later than the expiration of the current notice period:

1. For sales to be made during the current fiscal year, the open-end company may elect to pay either a minimum fee of two hundred dollars or a maximum fee of three thousand five hundred dollars. If paying the maximum fee, an open-end company is not required to file a sales report at the time of its next renewal notice filing.

2. A fee for sales that occurred during the prior fiscal year, as those sales are reported pursuant to section 44-3323, subsection C. The fee is equal to one-tenth of one per cent of the aggregate dollar amount of securities actually sold in this state during the prior fiscal year minus two hundred dollars, but in no event more than three thousand three hundred dollars. If the maximum fee was previously paid for the prior fiscal year, the open-end company is not required to pay any additional fees under this paragraph.

C. An open-end company that does not renew its notice filing in accordance with section 44-3322, subsection B and that did not previously pay the maximum fee for the notice period shall pay a nonrefundable notice filing fee no later than two months after the expiration of its current notice period for sales that occurred during the prior fiscal year and during the two month period from the end of the prior fiscal year to the expiration of the notice period, as those sales are reported pursuant to section 44-3323, subsection D. The fee is equal to one-tenth of one per cent of the aggregate dollar amount of securities actually sold in this state during the prior fiscal year and during the two month period from the end of the prior fiscal year to the expiration of the notice period minus two hundred dollars, but in no event more than three thousand three hundred dollars. If the maximum fee was previously paid for the prior fiscal year, the open-end company is not required to pay any additional fees under this subsection.

D. When filing its initial notice filing, a unit investment trust shall pay a nonrefundable notice filing fee for sales to be made during the initial notice period. The unit investment trust may elect to pay either a minimum fee of two hundred dollars or a maximum fee of three thousand five hundred dollars. If paying the maximum fee, the unit investment trust is not required to file a sales report at the end of the expiration of the notice period.

E. A unit investment trust that elects to renew its notice filing in accordance with section 44-3322, subsection C shall pay both of the following nonrefundable notice filing fees:

1. For sales to be made during the renewal notice period, a unit investment trust may elect to pay either a minimum fee of two hundred dollars or a maximum fee of three thousand five hundred dollars. The fee shall be paid no later than the expiration date of the current notice period. If

paying the maximum fee, a unit investment trust is not required to file a sales report within two months after the expiration of the renewal notice period.

2. A fee for sales that occurred during the expiring notice period, as those sales are reported pursuant to section 44-3323, subsection E. The fee shall be equal to one-tenth of one per cent of the aggregate dollar amount of securities actually sold in this state by the unit investment trust during the prior notice period minus two hundred dollars, but in no event more than three thousand three hundred dollars. The fee shall be paid no later than two months after the expiration date of the prior notice period. If the maximum fee was previously paid for the expiring notice period, the unit investment trust is not required to pay any additional fees under this paragraph.

F. A unit investment trust that does not renew its notice filing in accordance with section 44-3322, subsection C and that did not previously pay the maximum fee for the notice period shall pay, within two months after the expiration of the notice period, a nonrefundable notice filing fee for sales that occurred during the prior notice period as such sales are reported pursuant to section 44-3323, subsection F. The fee is equal to one-tenth of one per cent of the aggregate dollar amount of securities actually sold in this state by the unit investment trust during the prior notice period minus two hundred dollars, but in no event more than three thousand three hundred dollars. If the maximum fee was previously paid for the expiring notice period, the unit investment trust is not required to pay any additional fees under this subsection.

G. An issuer that fails to timely file any sales report required by section 44-3323 shall pay a late filing fee in the amount of two hundred dollars. An issuer that fails to timely pay any notice filing fees required pursuant to this section shall pay the required notice filing fee together with a late payment fee equal to one-half of the amount of the required notice filing fee.

H. The fees collected pursuant to this section shall be deposited as follows:

1. Eighty per cent in the securities regulatory and enforcement fund established by section 44-2039.

2. Ten per cent in the ~~commerce and economic development commission~~ ARIZONA COMPETES fund established by section ~~41-1505.10~~ 41-1545.01.

3. Ten per cent in the investment management regulatory and enforcement fund established by section 44-3298.

Sec. 124. Section 44-3325, Arizona Revised Statutes, is amended to read:

44-3325. <u>Notice filings by closed-end companies</u>

A. Securities that are issued by a closed-end company may be offered for sale and sold in this state if the commission receives all of the following from the closed-end company:

1. The documents that are filed with the SEC and that are required by the commission.

2. A consent to service of process.

3. A notice filing fee calculated pursuant to this section.

B. A notice filing is effective and renewable on the filing date with the commission or the effective date with the SEC, whichever occurs last, and the notice filing is effective for one year from that date.

C. A closed-end company shall include with the company's notice filing a notice filing fee of one-tenth of one per cent of the aggregate offering price of securities sold in this state, but the fee shall not be less than two hundred dollars and not more than two thousand dollars. The amount by which a notice filing fee exceeds one thousand five hundred dollars shall be allocated to the ~~commerce and economic development commission~~ ARIZONA COMPETES fund established by section ~~41-1505.10~~ 41-1545.01.

D. A closed-end company shall file a report of all sales of securities to persons in this state during the period of the notice filing. The closed-end company shall file the report with the commission within sixty days after the termination date of the offering within this state or the expiration date of the notice filing, whichever occurs first. A closed-end company that fails to timely file a report of sales shall pay a late filing fee of two hundred dollars.

Sec. 125. Section 49-554, Arizona Revised Statutes, is amended to read:

49-554. Technical assistance review

A. The department of environmental quality, with the assistance of the ~~department of commerce~~ GOVERNOR'S energy office and state universities, shall develop a program to:

1. Expedite testing and certification of technological developments related to improving air quality through a reduction in vehicle emissions.

2. Develop incentives to encourage development and innovation of technologies that improve air quality through a reduction in vehicle emissions.

3. Establish a board with technical expertise to assist developers of promising technologies with the emission certification processes of the California air resources board and the United States environmental protection agency. The board shall:

(a) Perform an initial evaluation of the technology including a review of existing test data.

(b) Develop procedures to apply those technologies in this state that have been certified by the California air resources board, the United States environmental protection agency or this state.

(c) Recommend a program of incentives to encourage private entities to use technologies that have been reviewed and approved by the board.

(d) Recommend legislation requiring the use of approved technologies by the state and political subdivisions.

(e) Recommend a credit trading and banking program to encourage innovative solutions to the reduction of emissions from all sources.

B. The department may enter into intergovernmental agreements and memorandums of understanding to accomplish the purposes of this section.

Sec. 126. Laws 2000, chapter 383, section 10, as amended by Laws 2002, chapter 264, section 4 and Laws 2007, chapter 293, section 3, is amended to read:

Sec. 10. Delayed repeal; reversion

A. Section 23-730.02, Arizona Revised Statutes, and title 23, chapter 4, article 5.2, Arizona Revised Statutes, are repealed from and after December 31, ~~2011~~ 2016.

B. Title 41, chapter 10, article 4, Arizona Revised Statutes, is repealed from and after December 31, ~~2011~~ 2016, at which time any unexpended or unencumbered monies in the Arizona job training fund attributable to the job training employer tax imposed pursuant to section 23-769, Arizona Revised Statutes, revert to the unemployment compensation fund established by section 23-701, Arizona Revised Statutes, and any unexpended or unencumbered monies in the Arizona job training fund not attributable to the job training employer tax imposed pursuant to section 23-769, Arizona Revised Statutes, revert to the state general fund.

Sec. 127. Computation of additional state aid to education

A. Beginning in tax year 2013 through tax year 2016, on or before August 1 of each tax year the department of revenue shall adjust the percentages described in section 15-972, subsection B, paragraphs 1 and 2, Arizona Revised Statutes, as amended by this act, used in calculating additional state aid to education to offset the effect on the statewide effective tax rate of properties classified by law as class three due to the changes in assessed valuation of properties classified by law as class one and class two prescribed by this act, as compared to the respective assessment ratios on December 31, 2012. For the purposes of this subsection, the statewide effective tax rate is the total primary property tax levied from the preceding tax year divided by the primary net assessed value based on the department of revenue's abstract of the assessment roll for the current tax year.

B. The adjusted percentages determined by the department of revenue for the 2016 tax year shall continue in effect for the purposes of calculating additional state aid to education until further changed by law.

Sec. 128. Succession; Arizona commerce authority

A. As provided by this act, the Arizona commerce authority succeeds to the authority, powers, duties and responsibilities of the department of commerce as provided by law.

B. This act does not alter the effect of any actions that were taken or impair the valid obligations of the department of commerce in existence before July 1, 2011.

C. Administrative rules and orders that were adopted by the department of commerce continue in effect until superseded by administrative action by the Arizona commerce authority. Until administrative action is taken by the authority, any reference to the department of commerce in the department's rules and orders is considered to refer to the Arizona commerce authority.

D. All administrative matters, contracts and judicial and quasi-judicial actions, whether completed, pending or in process, of the department of commerce on July 1, 2011 are transferred to and retain the same status with the Arizona commerce authority.

E. All certificates, licenses, registrations, permits and other indicia of qualification and authority that were issued by the department of commerce retain their validity for the duration of their terms of validity as provided by law.

F. All tangible and intangible property and assets, including economic development assets, all data and investigative findings and all appropriated monies that remain unexpended and unencumbered on July 1, 2011 of the department of commerce are transferred to the Arizona commerce authority.

Sec. 129. Succession; governor's energy office

A. As provided by this act, the governor's energy office succeeds to the authority, powers, duties and responsibilities of the department of commerce energy office as provided by law.

B. This act does not alter the effect of any actions that were taken or impair the valid obligations of the department of commerce energy office in existence before July 1, 2011.

C. All personnel, all tangible and intangible property and assets and all data and findings of the department of commerce energy office are transferred to the governor's energy office.

Sec. 130. Effect on preexisting tax credits

A. This act does not affect the validity of tax benefits granted under prior law.

B. Any certification or other approval issued under prior law by the department of commerce before the expiration of any tax incentive qualifies the taxpayer, who is otherwise eligible, for the intended tax benefits. No provision of this act may be interpreted to terminate tax incentives that were not claimed by qualified taxpayers before the effective date of this act.

C. Taxpayers who qualified for tax incentives under sections 41-1517 and 41-1517.01, title 41, chapter 10, article 2, section 42-12006, paragraph 4 and sections 43-1074, 43-1075, 43-1075.01, 43-1161, 43-1163 and 43-1163.01, Arizona Revised Statutes, in effect before the effective date of this act, may use any applicable amounts of those credits, including allowed

carryovers, against income tax liabilities for subsequent taxable years as provided by law in effect before the effective date of this act.

Sec. 131. Interim chief executive officer of Arizona commerce authority

A. Notwithstanding section 41-1503, Arizona Revised Statutes, as added by this act, before July 1, 2011 the governor shall appoint an interim chief executive officer in anticipation of the establishment of the Arizona commerce authority.

B. The interim chief executive officer shall consider and review the termination of the department of commerce and the succession of the authority to the programs administered and transferred to the authority by this act and begin the organization of the authority to make the transition as orderly as possible and minimize any disruption in the affected programs and functions. For these purposes, the interim chief executive officer may take preparatory action before July 1, 2011 relating to:

1. Employment of initial employees as of July 1, 2011.

2. Assessment of the needs for office space for the authority.

3. The identification and placement of transferred equipment and other property.

4. Contracts, including intergovernmental agreements pursuant to title 11, chapter 7, article 3, Arizona Revised Statutes, to be executed on or after July 1, 2011.

C. The department of commerce shall:

1. Cooperate with and assist the interim chief executive officer and allow access to records, data and other information necessary and convenient for the transition.

2. Provide the interim chief executive officer with office space and clerical and other staff support.

3. Assist in identifying potential problems and complications arising from establishing the authority and assist in resolving these difficulties.

D. Personal and employee related expenses of the interim chief executive officer shall be paid from monies available to the authority beginning July 1, 2011.

E. The term of the interim chief executive officer ends from and after September 30, 2011, or on the employment of a permanent chief executive officer by the board of directors pursuant to section 41-1503, Arizona Revised Statutes, whichever occurs first.

Sec. 132. Initial members of Arizona commerce authority board of directors and rural business development advisory council

A. Notwithstanding section 41-1502, subsection B, Arizona Revised Statutes, as added by this act, providing for three-year terms of office, the initial members of the Arizona commerce authority board of directors shall be appointed as follows:

1 1. Five members shall be appointed by the governor to terms of office
2 expiring January 21, 2013. On the expiration of the terms of these members,
3 replacement members shall be appointed as follows:
4 (a) Three members shall be appointed by the governor to full terms of
5 office.
6 (b) One member shall be appointed by the president of the senate to a
7 full term of office.
8 (c) One member shall be appointed by the speaker of the house of
9 representatives to a full term of office.
10 2. Six members shall be appointed by the governor to terms of office
11 expiring January 20, 2014. On the expiration of the terms of these members,
12 replacement members shall be appointed as follows:
13 (a) Four members shall be appointed by the governor to full terms of
14 office.
15 (b) One member shall be appointed by the president of the senate to a
16 full term of office.
17 (c) One member shall be appointed by the speaker of the house of
18 representatives to a full term of office.
19 3. Six members shall be appointed by the governor to terms of office
20 expiring January 19, 2015. On the expiration of the terms of these members,
21 replacement members shall be appointed as follows:
22 (a) Two members shall be appointed by the governor to full terms of
23 office.
24 (b) Two members shall be appointed by the president of the senate to
25 full terms of office.
26 (c) Two members shall be appointed by the speaker of the house of
27 representatives to full terms of office.
28 B. Notwithstanding section 41-1505, subsections B and C, Arizona
29 Revised Statutes, as added by this act, the initial members of the rural
30 business development advisory council shall be appointed as follows:
31 1. Five county-representative members, chosen by lot, shall be
32 appointed by the governor to terms of office expiring January 21, 2013. On
33 the expiration of the terms of these members, replacement members shall be
34 appointed as follows:
35 (a) Three members shall be appointed by the governor to full terms of
36 office.
37 (b) One member shall be appointed by the president of the senate to a
38 full term of office.
39 (c) One member shall be appointed by the speaker of the house of
40 representatives to a full term of office.
41 2. Five county-representative members, chosen by lot, shall be
42 appointed by the governor to terms of office expiring January 20, 2014. On
43 the expiration of the terms of these members, replacement members shall be
44 appointed as follows:

(a) Three members shall be appointed by the governor to full terms of office.

(b) One member shall be appointed by the president of the senate to a full term of office.

(c) One member shall be appointed by the speaker of the house of representatives to a full term of office.

3. Five county-representative members, chosen by lot, plus the representative of an economic development organization and the member representing Indian tribes, shall be appointed by the governor to terms of office expiring January 19, 2015. On the expiration of the terms of the county-representative members, replacement members shall be appointed as follows:

(a) Three members shall be appointed by the governor to full terms of office.

(b) One member shall be appointed by the president of the senate to a full term of office.

(c) One member shall be appointed by the speaker of the house of representatives to a full term of office.

C. All subsequent members shall be appointed as provided by law.

Sec. 133. Purpose

Pursuant to section 41-2955, subsection B, Arizona Revised Statutes, the purpose of the Arizona commerce authority is to facilitate the beneficial economic growth and development of this state and to promote prosperity through the development and protection of the legitimate interests of Arizona business, industry and commerce within and outside this state.

Sec. 134. Purpose; income tax credits

Pursuant to section 43-223, Arizona Revised Statutes, the purpose of sections 43-1074 and 43-1161, Arizona Revised Statutes, as added by this act, is to encourage the creation of quality jobs by employers in this state.

Sec. 135. Reimbursement of county assessors' costs

A. In fiscal year 2012-2013, the legislature shall reimburse by appropriation the costs incurred in 2012 by county assessors in reclassifying residential property as class four as provided by this act.

B. The department of revenue shall prescribe the record keeping and reporting requirements to establish the payment amounts for each county assessor. Each county assessor must report the costs incurred to the governor's office of strategic planning and budgeting, to the joint legislative budget committee and to the department of revenue for inclusion, after verification, in the 2012-2013 general fund budget.

Sec. 136. Conforming changes; definition

A. The legislative council staff shall prepare proposed legislation conforming the Arizona Revised Statutes to the provisions of this act for consideration in the fiftieth legislature, second regular session.

B. Until such legislation is enacted and becomes effective, any reference in Arizona Revised Statutes to the department of commerce is considered to refer to the Arizona commerce authority.

Sec. 137. Effective date

A. Except as otherwise provided by this section, and except for the appointment of the interim chief executive officer, this act is effective from and after June 30, 2011.

B. Sections 5-554, 5-555 and 5-572, Arizona Revised Statutes, as amended by this act, are effective from and after June 30, 2012.

C. Section 43-1074.01, Arizona Revised Statutes, as amended by Laws 2010, chapter 289, section 3 and chapter 312, section 4 and this act, is effective for taxable years beginning from and after December 31, 2017.

D. Section 43-1168, Arizona Revised Statutes, as amended by Laws 2010, chapter 289, section 7 and chapter 312, section 8 and this act, is effective for taxable years beginning from and after December 31, 2017.

APPROVED BY THE GOVERNOR FEBRUARY 17, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE FEBRUARY 18, 2011.