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Senate Engrossed House Bill

State of Arizona
House of Representatives
Forty-fifth Legislature
Second Regular Session
2002

HOUSE BILL 2177

AN ACT

AMENDING SECTIONS 5-801, 5-803, 5-804, 5-807, 5-812 AND 5-813, ARIZONA REVISED STATUTES; AMENDING TITLE 5, CHAPTER 8, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 5-814; AMENDING SECTIONS 5-835, 5-836, 5-837, 5-838, 5-839 AND 5-840, ARIZONA REVISED STATUTES; AMENDING SECTION 41-2306, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 375, SECTION 3; AMENDING SECTION 42-5029, ARIZONA REVISED STATUTES; CHANGING THE DESIGNATION OF TITLE 5, CHAPTER 8, ARIZONA REVISED STATUTES, TO "SPRING TRAINING AND AMATEUR SPORTS AUTHORITY"; AMENDING SECTION 5-801, ARIZONA REVISED STATUTES, AS AMENDED BY SECTION 1 OF THIS ACT; AMENDING SECTION 5-802, ARIZONA REVISED STATUTES; AMENDING SECTION 5-804, ARIZONA REVISED STATUTES, AS AMENDED BY SECTION 3 OF THIS ACT; AMENDING SECTION 5-805, ARIZONA REVISED STATUTES; REPEALING SECTION 5-807, ARIZONA REVISED STATUTES; AMENDING TITLE 5, CHAPTER 8, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 5-807; AMENDING SECTIONS 5-808 AND 5-809, ARIZONA REVISED STATUTES; REPEALING SECTION 5-810, ARIZONA REVISED STATUTES; AMENDING SECTION 5-811, ARIZONA REVISED STATUTES; REPEALING SECTION 5-813, ARIZONA REVISED STATUTES; AMENDING SECTION 5-814, ARIZONA REVISED STATUTES, AS ADDED BY SECTION 7 OF THIS ACT; AMENDING SECTION 5-831, ARIZONA REVISED STATUTES; REPEALING SECTIONS 5-832, 5-833 AND 5-834,

ARIZONA REVISED STATUTES; AMENDING SECTION 5-835, ARIZONA REVISED STATUTES, AS AMENDED BY SECTION 8 OF THIS ACT; AMENDING SECTION 5-836, ARIZONA REVISED STATUTES, AS AMENDED BY SECTION 9 OF THIS ACT; AMENDING SECTION 5-837, ARIZONA REVISED STATUTES, AS AMENDED BY SECTION 10 OF THIS ACT; AMENDING SECTION 5-838, ARIZONA REVISED STATUTES, AS AMENDED BY SECTION 11 OF THIS ACT; AMENDING SECTIONS 5-861, 5-862, 5-864, 5-865, 5-866, 5-869, 5-871, 5-872, 5-873, 5-874, 5-877 AND 42-1116, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5029, ARIZONA REVISED STATUTES, AS AMENDED BY SECTION 15 OF THIS ACT; REPEALING SECTION 42-5032.01, ARIZONA REVISED STATUTES; AMENDING SECTIONS 42-5061, 42-5073, 42-5074 AND 42-5075, ARIZONA REVISED STATUTES; REPEALING SECTION 43-209, ARIZONA REVISED STATUTES; RELATING TO RELATING TO SPORTS AUTHORITIES; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1

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

2 Section 1. Section 5-801, Arizona Revised Statutes, is amended to
3 read:

4 5-801. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Authority" means the tourism and sports authority.

7 2. "Board" means the board of directors of the authority.

8 3. "INDIAN TRIBE" MEANS ANY ORGANIZED INDIAN NATION, TRIBE, BAND OR
9 COMMUNITY THAT IS RECOGNIZED AS AN INDIAN TRIBE BY THE UNITED STATES
10 DEPARTMENT OF THE INTERIOR.

11 ~~3.~~ 4. "Multipurpose facility" means any facility that is suitable to
12 be used to accommodate PROFESSIONAL FOOTBALL FRANCHISES, MAJOR COLLEGE
13 FOOTBALL BOWL SPONSORS, OTHER sporting events and entertainment, cultural,
14 civic, meeting, trade show or convention events or activities and may include
15 a stadium, on-site infrastructure, parking garages and lots and related
16 commercial uses within the facility.

17 5. "SITE HOST" MEANS ANY OF THE FOLLOWING ENTITIES THAT OWNS ALL OR
18 PART OF THE MULTIPURPOSE FACILITY SITE AT THE TIME THE SITE IS PROVIDED TO
19 THE AUTHORITY PURSUANT TO SECTION 5-807:

20 (a) THIS STATE OR ANY AGENCY OF THIS STATE.

21 (b) THE COUNTY IN WHICH THE AUTHORITY IS LOCATED.

22 (c) ANY CITY OR TOWN LOCATED IN THE COUNTY IN WHICH THE AUTHORITY IS
23 LOCATED.

24 (d) ANY INDIAN TRIBE IF ALL OR PART OF THE TRIBE'S RESERVATION IS
25 LOCATED IN THAT COUNTY.

26 Sec. 2. Section 5-803, Arizona Revised Statutes, is amended to read:

27 5-803. Board of directors

28 A. The authority is governed by a board of directors consisting of the
29 following members who must reside in the county in which the authority is
30 established:

31 1. Five members appointed by the governor pursuant to section
32 38-211. ~~One of these members shall be from the tourism industry and one~~
33 ~~shall be from the hotel and motel industry located in the authority.~~ No more
34 than three of these members may be from the same political party. **OF THESE**
35 **MEMBERS, THE GOVERNOR SHALL APPOINT:**

36 (a) ONE MEMBER FROM THE TOURISM INDUSTRY IN THE AUTHORITY.

37 (b) ONE MEMBER FROM THE HOTEL AND MOTEL INDUSTRY LOCATED IN THE
38 AUTHORITY.

39 (c) ONE MEMBER REPRESENTING A YOUTH SPORTS ORGANIZATION IN THE
40 AUTHORITY.

41 (d) ONE MEMBER REPRESENTING A MAJOR LEAGUE BASEBALL SPRING TRAINING
42 ORGANIZATION IN THE AUTHORITY.

43 2. Two members WHO ARE appointed by the president of the senate AND
44 who are not of the same political party.

1 3. Two members WHO ARE appointed by the speaker of the house of
2 representatives AND who are not of the same political party.

3 B. No member of the board may simultaneously hold any state or local
4 elective public office. The governor, president of the senate and speaker of
5 the house of representatives shall make appointments to produce a general
6 geographically diverse representation of areas in the authority. Members of
7 the board shall be appointed for terms of five years. A member may be
8 reappointed for one full subsequent term.

9 C. Members of the board are eligible for compensation as provided by
10 section 38-611.

11 Sec. 3. Section 5-804, Arizona Revised Statutes, is amended to read:
12 5-804. Administrative powers and duties

13 A. The board of directors, on behalf of the authority, may:
14 1. Adopt and use a corporate seal.
15 2. Sue and be sued.
16 3. Enter into contracts, including intergovernmental agreements under
17 title 11, chapter 7, article 3, as necessary to carry out the purposes and
18 requirements of this chapter.
19 4. Enter into an intergovernmental agreement under title 11, chapter
20 7, article 3 with the Arizona exposition and state fair board for the joint
21 use of properties and facilities, sharing administration, personnel and
22 resources and other matters that are beneficial to the purposes of the
23 multipurpose facility and the state fair.
24 5. Adopt administrative rules as necessary to administer and operate
25 the authority and any property under its jurisdiction.
26 6. Acquire by any lawful means and operate, maintain, encumber and
27 dispose of real and personal property and interests in property.
28 7. Retain legal counsel and other consultants as necessary to carry
29 out the purposes of the authority.

30 B. The board of directors shall:
31 1. Appoint from among its members a chairman, a secretary and such
32 other officers as may be necessary to conduct its business.
33 2. Employ an executive director and prescribe the terms and conditions
34 of employment.
35 3. Keep and maintain a complete and accurate record of all of its
36 proceedings. The board is a public body for purposes of title 38, chapter 3,
37 article 3.1 and title 39, chapter 1.
38 4. Provide for the use, maintenance and operation of the properties
39 and interests owned or controlled by the authority.
40 5. ON OR BEFORE SEPTEMBER 12, 2002, APPROVE A SITE FOR THE
41 CONSTRUCTION OF THE MULTIPURPOSE FACILITY PROPOSED AT ANY TIME BEFORE THAT
42 DATE BY SITE HOSTS.

1 Sec. 4. Section 5-807, Arizona Revised Statutes, is amended to read:

2 5-807. Constructing and operating multipurpose facility

3 A. The authority shall construct, finance, furnish, maintain, improve,
4 operate, market and promote the use of a multipurpose facility and do all
5 things necessary or convenient to accomplish those purposes. ~~The county or~~
6 ~~city in which the multipurpose facility is located~~ ONE OR MORE SITE HOSTS
7 shall provide the land, infrastructure and parking facilities associated with
8 the multipurpose facility. The authority shall ~~hold legal title to any OWN~~
9 THE multipurpose facility, subject only to liens and other security interests
10 of record. THE AUTHORITY MAY OWN OR LEASE THE LAND ON WHICH THE MULTIPURPOSE
11 FACILITY IS LOCATED.

12 B. The executive director shall:

13 1. Recommend to the board for its approval a contractor and architect,
14 unless the architect will be employed directly by the contractor.

15 2. Work with the users, contractor and architect to prepare a design
16 for the multipurpose facility and submit the design to the board for its
17 approval.

18 3. Prepare the construction budget and schedule for the multipurpose
19 facility and submit ~~it~~ THEM to the board for its approval.

20 4. Prepare the annual operating budget for the multipurpose facility
21 and submit it to the board for its approval.

22 5. Negotiate use agreements with parties that will use the
23 multipurpose facility on a regular basis, including parties that will make a
24 contribution toward the construction of the facility, and submit the
25 agreements to the board for its final action. Any such agreement that grants
26 naming or other advertising rights must include a provision requiring the
27 MULTIPURPOSE facility name and other advertising to comply with community
28 decency standards.

29 6. Negotiate agreements with the contractor and architect, unless the
30 architect will be employed directly by the contractor, and submit the
31 agreements to the board for its final action.

32 7. Review construction change order requests and submit them to the
33 board with recommendations for final action.

34 8. Arrange for capital and operating financing, as needed, and submit
35 the transactions to the board for its final action.

36 9. Analyze and recommend to the board potential sites for the
37 MULTIPURPOSE facility PROPOSED AT ANY TIME BEFORE SEPTEMBER 13, 2002 BY A
38 SITE HOST.

39 10. Negotiate ~~an intergovernmental agreement pursuant to title 11,~~
40 ~~chapter 7, article 3 with the county or the city in which the multipurpose~~
41 ~~facility will be located~~ AGREEMENTS WITH SITE HOSTS, INCLUDING
42 INTERGOVERNMENTAL AGREEMENTS PURSUANT TO TITLE 11, CHAPTER 7, ARTICLE 3 IF A
43 SITE HOST IS A PUBLIC AGENCY, AS DEFINED IN SECTION 11-951, concerning the
44 land, infrastructure and parking to be provided by the ~~county or city~~ SITE

1 HOST and submit the ~~agreement~~ AGREEMENTS to the board for its final action.
2 ALL AGREEMENTS MUST:

3 (a) PROVIDE THAT THE SITE HOST SHALL INDEMNIFY AND HOLD HARMLESS THE
4 AUTHORITY AND THIS STATE FROM ANY LIABILITY TO THE EXTENT RESULTING FROM THE
5 NEGLIGENT OR INTENTIONAL ACTS OR OMISSIONS OF THE SITE HOST, ITS
6 REPRESENTATIVES AND AGENTS OR EMPLOYEES RESULTING FROM ANY ACCESS WAYS
7 PROVIDED BY THE SITE HOST AND REASONABLY USED BY THE PUBLIC FOR INGRESS AND
8 EGRESS TO THE LAND, INFRASTRUCTURE AND PARKING FACILITIES PROVIDED BY THE
9 SITE HOST FOR USE IN CONNECTION WITH THE MULTIPURPOSE FACILITY.

10 (b) REQUIRE ANY SITE HOST TO MAINTAIN INSURANCE OR AN ADEQUATE
11 SELF-INSURANCE PLAN FOR ANY LIABILITY OF THE SITE HOST, WITH A WAIVER OF
12 SOVEREIGN IMMUNITY IF NECESSARY.

13 11. In consultation with the users of the multipurpose facility,
14 negotiate a contract with a management firm to operate, promote and market
15 the multipurpose facility and submit the contract to the board for its final
16 action.

17 12. In consultation with the users of the multipurpose facility,
18 negotiate contracts with concessionaires and other providers for food,
19 beverage and other services at the multipurpose facility and submit the
20 contracts to the board for its final action.

21 13. Take other actions that are necessary to ensure that the
22 multipurpose facility is constructed according to the schedule and budget
23 approved by the board.

24 C. Title 34 applies to the authority, except that regardless of the
25 funding source for design and construction of facilities and structures and
26 notwithstanding title 41, chapter 23, the authority may establish alternative
27 systems and procedures, including the use of the design-build method of
28 construction and the use of qualifications-based selection of contractors
29 with experience in stadium design or construction, by either direct selection
30 or by public competition, to expedite the design and construction of any of
31 its facilities or structures or any facilities or structures leased to it or
32 used by it pursuant to an intergovernmental agreement. For purposes of this
33 subsection:

34 1. "Design-build" means a process of entering into and managing a
35 contract between the authority and another party in which the other party
36 agrees to both design and build any structure, facility or other items
37 specified in the contract.

38 2. "Qualifications-based selection" means a process of entering into
39 and managing a contract between the authority and another party in which the
40 other party is selected by the authority on the basis of the party's
41 qualifications and experience in designing or constructing facilities,
42 structures or other items similar to those the authority is authorized to
43 construct or lease.

44 D. The plans and specifications for the multipurpose facility are
45 subject to review and approval by the board. The board shall inspect and

1 approve construction of the facility, if it conforms to the plans and
2 specifications and applicable engineering standards. Throughout the life of
3 the multipurpose facility, the board is responsible and shall monitor and
4 take action as necessary to ensure the appropriate maintenance and operation
5 of the facility.

6 E. TO ASSURE THAT A SITE HOST HAS THE FINANCIAL CAPABILITY TO PERFORM
7 ITS OBLIGATIONS UNDER ANY AGREEMENTS WITH THE AUTHORITY, BEFORE ENTERING INTO
8 AN AGREEMENT WITH ANY SITE HOST, THE AUTHORITY SHALL EITHER:

9 1. CAUSE A REVIEW OF THE FINANCIAL BOOKS AND RECORDS OF THE SITE HOST
10 BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT SELECTED BY THE AUTHORITY WHO
11 SHALL PREPARE FOR THE AUTHORITY, AND ATTEST TO, A REPORT SETTING FORTH THE
12 RESULTS OF THAT REVIEW.

13 2. PROVIDE IN THE AGREEMENT WITH THE SITE HOST ANOTHER METHOD FOR
14 ASSURING THE PAYMENT OF THE OBLIGATIONS OF THE SITE HOST. THE ALTERNATIVE
15 METHODS FOR ASSURING PAYMENT MAY INCLUDE:

16 (a) DEPOSITS IN A CONSTRUCTION TRUST ACCOUNT IN AN AMOUNT EQUAL TO THE
17 SITE HOST'S ESTIMATED OBLIGATIONS TO THE AUTHORITY.

18 (b) POSTING A BOND IN AN AMOUNT EQUAL TO THE SITE HOST'S ESTIMATED
19 OBLIGATIONS TO THE AUTHORITY.

20 (c) PROVIDING THE AUTHORITY WITH A LETTER OF CREDIT IN AN AMOUNT EQUAL
21 TO THE SITE HOST'S ESTIMATED OBLIGATIONS TO THE AUTHORITY.

22 (d) OTHER SIMILAR FINANCIAL ASSURANCE.

23 F. THE AUTHORITY SHALL PROVIDE IN ANY AGREEMENTS BETWEEN THE AUTHORITY
24 AND A SITE HOST THAT IS AN INDIAN TRIBE:

25 1. A WAIVER OF SOVEREIGN IMMUNITY TO ALLOW THE ENFORCEMENT BY THE
26 AUTHORITY OF THE AGREEMENTS ENTERED INTO BETWEEN THE AUTHORITY AND THE INDIAN
27 TRIBE.

28 2. A CONSENT TO THE JURISDICTION OF STATE AND FEDERAL COURTS BY THE
29 INDIAN TRIBE.

30 3. A WAIVER OF THE RIGHT TO REQUIRE THE AUTHORITY TO EXHAUST TRIBAL
31 REMEDIES BEFORE BRINGING AN ACTION IN STATE OR FEDERAL COURTS.

32 4. THAT STATE AND FEDERAL LAW WILL GOVERN THE INTERPRETATION OF ANY
33 AGREEMENTS ENTERED INTO BETWEEN THE AUTHORITY AND THE INDIAN TRIBE.

34 5. AN AGREEMENT THAT THE INDIAN TRIBE WILL LEVY, COLLECT AND PAY TO
35 THE AUTHORITY A CHARGE OR OTHER IMPOSITION EQUIVALENT TO THE TAXES PROVIDED
36 IN SECTION 5-840 FOR ANY HOTEL LOCATED WITHIN A DEVELOPMENT AREA TO BE
37 DEFINED BY AGREEMENT BETWEEN THE AUTHORITY AND THE INDIAN TRIBE AROUND THE
38 MULTIPURPOSE FACILITY.

39 6. AN AGREEMENT THAT THE INDIAN TRIBE WILL PROVIDE FOR AN ANNUAL
40 DISCLOSURE OF GROSS PROCEEDS OF SALES OR GROSS INCOME AS DETERMINED FOR
41 PURPOSES OF A TAX BASE UNDER THE TRANSIENT LODGING TRANSACTION PRIVILEGE TAX
42 CLASSIFICATION UNDER SECTION 42-5070 AND CONTRIBUTIONS MADE TO THE AUTHORITY
43 EQUAL TO THE TAXES AS PROVIDED BY SECTION 5-840.

1 Sec. 5. Section 5-812, Arizona Revised Statutes, is amended to read:

2 5-812. Performance audit

3 A. Beginning ~~in 2010~~ NOT LATER THAN 2004 and AT LEAST every ~~tenth~~
4 FIFTH year thereafter, the auditor general shall conduct a performance audit,
5 AS DEFINED IN SECTION 41-1278, of the authority, ~~as defined in section~~
6 ~~41-1278~~.

7 B. On or before November 30 of the respective year the auditor general
8 shall issue a public report of the performance audit including findings and
9 specific recommendations for statutory and administrative changes to improve
10 the operation of the authority. The auditor general shall submit copies of
11 the report to the governor, president of the senate, speaker of the house of
12 representatives, secretary of state and ~~department of~~ THE DIRECTOR OF THE
13 ARIZONA STATE library, archives and public records.

14 Sec. 6. Section 5-813, Arizona Revised Statutes, is amended to read:

15 5-813. Disadvantaged business enterprise participation goals;
16 contractor employment requirements

17 A. Notwithstanding any other law, the authority shall:

18 1. Establish disadvantaged business enterprise participation goals for
19 the design, engineering and construction of the multipurpose facility under
20 section 5-807 based on the availability of ready, willing and able
21 disadvantaged business enterprises compared to the general population of
22 consultants, prime contractors and subcontractors, suppliers and service
23 providers.

24 2. Establish procedures for meeting these goals, including compiling a
25 registry of disadvantaged business enterprises that are certified by a local,
26 county or state agency.

27 3. Require monthly reports by the project coordinator regarding
28 compliance with the goals.

29 4. Monitor compliance with this section through intergovernmental
30 agreements with a state or county disadvantaged business enterprise program
31 monitor or a contract with an independent organization that is experienced in
32 monitoring disadvantaged business enterprise programs.

33 5. Impose sanctions if, based on recommendations of the monitoring
34 organization, the authority determines that a good faith effort was not made
35 to comply with the established procedures.

36 B. THE AUTHORITY SHALL PROVIDE THAT ANY CONTRACT WITH RESPECT TO THE
37 DESIGN, ENGINEERING AND CONSTRUCTION OF THE MULTIPURPOSE FACILITY UNDER
38 SECTION 5-807 SHALL REQUIRE EACH PRIME CONTRACTOR AND MAJOR SUBCONTRACTORS TO
39 PROVIDE HEALTH INSURANCE TO THE CONTRACTOR'S EMPLOYEES AND DEPENDENTS OF THE
40 CONTRACTOR'S EMPLOYEES, EXCEPT FOR THOSE EMPLOYEES WHO WORK LESS THAN ONE
41 HUNDRED TWENTY DAYS IN A CALENDAR YEAR.

42 ~~B.~~ C. The executive director, the project coordinator and all persons
43 who enter into contracts, agreements or understandings related to the
44 construction and operation of the multipurpose facility shall comply with the
45 procedures established pursuant to this section.

1 Sec. 7. Title 5, chapter 8, article 1, Arizona Revised Statutes, is
2 amended by adding section 5-814, to read:

3 5-814. Monthly report; appearance before joint legislative
4 budget committee

5 A. WITHIN THREE WEEKS AFTER THE END OF EACH CALENDAR MONTH THE
6 AUTHORITY SHALL PREPARE A REPORT SIGNED BY THE EXECUTIVE DIRECTOR OF THE
7 AUTHORITY AND TRANSMIT THE REPORT TO THE GOVERNOR, THE LEGISLATURE, AS
8 PROVIDED BY SECTION 41-1178, AND THE JOINT LEGISLATIVE BUDGET COMMITTEE. THE
9 REPORT SHALL INCLUDE A PROGRESS REPORT OF THE ACTIVITIES OF THE AUTHORITY
10 DURING THE PREVIOUS MONTH.

11 B. AT THE REQUEST OF THE CHAIRMAN OF THE JOINT LEGISLATIVE BUDGET
12 COMMITTEE, THE EXECUTIVE DIRECTOR SHALL APPEAR BEFORE THE JOINT LEGISLATIVE
13 BUDGET COMMITTEE ANNUALLY TO REPORT ON THE ACTIVITIES AND FINANCIAL
14 PERFORMANCE OF THE AUTHORITY DURING THE PREVIOUS YEAR.

15 Sec. 8. Section 5-835, Arizona Revised Statutes, is amended to read:

16 5-835. Tourism revenue clearing account

17 A. The authority shall maintain a tourism revenue clearing account
18 within the general fund consisting of monies transmitted to the authority by
19 the state treasurer pursuant to sections 5-839 and 5-840. On the second
20 Tuesday of each month, the treasurer of the authority shall distribute all
21 monies in the account as provided by this section.

22 B. For as long as the authority owes debt service on bonds or other
23 debt obligations payable from revenues or monies deposited in the tourism
24 revenue clearing account, the treasurer shall distribute all monies in the
25 account in the following order of priority:

26 1. To the debt service account established by section 5-865, an amount
27 equal to one-twelfth of the annual debt service on bonds and other debt
28 obligations issued by the authority for not more than one-half of three
29 hundred thirty-one million dollars of the capital costs associated with
30 constructing the multipurpose facility, plus interest earned on any monies
31 escrowed before payment to the debt service account, amortized over a thirty
32 year repayment term and that are secured in whole or in part by and payable
33 from revenues or monies deposited in the tourism revenue clearing account, or
34 a lesser amount as determined by the authority.

35 2. To the tourism fund established by section 41-2306, an amount equal
36 to one-twelfth of four million dollars over the first twelve months of
37 distribution, increased in each subsequent twelve month period by an
38 additional five per cent over the preceding twelve months' distribution.

39 3. To the cactus league promotion account established by section
40 5-837, an amount equal to:

| | |
|--|---------------------|
| 41 During the first eighty-four months | \$250,000 per month |
| 42 During the eighty-fifth through one | |
| 43 hundred twentieth months | \$333,333 per month |
| 44 During the one hundred twenty-first through | |
| 45 one hundred forty-fourth months | \$500,000 per month |

| | | |
|----|---|---------------------|
| 1 | During the one hundred forty-fifth through | |
| 2 | one hundred ninety-second months | \$583,333 per month |
| 3 | During the one hundred ninety-third through | |
| 4 | two hundred fortieth months | \$666,667 per month |
| 5 | During the two hundred forty-first through | |
| 6 | two hundred eighty-eighth months | \$750,000 per month |
| 7 | During the two hundred eighty-ninth through | |
| 8 | three hundred twelfth months | \$833,333 per month |
| 9 | During the three hundred thirteenth through | |
| 10 | three hundred sixtieth months | \$916,667 per month |

11 ~~5-~~ 4. To the youth and amateur sports facilities ~~fund~~ ACCOUNT
12 established by section 5-838, an amount equal to one-twelfth of one million
13 dollars over the first twelve months of distribution, increased in each
14 subsequent twelve month period by an additional one hundred thousand dollars
15 over the prior twelve months' distribution.

16 ~~4-~~ 5. To the operating account established by section 5-836, an
17 amount equal to one-twelfth of the authority's adopted budget for the period
18 for the purposes set forth in section 5-836, subsection B, paragraphs 1 and 2
19 ~~and net of any monies estimated to be available in the operating account for~~
20 ~~those purposes in that period.~~

21 6. TO THE YOUTH AND AMATEUR SPORTS FACILITIES RESERVE ESTABLISHED BY
22 SECTION 5-838, SUBSECTION B, AN AMOUNT REQUIRED TO BE DISTRIBUTED PURSUANT TO
23 PARAGRAPH 4 DURING THE PRECEDING FISCAL YEAR TO THE YOUTH AND AMATEUR SPORTS
24 FACILITIES ACCOUNT ESTABLISHED BY SECTION 5-838, SUBSECTION A, LESS ANY
25 AMOUNT ON DEPOSIT IN THE YOUTH AND AMATEUR SPORTS FACILITIES RESERVE.

26 ~~6-~~ 7. To the operating account established by section 5-836, any
27 monies remaining unallocated each month.

28 C. After all bonds and other debt obligations of the authority that
29 are secured in whole or in part by and payable from revenues or monies
30 deposited in the tourism revenue clearing account are redeemed or fully
31 provided for, the treasurer of the authority shall distribute all monies
32 remaining in the account after the distributions provided for by subsection
33 B, paragraphs 2, 3 and ~~5-~~ 4 of this section, and after the authority's repair
34 and replacement requirements are funded pursuant to section 5-836, subsection
35 C, paragraph 2, as follows:

36 1. Seventy per cent to the tourism fund established by section
37 41-2306.

38 2. Thirty per cent to the cactus league promotion account established
39 by section 5-837.

40 Sec. 9. Section 5-836, Arizona Revised Statutes, is amended to read:
41 5-836. Operating account

42 A. The authority shall maintain an operating account consisting of
43 monies transmitted to the account pursuant to sections 5-834 and 5-835.

44 B. The authority may spend monies in the operating account for costs
45 incurred for any of the following purposes:

1 1. Operating, marketing, promoting, furnishing and equipping a
2 multipurpose facility.

3 2. Paying all costs associated with the authority's administrative
4 duties as provided in sections 5-804 and 5-805.

5 3. Payment to the debt service account established by section 5-865 to
6 be used for payment or early redemption of bonded indebtedness.

7 C. The authority shall establish in the operating account:

8 1. A reserve to meet future operating costs of the authority,
9 including amounts that are sufficient to pay all costs associated with events
10 held at the multipurpose facility.

11 2. A reserve for repair, ~~and~~ replacement **AND REMOVAL** costs associated
12 with the multipurpose facility in an amount at least equal to twenty-five
13 million dollars, adjusted for inflation each year after 2001.

14 D. This state is not liable or responsible for the operating costs of
15 the authority, including the operating, marketing, promotion, furnishing,
16 equipping, repair or replacement costs of any facility or project funded by
17 the authority.

18 Sec. 10. Section 5-837, Arizona Revised Statutes, is amended to read:

19 **5-837. Cactus league promotion account**

20 A. The authority shall maintain a cactus league promotion account
21 consisting of monies transmitted to the account pursuant to section 5-835.

22 B. The authority shall use monies in the ~~fund~~ **ACCOUNT** for purposes of
23 section 5-808.

24 C. The authority may pledge all or part of the revenues and other
25 monies received by the authority to secure bonds or other debt obligations
26 issued by the authority for the purposes of providing monies for expenditure
27 under this section. As nearly as practicable, the bonds issued pursuant to
28 this subsection shall be authorized and issued in a manner consistent with
29 article 3 of this chapter, except that the proceeds of the bonds shall be
30 spent pursuant to this section. The pledge securing bonds issued pursuant to
31 this section is subordinate to the pledge securing bonds or other debt
32 obligations issued pursuant to article 3 of this chapter and, except for
33 monies already in the cactus league promotion account, to the distribution of
34 monies pursuant to section 5-835, subsection B, paragraph 2.

35 Sec. 11. Section 5-838, Arizona Revised Statutes, is amended to read:

36 **5-838. Youth and amateur sports facilities account; reserve**

37 A. The authority shall maintain a youth and amateur sports facilities
38 account consisting of monies transmitted to the account pursuant to section
39 5-835.

40 **B. THE AUTHORITY SHALL ESTABLISH A YOUTH AND AMATEUR SPORTS FACILITIES
41 RESERVE WITHIN THE ACCOUNT CONSISTING OF MONIES TRANSMITTED TO THE RESERVE
42 PURSUANT TO SECTION 5-835, SUBSECTION B, PARAGRAPH 6. THE AUTHORITY SHALL
43 TRANSFER FROM THE RESERVE TO THE ACCOUNT AN AMOUNT EQUAL TO ANY DEFICIENCY IN
44 THE MONTHLY AMOUNT DISTRIBUTED TO THE ACCOUNT PURSUANT TO SECTION 5-835,
45 SUBSECTION B, PARAGRAPH 3.**

1 ~~B.~~ C. The authority shall use monies in the ~~fund~~ ACCOUNT for purposes
2 of section 5-809.

3 Sec. 12. Section 5-839, Arizona Revised Statutes, is amended to read:
4 5-839. Car rental surcharge

5 A. The qualified electors residing in the authority, by majority vote
6 at an election held in the authority, may levy and, if levied, the department
7 of revenue shall collect a car rental surcharge beginning on the first day of
8 the first month beginning ninety days after the election to levy the
9 surcharge. The surcharge shall be in effect for three hundred sixty
10 months, ~~except that if no bonds are issued under this chapter within two~~
11 ~~years after the surcharge takes effect, the surcharge terminates and any~~
12 ~~monies remaining unexpended and unencumbered shall be transferred to the~~
13 ~~state general fund.~~

14 B. The rate of the surcharge is:

15 1. Three and one-fourth per cent of the gross proceeds or gross income
16 from the business or two dollars fifty cents on each lease or rental,
17 whichever is more.

18 2. In the case of a person who leases or rents the motor vehicle as a
19 temporary replacement motor vehicle, two dollars fifty cents on each lease or
20 rental. For purposes of this paragraph, "temporary replacement motor
21 vehicle" means a vehicle loaned by a motor vehicle repair facility or dealer
22 or rented by a person temporarily to use while the vehicle that it is
23 replacing is not in use because of breakdown, repair, service, damage or
24 loss.

25 C. The surcharge applies to the business of leasing or renting for
26 less than one year motor vehicles for hire without a driver, that are
27 designed to operate on the streets and highways of this state and that are
28 primarily intended to carry not more than fourteen passengers, regardless of
29 whether the vehicle is registered or licensed in this state.

30 D. The surcharge does not apply to the lease or rental of a motor
31 vehicle to an automobile dealership, a repair facility, an insurance company
32 or any other person that provides that vehicle at no charge to a person whose
33 own motor vehicle is being repaired, adjusted or serviced.

34 E. The surcharge is not taxable under section 42-5071.

35 F. Unless the context otherwise requires, section 42-6102 governs the
36 administration of a surcharge imposed under this section, which shall be
37 reported on a form prescribed by the department of revenue. The department
38 of revenue shall require a report of the number of lease or rental
39 transactions and shall transmit that number to the state treasurer.

40 G. Each month the state treasurer shall distribute revenues collected
41 pursuant to this section as follows:

42 1. Transmit an amount equal to two dollars fifty cents on each lease
43 or rental transaction to the county stadium district established in the
44 county in which the authority is located pursuant to title 48, chapter 26 for
45 deposit in the county stadium district fund. The board of directors of the

1 county stadium district may pledge all or part of these monies to secure
2 district bonds or financial obligations under title 48, chapter 26.

3 2. Pay the remainder of the monies collected during the month to the
4 authority for deposit in the tourism revenue clearing account established by
5 section 5-835.

6 Sec. 13. Section 5-840, Arizona Revised Statutes, is amended to read:
7 5-840. Tax on hotels

8 A. The qualified electors residing in the authority, by majority vote
9 at an election held in the authority, may levy and, if levied, the department
10 of revenue shall collect a tax on the gross proceeds of sales or gross income
11 from the business of every person engaging or continuing in a business taxed
12 under title 42, chapter 5 and classified under section 42-5070 within the
13 authority. A tax under this section is in addition to the tax imposed by
14 title 42, chapter 5 and any tax imposed by a city or town in the authority.

15 B. If levied, the tax shall be levied under this section beginning on
16 the first day of the first month beginning ninety days after the election to
17 levy the tax. The tax shall be in effect for three hundred sixty
18 months, ~~except that if no bonds are issued under this chapter within two~~
19 ~~years after the tax takes effect, the tax terminates and any monies remaining~~
20 ~~unexpended and unencumbered shall be transferred to the state general fund.~~

21 C. The rate of the tax is one per cent of the tax base prescribed by
22 section 42-5070.

23 D. Unless the context otherwise requires, section 42-6102 governs the
24 administration of the tax imposed under this section.

25 E. Each month the state treasurer shall transmit the net revenues
26 collected pursuant to this section to the authority for deposit in the
27 tourism revenue clearing account established by section 5-835.

28 Sec. 14. Section 41-2306, Arizona Revised Statutes, as amended by Laws
29 2000, chapter 375, section 3, is amended from and after June 30, 2003, to
30 read:

31 41-2306. Tourism fund

32 A. The tourism fund is established consisting of separate accounts
33 derived from:

34 1. Revenues deposited pursuant to section 42-5029, ~~subsection D,~~
35 ~~paragraph 4, subdivision (f).~~ ~~The legislature shall appropriate~~ All monies
36 in this account **ARE CONTINUOUSLY APPROPRIATED** to the office of tourism for
37 the purposes of operations and statewide tourism promotion.

38 2. Revenues deposited pursuant to section 5-835, subsection B or
39 C. ~~The legislature shall appropriate~~ All monies in this account **ARE**
40 **CONTINUOUSLY APPROPRIATED** to the office of tourism which, in consultation
41 with a consortium of destination marketing organizations in the county in
42 which the tourism and sports authority is established, shall be spent only to
43 promote tourism within that county and shall not be spent for administrative
44 or overhead expenses.

1 3. Revenues deposited pursuant to section 42-6108.01. The legislature
2 shall appropriate all monies in this account to the office of tourism which,
3 in conjunction with the destination marketing organization in the county in
4 which the tax revenues are collected, shall be spent only to promote tourism
5 within that county and shall not be spent for administrative or overhead
6 expenses.

7 B. Monies in the fund are exempt from section 35-190 relating to
8 lapsing of appropriations.

9 Sec. 15. Section 42-5029, Arizona Revised Statutes, is amended to
10 read:

11 42-5029. Remission and distribution of monies

12 A. The department shall deposit, pursuant to sections 35-146 and
13 35-147, all revenues collected under this article and articles 4, 5, 8 and 9
14 of this chapter pursuant to section 42-1116, separately accounting for:

15 1. Payments of estimated tax under section 42-5014, subsection D.

16 2. Revenues collected pursuant to section 42-5070.

17 3. Revenues collected under this article and article 5 of this chapter
18 from and after June 30, 2000 from sources located on Indian reservations in
19 this state.

20 4. Revenues collected pursuant to section 42-5010, subsection G and
21 section 42-5155, subsection D.

22 B. The department shall credit payments of estimated tax to an
23 estimated tax clearing account and each month shall transfer all monies in
24 the estimated tax clearing account to a fund designated as the transaction
25 privilege and severance tax clearing account. The department shall credit
26 all other payments to the transaction privilege and severance tax clearing
27 account, separately accounting for the monies designated as distribution base
28 under sections 42-5010, 42-5164, 42-5205, 42-5353 and 42-5409. Each month
29 the department shall report to the state treasurer the amount of monies
30 collected pursuant to this article and articles 4, 5, 8 and 9 of this
31 chapter.

32 C. On notification by the department, the state treasurer shall
33 distribute the monies deposited in the transaction privilege and severance
34 tax clearing account in the manner prescribed by this section and by sections
35 42-5164, 42-5205, 42-5353 and 42-5409, after deducting warrants drawn against
36 the account pursuant to sections 42-1118 and 42-1254.

37 D. Of the monies designated as distribution base the department shall:

38 1. Pay twenty-five per cent to the various incorporated municipalities
39 in this state in proportion to their population as shown by the last United
40 States decennial or special census, or revisions to the decennial or special
41 census certified by the United States bureau of the census, to be used by the
42 municipalities for any municipal purpose.

43 2. Pay 38.08 per cent to the counties in this state by averaging the
44 following proportions:

1 (a) The proportion that the population of each county bears to the
2 total state population, as shown by the most recent United States decennial
3 or special census, or revisions to the decennial or special census certified
4 by the United States bureau of the census.

5 (b) The proportion that the distribution base monies collected during
6 the calendar month in each county under this article, section 42-5164,
7 subsection B, section 42-5205, subsection B and sections 42-5353 and 42-5409
8 bear to the total distribution base monies collected under this article,
9 section 42-5164, subsection B, section 42-5205, subsection B and sections
10 42-5353 and 42-5409 throughout the state for the calendar month.

11 3. Pay an additional 2.43 per cent to the counties in this state as
12 follows:

13 (a) Average the following proportions:

14 (i) The proportion that the assessed valuation used to determine
15 secondary property taxes of each county, after deducting that part of the
16 assessed valuation that is exempt from taxation at the beginning of the month
17 for which the amount is to be paid, bears to the total assessed valuations
18 used to determine secondary property taxes of all the counties after
19 deducting that portion of the assessed valuations that is exempt from
20 taxation at the beginning of the month for which the amount is to be paid.
21 Property of a city or town that is not within or contiguous to the municipal
22 corporate boundaries and from which water is or may be withdrawn or diverted
23 and transported for use on other property is considered to be taxable
24 property in the county for purposes of determining assessed valuation in the
25 county under this item.

26 (ii) The proportion that the distribution base monies collected during
27 the calendar month in each county under this article, section 42-5164,
28 subsection B, section 42-5205, subsection B and sections 42-5353 and 42-5409
29 bear to the total distribution base monies collected under this article,
30 section 42-5164, subsection B, section 42-5205, subsection B and sections
31 42-5353 and 42-5409 throughout the state for the calendar month.

32 (b) If the proportion computed under subdivision (a) of this paragraph
33 for any county is greater than the proportion computed under paragraph 2 of
34 this subsection, the department shall compute the difference between the
35 amount distributed to that county under paragraph 2 of this subsection and
36 the amount that would have been distributed under paragraph 2 of this
37 subsection using the proportion computed under subdivision (a) of this
38 paragraph and shall pay that difference to the county from the amount
39 available for distribution under this paragraph. Any monies remaining after
40 all payments under this subdivision shall be distributed among the counties
41 according to the proportions computed under paragraph 2 of this subsection.

42 4. After any distributions required by sections 42-5030.01, 42-5031,
43 42-5032, 42-5032.01 and 42-5032.02, and after making any transfer to the
44 water quality assurance revolving fund as required by section 49-282,

1 subsection B, credit the remainder of the monies designated as distribution
2 base to the state general fund. From this amount:

3 (a) The legislature shall annually appropriate to:

4 ~~(a)~~ (i) The department of revenue sufficient monies to administer and
5 enforce this article and articles 5, 8 and 9 of this chapter.

6 ~~(b)~~ (ii) The department of economic security monies to be used for
7 the purposes stated in title 46, chapter 1.

8 ~~(c) The tourism fund, through June 30, 2001, an amount equal to the~~
9 ~~sum of the following:~~

10 ~~(i) Two million dollars.~~

11 ~~(ii) Seventy-five per cent of the amount by which revenues derived~~
12 ~~from a one-half percentage rate portion of the total tax rate imposed on the~~
13 ~~transient lodging classification for the current fiscal year exceed the~~
14 ~~revenues derived from a one-half percentage rate portion of that tax in the~~
15 ~~previous fiscal year.~~

16 ~~(d)~~ (iii) The Arizona arts endowment fund established by section
17 41-986, the full amount by which revenues derived from the amusement
18 classification pursuant to section 42-5073 for the current fiscal year exceed
19 the revenues that were derived from that classification in fiscal year
20 1993-1994, except that this amount shall not exceed two million dollars
21 through fiscal year 2008-2009.

22 ~~(e)~~ (iv) The firearms safety and ranges fund established by section
23 17-273, fifty thousand dollars derived from the taxes collected from the
24 retail classification pursuant to section 42-5061 for the current fiscal
25 year.

26 ~~(f)~~ (b) **THE STATE TREASURER SHALL TRANSFER TO** the tourism
27 fund, ~~beginning from and after June 30, 2001~~ an amount equal to the sum of
28 the following:

29 (i) Three and one-half per cent of the gross revenues derived from the
30 transient lodging classification pursuant to section 42-5070 during the
31 preceding fiscal year.

32 (ii) Three per cent of the gross revenues derived from the amusement
33 classification pursuant to section 42-5073 during the preceding fiscal year.

34 (iii) Two per cent of the gross revenues derived from the restaurant
35 classification pursuant to section 42-5074 during the preceding fiscal year.

36 E. If approved by the qualified electors voting at a statewide general
37 election, all monies collected pursuant to section 42-5010, subsection G and
38 section 42-5155, subsection D shall be distributed each fiscal year pursuant
39 to this subsection. The monies distributed pursuant to this subsection are
40 in addition to any other appropriation, transfer or other allocation of
41 public or private monies from any other source and shall not supplant,
42 replace or cause a reduction in other school district, charter school,
43 university or community college funding sources. The monies shall be
44 distributed as follows:

1 1. If there are outstanding state school facilities revenue bonds
2 pursuant to title 15, chapter 16, article 7, each month one-twelfth of the
3 amount that is necessary to pay the fiscal year's debt service on outstanding
4 state school improvement revenue bonds for the current fiscal year shall be
5 transferred each month to the school improvement revenue bond debt service
6 fund established by section 15-2084. The total amount of bonds for which
7 these monies may be allocated for the payment of debt service shall not
8 exceed a principal amount of eight hundred million dollars exclusive of
9 refunding bonds and other refinancing obligations.

10 2. After any transfer of monies pursuant to paragraph 1 of this
11 subsection, twelve per cent of the remaining monies collected during the
12 preceding month shall be transferred to the technology and research
13 initiative fund established by section 15-1648 to be distributed among the
14 universities for the purpose of investment in technology and research-based
15 initiatives.

16 3. After the transfer of monies pursuant to paragraph 1 of this
17 subsection, three per cent of the remaining monies collected during the
18 preceding month shall be transferred to the workforce development account
19 established in each community college district pursuant to section 15-1472
20 for the purpose of investment in workforce development programs.

21 4. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
22 subsection, one-twelfth of the amount a community college that is owned,
23 operated or chartered by a qualifying Indian tribe on its own Indian
24 reservation would receive pursuant to section 15-1472, subsection D,
25 paragraph 2 if it were a community college district under the jurisdiction of
26 the state board of directors for community colleges shall be distributed each
27 month to the treasurer or other designated depository of a qualifying Indian
28 tribe. Monies distributed pursuant to this paragraph are for the exclusive
29 purpose of providing support to one or more community colleges owned,
30 operated or chartered by a qualifying Indian tribe and shall be used in a
31 manner consistent with section 15-1472, subsection B. For purposes of this
32 paragraph, "qualifying Indian tribe" has the same meaning as defined in
33 section 42-5031.01, subsection D.

34 5. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
35 subsection, one-twelfth of the following amounts shall be transferred each
36 month to the department of education for the increased cost of basic state
37 aid under section 15-971 due to added school days and associated teacher
38 salary increases enacted in 2000:

- 39 (a) In fiscal year 2001-2002, \$15,305,900.
- 40 (b) In fiscal year 2002-2003, \$31,530,100.
- 41 (c) In fiscal year 2003-2004, \$48,727,700.
- 42 (d) In fiscal year 2004-2005, \$66,957,200.
- 43 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
44 \$86,280,500.

1 6. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
2 subsection, seven million eight hundred thousand dollars is appropriated each
3 fiscal year, to be paid in monthly installments, to the department of
4 education to be used for school safety as provided in section 15-154 and two
5 hundred thousand dollars is appropriated each fiscal year, to be paid in
6 monthly installments to the department of education to be used for the
7 character education matching grant program as provided in section 15-154.01.

8 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
9 subsection, no more than seven million dollars may be appropriated by the
10 legislature each fiscal year to the department of education to be used for
11 accountability purposes as described in section 15-241 and title 15, chapter
12 9, article 8.

13 8. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
14 subsection, one million five hundred thousand dollars is appropriated each
15 fiscal year, to be paid in monthly installments, to the failing schools
16 tutoring fund established by section 15-241.

17 9. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
18 subsection, twenty-five million dollars shall be transferred each fiscal year
19 to the state general fund to reimburse the general fund for the cost of the
20 income tax credit allowed by section 43-1072.01.

21 10. After the payment of monies pursuant to paragraphs 1 through 9 of
22 this subsection, the remaining monies collected during the preceding month
23 shall be transferred to the classroom site fund established by section
24 15-977. The monies shall be allocated as follows in the manner prescribed by
25 section 15-977:

26 (a) Forty per cent shall be allocated for teacher compensation based
27 on performance.

28 (b) Twenty per cent shall be allocated for increases in teacher base
29 compensation and employee related expenses.

30 (c) Forty per cent shall be allocated for maintenance and operation
31 purposes.

32 F. The department shall credit the remainder of the monies in the
33 transaction privilege and severance tax clearing account to the state general
34 fund, subject to any distribution required by section 42-5030.01.

35 G. Notwithstanding subsection D of this section, if a court of
36 competent jurisdiction finally determines that tax monies distributed under
37 this section were illegally collected under this article or articles 5, 8 and
38 9 of this chapter and orders the monies to be refunded to the taxpayer, the
39 department shall compute the amount of such monies that was distributed to
40 each city, town and county under this section. The department shall notify
41 the state treasurer of that amount plus the proportionate share of additional
42 allocated costs required to be paid to the taxpayer. Each city's, town's and
43 county's proportionate share of the costs shall be based on the amount of the
44 original tax payment each municipality and county received. Each month the
45 state treasurer shall reduce the amount otherwise distributable to the city,

1 town and county under this section by one thirty-sixth of the total amount to
2 be recovered from the city, town or county until the total amount has been
3 recovered, but the monthly reduction for any city, town or county shall not
4 exceed ten per cent of the full monthly distribution to that entity. The
5 reduction shall begin for the first calendar month after the final
6 disposition of the case and shall continue until the total amount, including
7 interest and costs, has been recovered.

8 H. On receiving a certificate of default from the greater Arizona
9 development authority pursuant to section 41-1554.06 or 41-1554.07 and to the
10 extent not otherwise expressly prohibited by law, the state treasurer shall
11 withhold from the next succeeding distribution of monies pursuant to this
12 section due to the defaulting political subdivision the amount specified in
13 the certificate of default and immediately deposit the amount withheld in the
14 greater Arizona development authority revolving fund. The state treasurer
15 shall continue to withhold and deposit the monies until the greater Arizona
16 development authority certifies to the state treasurer that the default has
17 been cured. In no event may the state treasurer withhold any amount that the
18 defaulting political subdivision certifies to the state treasurer and the
19 authority as being necessary to make any required deposits then due for the
20 payment of principal and interest on bonds of the political subdivision that
21 were issued before the date of the loan repayment agreement or bonds and that
22 have been secured by a pledge of distributions made pursuant to this section.

23 Sec. 16. Validation of multipurpose facility site selection
24 process

25 The process of solicitation and evaluation by the tourism and sports
26 authority, established by title 5, chapter 8, Arizona Revised Statutes, of
27 potential sites for a multipurpose facility after November 7, 2000 through
28 the effective date of this act is confirmed, ratified and declared legally
29 valid.

30 Sec. 17. Requirements for multipurpose facility site selection;
31 deadline

32 A. The tourism and sports authority established pursuant to title 5,
33 chapter 8, Arizona Revised Statutes, shall deliver to the governor and
34 attorney general no later than 5:00 PM September 12, 2002 verified copies of
35 an agreement or agreements between the authority and each site host providing
36 land, infrastructure and parking facilities for a multipurpose facility
37 pursuant to section 5-807, Arizona Revised Statutes, as amended by section 3
38 of this act, fully executed by the parties and approved by the board of
39 directors of the authority and the governing body of each site host.

40 B. The agreement or agreements required by subsection A of this
41 section must include:

42 1. For the provision of the land, a lease, acquisition agreement or
43 other similar agreement.

1 C. In addition to any other ballot requirements prescribed by law, the
2 elections director shall cause to be printed on the official ballot all of
3 the following information prepared by the elections director:

4 1. The number of the measure in reverse type and at least twelve point
5 type.

6 2. The designation of the measure as follows: "relating to the
7 continuation of the tourism and sports authority".

8 3. Instructions directing the voter to the full text of the official
9 and descriptive titles containing the summary as printed in the sample ballot
10 and posted in the polling place.

11 4. The question submitted to the voters as follows:

12 Do you favor the continuation of the tourism and sports authority for
13 the purpose of funding and constructing a multipurpose sports facility? YES
14 NO

15 (A "YES" vote has the effect of allowing the tourism and sports
16 authority to continue its efforts to locate and build a multipurpose sports
17 facility and funding major league baseball spring training facilities and
18 amateur and youth sports facilities.)

19 (A "NO" vote has the effect of rejecting the continuation of the
20 tourism and sports authority, ending its efforts to locate and build a
21 multipurpose sports facility but continuing current funding of major league
22 baseball spring training and amateur and youth sports facilities.)

23 D. The cost of the election provided in this section, including the
24 preparation of the official ballots and publishing and mailing the publicity
25 pamphlets prescribed in subsection B of this section, shall be charged
26 against the funds and accounts of the tourism and sports authority.

27 E. This section does not constitute a submission of any provision of
28 this act to the people for approval under the power of the referendum.

29 Sec. 19. Conditional enactment

30 A. Sections 20 through 59 of this act are effective from and after
31 December 31, 2002, but only if the qualified electors voting on the issue in
32 the election held pursuant to section 18 of this act, relating to the
33 election on continuing the tourism and sports authority vote to terminate the
34 tourism and sports authority and its functions.

35 B. The enactment of any provision of this act, conditioned on the
36 results of the election under section 18 of this act, does not constitute a
37 submission of those provisions to the voters under the power of the
38 referendum.

39 Sec. 20. Heading change

40 The heading of title 5, chapter 8, Arizona Revised Statutes, is changed
41 from "TOURISM AND SPORTS AUTHORITY" to "SPRING TRAINING AND AMATEUR SPORTS
42 AUTHORITY".

1 Sec. 21. Section 5-801, Arizona Revised Statutes, as amended by
2 section 1 of this act, is amended to read:

3 5-801. Definitions

4 In this chapter, unless the context otherwise requires:

5 1. "Authority" means the ~~tourism and sports~~ SPRING TRAINING AND
6 AMATEUR SPORTS authority.

7 2. "Board" means the board of directors of the authority.

8 ~~3. "Indian tribe" means any organized Indian nation, tribe, band or
9 community that is recognized as an Indian tribe by the United states
10 department of the interior.~~

11 ~~4. "Multipurpose facility" means any facility that is suitable to be
12 used to accommodate professional football franchises, major college football
13 bowl sponsors, other sporting events and entertainment, cultural, civic,
14 meeting, trade show or convention events or activities and may include a
15 stadium, on-site infrastructure, parking garages and lots and related
16 commercial uses within the facility.~~

17 ~~5. "Site host" means any of the following entities that owns all or
18 part of the multipurpose facility site at the time the site is provided to
19 the authority pursuant to section 5-807:~~

20 ~~(a) This state or any agency of this state.~~

21 ~~(b) The county in which the authority is located.~~

22 ~~(c) Any city or town located in the county in which the authority is
23 located.~~

24 ~~(d) Any Indian tribe if all or part of the tribe's reservation is
25 located in that county.~~

26 ~~(e) Any person, corporation or business entity.~~

27 3. "DIRECTOR" MEANS THE DIRECTOR OF THE SPRING TRAINING AND AMATEUR
28 SPORTS AUTHORITY.

29 Sec. 22. Section 5-802, Arizona Revised Statutes, is amended to read:

30 5-802. Formation of authority

31 A. The ~~tourism and sports~~ SPRING TRAINING AND AMATEUR SPORTS authority
32 is established. The boundaries of the authority are the boundaries of any
33 county that has a population of more than two million persons.

34 B. The authority is a corporate and political body and, except as
35 otherwise limited, modified or provided by this chapter, has ~~all of~~ the
36 rights, powers and immunities of municipal corporations, ~~including the power
37 of eminent domain.~~

38 C. The board of directors and the authority do not have the power to
39 levy or otherwise impose any tax or assessment, other than charges for the
40 use of facilities owned by the authority. The qualified electors residing in
41 the authority may levy a tax or surcharge for the fiscal needs of the
42 authority as provided by this chapter, but the board of directors has no
43 independent authority to impose or collect a tax or assessment. Subject to
44 that limitation, the authority is considered to be a ~~tax levying~~ public

1 improvement district for the purposes of article XIII, section 7,
2 Constitution of Arizona.

3 D. The authority is regarded as performing a governmental function in
4 carrying out the purposes of this chapter. The ~~property acquired or~~
5 ~~constructed by the authority, the activities of the authority in maintaining~~
6 ~~and caring for the property and the monies derived by the authority from~~
7 ~~operating the property are~~ AUTHORITY IS exempt from state and local income
8 and property taxation.

9 Sec. 23. Section 5-804, Arizona Revised Statutes, as amended by
10 section 3 of this act, is amended to read:

11 5-804. Administrative powers and duties

12 A. The board of directors, on behalf of the authority, may:

- 13 1. Adopt and use a corporate seal.
- 14 2. Sue and be sued.

15 3. Enter into contracts, including intergovernmental agreements under
16 title 11, chapter 7, article 3, as necessary to carry out the purposes and
17 requirements of this chapter, INCLUDING INTERGOVERNMENTAL AGREEMENTS FOR
18 DELEGATING THE AUTHORITY'S RESPONSIBILITIES UNDER THIS CHAPTER REGARDING
19 MAJOR LEAGUE BASEBALL SPRING TRAINING FACILITIES UNDER SECTION 5-808 AND
20 COMMUNITY YOUTH AND AMATEUR SPORTS FACILITIES, RECREATIONAL FACILITIES AND
21 OTHER COMMUNITY FACILITIES OR PROGRAMS UNDER SECTION 5-809.

22 ~~4. Enter into an intergovernmental agreement under title 11, chapter~~
23 ~~7, article 3 with the Arizona exposition and state fair board for the joint~~
24 ~~use of properties and facilities, sharing administration, personnel and~~
25 ~~resources and other matters that are beneficial to the purposes of the~~
26 ~~multipurpose facility and the state fair.~~

27 ~~5.~~ 4. Adopt administrative rules as necessary to administer and
28 operate the authority and any property under its jurisdiction.

29 ~~6. Acquire by any lawful means and operate, maintain, encumber and~~
30 ~~dispose of real and personal property and interests in property.~~

31 ~~7.~~ 5. Retain THE SERVICES OF A FISCAL AGENT, legal counsel and other
32 consultants as necessary to carry out the purposes of the authority.

33 B. The board of directors shall:

34 1. Appoint from among its members a chairman, a secretary and such
35 other officers as may be necessary to conduct its business.

36 2. Employ ~~an executive~~ A director AND OTHER PERSONNEL AS NECESSARY and
37 prescribe the terms and conditions of employment. EMPLOYEES OF THE AUTHORITY
38 ARE CONSIDERED TO BE PUBLIC EMPLOYEES FOR PURPOSES OF TITLE 38.

39 3. Keep and maintain a complete and accurate record of all of its
40 proceedings. The board is a public body for purposes of title 38, chapter 3,
41 article 3.1 and title 39, chapter 1.

42 ~~4. Provide for the use, maintenance and operation of the properties~~
43 ~~and interests owned or controlled by the authority.~~

1 ~~5. On or before September 12, 2002, approve a site for the~~
2 ~~construction of the multipurpose facility proposed at any time before that~~
3 ~~date by site hosts.~~

4 Sec. 24. Section 5-805, Arizona Revised Statutes, is amended to read:

5 5-805. Director; duties

6 A. The ~~executive~~ director is responsible for managing, administering
7 and supervising the activities of the authority.

8 B. The ~~executive~~ director shall negotiate, make, execute, acknowledge
9 and perform contracts and other agreements in the interest of the authority
10 or to carry out or accomplish the purposes of this chapter, ~~including~~
11 ~~construction contracts and agreements with users of the multipurpose~~
12 ~~facility,~~ all of which are subject to approval by the board.

13 C. The ~~executive~~ director shall:

14 ~~1. Employ a treasurer to serve as fiscal agent to deposit, hold,~~
15 ~~invest and disburse the authority's monies.~~

16 ~~2. Employ administrative and clerical employees and prescribe the~~
17 ~~terms and conditions of their employment as necessary to carry out the~~
18 ~~purposes of the authority. Employees of the authority are considered to be~~
19 ~~public employees for purposes of title 38.~~

20 ~~3.~~ 1. Recommend the employment of consultants by the board, including
21 outside counsel ~~and a professional facility management company.~~

22 ~~4.~~ 2. Direct the activities of outside consultants.

23 Sec. 25. Repeal

24 Section 5-807, Arizona Revised Statutes, is repealed.

25 Sec. 26. Title 5, chapter 8, article 1, Arizona Revised Statutes, is
26 amended by adding a new section 5-807, to read:

27 5-807. University sports stadium renovation; financial
28 participation; definition

29 A. FROM MONIES AVAILABLE TO THE AUTHORITY PURSUANT TO SECTION 5-835,
30 SUBSECTION B, PARAGRAPH 8, THE AUTHORITY MAY PROVIDE FINANCING ASSISTANCE FOR
31 THE RENOVATION, MODIFICATION AND IMPROVEMENT OF AN OUTDOOR SPORTS STADIUM
32 LOCATED IN THE AUTHORITY THAT IS OWNED BY AND UNDER THE JURISDICTION OF THE
33 ARIZONA BOARD OF REGENTS TO MEET THE COMMONLY ACCEPTED STANDARDS REQUIRED FOR
34 MAJOR INTERCOLLEGIATE CHAMPIONSHIP FOOTBALL BOWL EVENTS.

35 B. THE ARIZONA BOARD OF REGENTS MAY APPLY FOR FINANCIAL CONTRIBUTIONS
36 UNDER THIS SECTION IN A MANNER PRESCRIBED BY THE AUTHORITY.

37 C. THE AUTHORITY SHALL REQUIRE THAT ANY PROJECT UNDERTAKEN PURSUANT TO
38 THIS SECTION INCLUDE FINANCIAL PARTICIPATION BY THE ARIZONA BOARD OF REGENTS,
39 ANY POLITICAL SUBDIVISION IN WHICH THE STADIUM IS LOCATED CONTINGENT ON
40 APPROVAL OF ITS GOVERNING BODY, ANY FOOTBALL BOWL ORGANIZATION AND OTHER
41 PARTIES THAT MAY USE THE STADIUM ON A REGULAR BASIS.

42 D. MONIES PAID BY THE AUTHORITY UNDER THIS SECTION SHALL NOT BE USED
43 FOR ACADEMIC PURPOSES OR FACILITIES.

44 E. FOR THE PURPOSES OF THIS SECTION, "BOWL ORGANIZATION" MEANS A
45 NONPROFIT CORPORATION THAT IS QUALIFIED TO TRANSACT BUSINESS IN THIS STATE

1 AND THAT IS CERTIFIED BY THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION OR THE
2 BOWL CHAMPIONSHIP SERIES, OR AN EQUIVALENT ARRANGEMENT, TO OPERATE, CONDUCT,
3 HOST OR STAGE A POSTSEASON DIVISION I FOOTBALL MAJOR BOWL EVENT.

4 Sec. 27. Section 5-808, Arizona Revised Statutes, is amended to read:

5 5-808. Major league baseball spring training facilities; local
6 financial participation

7 A. From monies in the cactus league promotion account established by
8 section 5-837, the authority may:

9 1. ~~Acquire land or construct,~~ Finance, ~~furnish, improve,~~ market or
10 promote the use of existing or proposed major league baseball spring training
11 facilities that are located in the authority and other structures, utilities,
12 roads, parking areas or buildings necessary for full use of the training
13 facilities for sports and other purposes.

14 2. Do all things necessary or convenient to accomplish those purposes.

15 B. The board shall require that any project undertaken pursuant to
16 this section include financial participation from the county or municipality
17 in which the project is located, from a private party or from any combination
18 of these entities that equals or exceeds one-half of the amount to be spent
19 or distributed by the authority. Capital improvement monies spent by a
20 county, municipality or private party for a purpose authorized by this
21 section may be considered to be financial participation with respect to any
22 project the authority may undertake.

23 C. ~~For purposes of financing, designing or constructing facilities or~~
24 ~~structures,~~ The authority is not the agent of any other party participating
25 in the funding of the facility or structure.

26 ~~D. Before undertaking the planning or construction of the first new~~
27 ~~facility under this section, the board may consider the costs of anticipated~~
28 ~~required renovations of existing facilities and shall consider such costs for~~
29 ~~subsequent new facilities.~~

30 Sec. 28. Section 5-809, Arizona Revised Statutes, is amended to read:

31 5-809. Community youth and amateur sports and recreational
32 facilities; local financial participation

33 A. From monies in the youth and amateur sports facilities account
34 established by section 5-838, the authority may:

35 1. ~~Acquire land or construct,~~ Finance, ~~furnish, maintain, improve,~~
36 ~~operate, market or promote the use of~~ community youth and amateur sports
37 facilities, recreational facilities and other community facilities or
38 programs that are located in the authority.

39 2. Do all things necessary or convenient to accomplish those purposes.

40 B. The board shall require that any project undertaken pursuant to
41 this section include financial participation from the county, municipality or
42 school district in which the project is located, from any other party or from
43 any combination of these entities that equals or exceeds one-half of the
44 amount to be spent or distributed by the authority. Capital improvement
45 monies spent by a county, municipality, school district or other party for a

1 purpose authorized by this section may be considered to be financial
2 participation with respect to any project the authority may undertake.

3 C. ~~For purposes of financing, designing, constructing or operating~~
4 ~~facilities or structures,~~ The authority is not the agent of any other party
5 participating in the funding of the facility or structure.

6 D. In evaluating projects under this section, the board shall give
7 priority to youth recreational facilities that are adjacent, in proximity or
8 of benefit to public schools.

9 Sec. 29. Repeal

10 Section 5-810, Arizona Revised Statutes, is repealed.

11 Sec. 30. Section 5-811, Arizona Revised Statutes, is amended to read:

12 5-811. Conflicts of interest; violation; classification

13 A. The directors, officers and employees of the authority are subject
14 to title 38, chapter 3, article 8 relating to conflicts of interest.

15 B. A director, officer or employee of the authority shall not have any
16 direct or indirect financial interest in any property ~~owned, purchased or~~
17 ~~constructed~~ OR FACILITY FINANCED by the authority.

18 C. A person who violates this section is guilty of a class 1
19 misdemeanor.

20 Sec. 31. Repeal

21 Section 5-813, Arizona Revised Statutes, is repealed.

22 Sec. 32. Section 5-814, Arizona Revised Statutes, as added by section
23 7 of this act, is amended to read:

24 5-814. Monthly report; appearance before joint legislative
25 budget committee

26 A. Within three weeks after the end of each calendar month the
27 authority shall prepare a report signed by the ~~executive~~ director ~~of the~~
28 ~~authority~~ and transmit the report to the governor, the legislature, as
29 provided by section 41-1178, and the joint legislative budget committee. The
30 report shall include a progress report of the activities of the authority
31 during the previous month.

32 B. At the request of the chairman of the joint legislative budget
33 committee, the ~~executive~~ director shall appear before the joint legislative
34 budget committee annually to report on the activities and financial
35 performance of the authority during the previous year.

36 Sec. 33. Section 5-831, Arizona Revised Statutes, is amended to read:

37 5-831. Annual budget

38 A. Beginning in 2001, on or before June 30 of each year the board
39 shall hold a public hearing to adopt a budget for the following fiscal year
40 that includes:

- 41 1. Receipts during the past fiscal year.
- 42 2. Expenditures during the past fiscal year.
- 43 3. Estimates of amounts necessary for expenses during the following
44 fiscal year including amounts proposed for:—

1 ~~(a) Costs of planning, constructing, financing, maintaining, operating~~
2 ~~and managing a multipurpose facility.~~
3 ~~(b) Promotional and marketing expenses of the authority.~~
4 ~~(c) administrative costs of the authority.~~
5 4. Anticipated revenue to the authority from each source in the
6 following fiscal year.
7 5. A complete asset and liability statement.
8 ~~6. A statement of profit or loss from operations.~~
9 ~~7.~~ 6. Cash on hand as of the date the budget is adopted and the
10 anticipated balance at the end of the current fiscal year.
11 ~~8.~~ 7. An itemized statement of commitments, reserves and anticipated
12 obligations for the following fiscal year.
13 B. The board may amend the budget on a finding of good cause.
14 Sec. 34. Repeal
15 Sections 5-832, 5-833 and 5-834, Arizona Revised Statutes, are
16 repealed.
17 Sec. 35. Section 5-835, Arizona Revised Statutes, as amended by
18 section 8 of this act, is amended to read:
19 5-835. Tourism revenue clearing account
20 A. The authority shall maintain a tourism revenue clearing account
21 ~~within the general fund~~ consisting of monies transmitted to the authority by
22 the state treasurer pursuant to sections 5-839 and 5-840. On the second
23 Tuesday of each month, ~~the treasurer of~~ the authority shall distribute all
24 monies in the account as provided by this section.
25 B. For as long as the authority owes debt service on bonds or other
26 ~~debt~~ obligations payable from revenues or monies deposited in the tourism
27 revenue clearing account, the ~~treasurer~~ AUTHORITY shall distribute all monies
28 in the account in the following order of priority, **OR AS OTHERWISE PROVIDED**
29 **BY LAW:**
30 1. AN AMOUNT NECESSARY TO PAY ON A PRO RATA BASIS ALL OUTSTANDING
31 OBLIGATIONS AND LIABILITIES OF THE AUTHORITY EXISTING AS OF JANUARY 1, 2003,
32 INCLUDING ANY CONTRACTUAL OBLIGATIONS OF THE AUTHORITY UNDER AN
33 INTERGOVERNMENTAL AGREEMENT TO ISSUE BONDS FOR CACTUS LEAGUE PROMOTION.
34 NOTWITHSTANDING THIS PARAGRAPH, THE AUTHORITY SHALL DISTRIBUTE MONIES IN THE
35 ACCOUNT PURSUANT TO PARAGRAPHS 2 THROUGH 5 OF THIS SUBSECTION.
36 ~~1.~~ 2. To the debt service account established by section 5-865, an
37 amount equal to one-twelfth of the annual debt service on bonds and other
38 debt obligations issued by the authority ~~for not more than one-half of three~~
39 ~~hundred thirty-one million dollars of the capital costs associated with~~
40 ~~constructing the multipurpose facility,~~ plus interest earned on any monies
41 escrowed before payment to the debt service account, ~~amortized over a thirty~~
42 ~~year repayment term and~~ that are secured in whole or in part by and payable
43 from revenues or monies deposited in the tourism revenue clearing account, or
44 a lesser amount as determined by the authority.

1 ~~2-~~ 3. To the tourism fund established by section 41-2306, an amount
2 equal to one-twelfth of four million dollars over the first twelve months of
3 distribution, increased in each subsequent twelve month period by an
4 additional five per cent over the preceding twelve months' distribution.

5 ~~3-~~ 4. To the cactus league promotion account established by section
6 5-837, an amount equal to:

| | | |
|----|---|---------------------|
| 7 | During the first eighty-four months | \$250,000 per month |
| 8 | During the eighty-fifth through one | |
| 9 | hundred twentieth months | \$333,333 per month |
| 10 | During the one hundred twenty-first through | |
| 11 | one hundred forty-fourth months | \$500,000 per month |
| 12 | During the one hundred forty-fifth through | |
| 13 | one hundred ninety-second months | \$583,333 per month |
| 14 | During the one hundred ninety-third through | |
| 15 | two hundred fortieth months | \$666,667 per month |
| 16 | During the two hundred forty-first through | |
| 17 | two hundred eighty-eighth months | \$750,000 per month |
| 18 | During the two hundred eighty-ninth through | |
| 19 | three hundred twelfth months | \$833,333 per month |
| 20 | During the three hundred thirteenth through | |
| 21 | three hundred sixtieth months | \$916,667 per month |

22 ~~4-~~ 5. To the youth and amateur sports facilities account established
23 by section 5-838, an amount equal to one-twelfth of one million dollars over
24 the first twelve months of distribution, increased in each subsequent twelve
25 month period by an additional one hundred thousand dollars over the prior
26 twelve months' distribution.

27 ~~5-~~ 6. To the operating account established by section 5-836, an
28 amount equal to one-twelfth of the authority's adopted budget for the period
29 for the purposes set forth in section 5-836, ~~subsection B, paragraphs 1~~
30 ~~and 2.~~

31 ~~6-~~ 7. To the youth and amateur sports facilities reserve established
32 by section 5-838, subsection B, an amount required to be distributed pursuant
33 to paragraph ~~4-~~ 5 during the preceding fiscal year to the youth and amateur
34 sports facilities account established by section 5-838, subsection A, less
35 any amount on deposit in the youth and amateur sports facilities reserve.

36 8. FOR THE PURPOSE OF RENOVATING, MODIFYING AND IMPROVING AN OUTDOOR
37 SPORTS STADIUM AS PROVIDED, AND SUBJECT TO THE CONDITIONS PRESCRIBED BY
38 SECTION 5-807.

39 ~~7-~~ 9. To the operating account established by section 5-836, any
40 monies remaining unallocated each month.

41 C. After all bonds and other debt obligations of the authority that
42 are secured in whole or in part by and payable from revenues or monies
43 deposited in the tourism revenue clearing account are redeemed or fully
44 provided for, ~~the treasurer of~~ the authority shall distribute all monies
45 remaining in the account after the distributions provided for by subsection

1 B, paragraphs ~~2, 3 and 4~~ 3, 4 AND 5 of this section, ~~and after the~~
2 ~~authority's repair and replacement requirements are funded pursuant to~~
3 ~~section 5-836, subsection C, paragraph 2,~~ as follows:

4 1. Seventy per cent to the tourism fund established by section
5 41-2306.

6 2. Thirty per cent to the cactus league promotion account established
7 by section 5-837.

8 Sec. 36. Section 5-836, Arizona Revised Statutes, as amended by
9 section 9 of this act, is amended to read:

10 5-836. Operating account

11 A. The authority shall maintain an operating account consisting of
12 monies transmitted to the account pursuant to ~~sections 5-834 and~~ SECTION
13 5-835.

14 B. The authority may spend monies in the operating account for costs
15 incurred for any of the following purposes:

16 ~~1. Operating, marketing, promoting, furnishing and equipping a~~
17 ~~multipurpose facility.~~

18 ~~2.~~ 1. Paying all costs associated with the authority's administrative
19 duties as provided in sections 5-804 and 5-805.

20 ~~3.~~ 2. Payment to the debt service account established by section
21 5-865 to be used for payment or early redemption of bonded indebtedness.

22 C. The authority shall establish in the operating account ~~:-~~

23 ~~1.~~ a reserve to meet future operating costs of the
24 authority, ~~including amounts that are sufficient to pay all costs associated~~
25 ~~with events held at the multipurpose facility.~~

26 ~~2. A reserve for repair, replacement and removal costs associated with~~
27 ~~the multipurpose facility in an amount at least equal to twenty-five million~~
28 ~~dollars, adjusted for inflation each year after 2001.~~

29 D. This state is not liable or responsible for the operating costs of
30 the authority, including the operating, marketing, promotion, furnishing,
31 equipping, repair or replacement costs of any facility or project funded by
32 the authority.

33 Sec. 37. Section 5-837, Arizona Revised Statutes, as amended by
34 section 10 of this act, is amended to read:

35 5-837. Cactus league promotion account

36 A. The authority shall maintain a cactus league promotion account
37 consisting of monies transmitted to the account pursuant to section 5-835.

38 B. The authority shall use monies in the account for purposes of
39 section 5-808.

40 ~~C. The authority may pledge all or part of the revenues and other~~
41 ~~monies received by the authority to secure bonds or other debt obligations~~
42 ~~issued by the authority for the purposes of providing monies for expenditure~~
43 ~~under this section. As nearly as practicable, the bonds issued pursuant to~~
44 ~~this subsection shall be authorized and issued in a manner consistent with~~
45 ~~article 3 of this chapter, except that the proceeds of the bonds shall be~~

1 ~~spent pursuant to this section. The pledge securing bonds issued pursuant to~~
2 ~~this section is subordinate to the pledge securing bonds or other debt~~
3 ~~obligations issued pursuant to article 3 of this chapter and, except for~~
4 ~~monies already in the cactus league promotion account, to the distribution of~~
5 ~~monies pursuant to section 5-835, subsection B, paragraph 2.~~

6 Sec. 38. Section 5-838, Arizona Revised Statutes, as amended by
7 section 11 of this act, is amended to read:

8 5-838. Youth and amateur sports facilities account; reserve

9 A. The authority shall maintain a youth and amateur sports facilities
10 account consisting of monies transmitted to the account pursuant to section
11 5-835.

12 B. The authority shall establish a youth and amateur sports facilities
13 reserve within the account consisting of monies transmitted to the reserve
14 pursuant to section 5-835, subsection B, paragraph ~~6~~ 7. The authority shall
15 transfer from the reserve to the account an amount equal to any deficiency in
16 the monthly amount distributed to the account pursuant to section 5-835,
17 subsection B, paragraph ~~3~~ 4.

18 C. The authority shall use monies in the account for purposes of
19 section 5-809.

20 Sec. 39. Section 5-861, Arizona Revised Statutes, is amended to read:

21 5-861. Definitions

22 In this article, unless the context otherwise requires:

23 1. "Bond related expenses" means any expenses incurred by the
24 authority to issue and administer its bonds including underwriting fees and
25 costs, trustee fees, financial consultant fees, printing and advertising
26 costs, paying agent fees, transfer agent fees, legal, accounting, feasibility
27 consultant and other professional fees and expenses, credit enhancement fees,
28 attorney and accounting fees and expenses related to credit enhancement, bond
29 insurance or liquidity enhancement, remarketing fees, rating agency fees and
30 costs, travel and telephone expenses and all other fees considered necessary
31 by the authority in order to market and administer the bonds.

32 2. "Bonds" means the bonds of the authority issued pursuant to this
33 article.

34 3. "~~Multipurpose~~ Facility purpose" includes the following purposes:

35 (a) Acquiring, designing, developing, constructing, reconstructing,
36 equipping, repairing, ~~maintaining, operating~~ and improving ~~a multipurpose~~
37 ~~facility~~ FACILITIES and improvements FOR MAJOR LEAGUE BASEBALL SPRING
38 TRAINING OR COMMUNITY AND AMATEUR SPORTS AND RECREATION PURPOSES.

39 (b) The payment of bond obligations.

40 (c) Bond related expenses.

41 Sec. 40. Section 5-862, Arizona Revised Statutes, is amended to read:

42 5-862. Authorization of bonds

43 A. The authority may issue negotiable bonds pursuant to this article
44 in such principal amount as, in the opinion of the board, is necessary to:

45 1. Provide sufficient monies for any ~~multipurpose~~ facility purpose.

1 2. Pay necessary bond related expenses.
2 3. Establish and fully or partially fund any reserves or sinking
3 accounts established by the bond resolution.
4 4. Issue refunding bonds if the board considers refunding to be
5 expedient. The board may provide for investing and holding the proceeds of
6 the refunding bonds in trust for the benefit of the holders of the bonds
7 being refunded.
8 5. Refund any bonds issued by the authority if the bonds are secured
9 from the same source of revenues as the bonds authorized in this article by
10 issuing new bonds, whether the bonds to be refunded have or have not matured.
11 6. Issue bonds partly to refund outstanding bonds and partly for any
12 ~~multipurpose~~ facility purpose consistent with this article.
13 B. The board shall authorize the bonds by resolution. The resolution
14 shall prescribe:
15 1. The authority's revenue sources that are pledged and dedicated to
16 secure the bonds.
17 2. The rate or rates of interest, which may be fixed or variable, the
18 date or dates on which interest is payable and the denominations of the
19 bonds.
20 3. The date or dates of the bonds and maturity.
21 4. The manner of executing the bonds.
22 5. The medium and place of payment.
23 6. The terms of redemption, which may provide for a premium for early
24 redemption.
25 Sec. 41. Section 5-864, Arizona Revised Statutes, is amended to read:
26 5-864. Bond proceeds subaccount
27 A. If the authority issues bonds under this article, the board shall
28 establish a bond proceeds subaccount within the ~~construction~~ CACTUS LEAGUE
29 PROMOTION account established by section ~~5-833~~ 5-837 OR THE YOUTH AND AMATEUR
30 SPORTS FACILITIES ACCOUNT ESTABLISHED BY SECTION 5-838, AS APPLICABLE,
31 consisting of monies received from the sale of the bonds.
32 B. The authority may use monies in the bond proceeds subaccount only
33 for ~~multipurpose~~ facility purposes in the manner prescribed by this chapter.
34 C. The ~~treasurer or~~ fiscal agent of the authority shall administer and
35 account for the bond proceeds subaccount.
36 Sec. 42. Section 5-865, Arizona Revised Statutes, is amended to read:
37 5-865. Debt service account
38 A. ~~If the authority issues bonds under this article~~ The board shall
39 establish a debt service account consisting of MONIES TO PAY OUTSTANDING
40 CONTRACTUAL OBLIGATIONS AND LIABILITIES OF THE AUTHORITY EXISTING AS OF
41 JANUARY 1, 2003 AND monies designated and dedicated by the board for
42 repayment of the bonds and payment of costs and related expenses associated
43 with redeeming the bonds.
44 B. Monies in the debt service account may be used only for the
45 purposes authorized by this article.

1 C. The ~~treasurer or~~ fiscal agent of the authority shall administer and
2 account for the debt service account.

3 Sec. 43. Section 5-866, Arizona Revised Statutes, is amended to read:
4 5-866. Securing principal and interest

5 In connection with issuing bonds authorized by this article and to
6 secure the principal and interest on the bonds, the board by resolution may:

7 1. Pledge for the payment of principal and interest on the bonds all
8 or part of the revenues and other monies received by the authority and
9 deposited in the ~~general fund or any~~ CACTUS LEAGUE PROMOTION ACCOUNT OR THE
10 YOUTH AND AMATEUR SPORTS FACILITIES account, ~~or subaccount of the authority~~
11 AS APPLICABLE.

12 2. Pledge and assign to or in trust for the benefit of the holder or
13 holders of the bonds all or part of the monies in the debt service account or
14 any other account or subaccount as necessary to secure and pay the principal,
15 the interest and any premium on the bonds as they come due.

16 3. Segregate the debt service account into one or more subaccounts and
17 provide that bonds issued under this article may be secured by a lien on all
18 or part of the monies paid into the debt service account or into any
19 subaccount in the debt service account.

20 4. Establish priorities among bondholders based on criteria adopted by
21 the board.

22 5. Set aside, regulate and dispose of reserves and sinking accounts.

23 6. Prescribe the procedure, if any, by which the terms of any contract
24 with bondholders may be amended or abrogated, the amount of bonds the holders
25 of which must consent to and the manner in which the consent may be given.

26 7. Provide for payment of bond related expenses from the proceeds of
27 the sale of the bonds or other revenues available to the board.

28 8. Provide for the services of trustees, co-trustees, agents,
29 consultants and other specialized services with respect to the bonds.

30 9. Contract with a financial institution, insurance company or
31 indemnity company to provide additional security for the bonds in the form of
32 a line of credit, letter of credit, insurance policy or other security and
33 pay the costs of this additional security from amounts provided in the bond
34 issue or from other available sources.

35 10. Take any other action that in any way may affect the security and
36 protection of the bonds or interest on the bonds.

37 Sec. 44. Section 5-869, Arizona Revised Statutes, is amended to read:
38 5-869. Payment of bonds

39 A. The bonds shall be paid solely from monies in the debt service
40 account.

41 B. Neither the members of the board nor any person executing the bonds
42 is personally liable for the payment of the bonds.

43 C. The ~~treasurer or~~ fiscal agent of the authority shall cancel all
44 bonds when paid.

1 Sec. 45. Section 5-871, Arizona Revised Statutes, is amended to read:

2 5-871. Investment of monies in the bond proceeds subaccount

3 A. The board may authorize the ~~treasurer or~~ fiscal agent of the
4 authority to invest monies in the bond proceeds subaccount in the manner
5 prescribed by section 5-873.

6 B. The order directing an investment shall state a date on which the
7 proceeds from the sale of the bonds will be needed for use, and the ~~treasurer~~
8 ~~or~~ fiscal agent shall make the investment in such a way as to mature on or
9 before the specified date.

10 C. All monies earned as interest or otherwise derived from the
11 investment of the monies in the bond proceeds subaccount shall be credited to
12 that subaccount.

13 Sec. 46. Section 5-872, Arizona Revised Statutes, is amended to read:

14 5-872. Investment of monies in debt service account

15 A. The board may authorize the ~~treasurer or~~ fiscal agent of the
16 authority to invest and reinvest any monies in the debt service account as
17 provided by section 5-873.

18 B. The order directing an investment shall state a date on which the
19 monies and other resources in the debt service account will be needed for
20 use, and the ~~treasurer or~~ fiscal agent shall make the investment in such a
21 way as to mature on or before the specified date.

22 C. All monies earned as interest or otherwise derived from the
23 investment of the monies in the debt service account shall be credited to
24 that account.

25 Sec. 47. Section 5-873, Arizona Revised Statutes, is amended to read:

26 5-873. Authorized investments of monies

27 A. The monies in either the bond proceeds subaccount or the debt
28 service account may be invested and reinvested at the direction of the board
29 in any of the following:

- 30 1. United States treasury obligations.
31 2. Consolidated farm loan bonds.
32 3. Obligations issued by the federal intermediate credit banks or by
33 bonds for cooperatives on authority of the farm credit act of 1933.
34 4. Any other obligations guaranteed by the United States government.
35 5. Any investments that are authorized by any other agencies of the
36 United States government and that are authorized to secure public deposits.
37 6. State and local government series United States treasury
38 securities.

39 7. State, county or municipal bonds issued in this state and on which
40 the payments of interest have not been deferred.

41 8. Investment agreements and repurchase agreements collateralized by
42 investments described in paragraphs 1 through 5.

43 B. The purchase of the securities shall be made by the ~~treasurer or~~
44 fiscal agent on authority of a resolution of the board. The ~~treasurer or~~
45 fiscal agent shall act as custodian of all securities purchased.

1 C. The board may place any restrictions on reinvestment yield on bond
2 proceeds or on any monies pledged to pay the bonds if necessary to comply
3 with federal income tax laws and regulations to gain any federal tax benefits
4 available with respect to the bonds.

5 Sec. 48. Section 5-874, Arizona Revised Statutes, is amended to read:
6 5-874. Deposit and disbursement of monies

7 A. Monies derived from selling bonds under this article or pledged or
8 assigned to or in trust for the benefit of the holder or holders of the bonds
9 shall be deposited by the ~~treasurer or~~ fiscal agent in financial institutions
10 that the board designates and that are insured by an agency or
11 instrumentality of the United States. The monies shall be disbursed as the
12 board directs and according to the terms of any agreements with the holder or
13 holders of the bonds.

14 B. This section shall not be construed as limiting the power of the
15 board to agree in connection with the issuance of any of its bonds as to the
16 custody and disposition of the monies received from selling bonds or from the
17 income and revenues pledged or assigned to or intrust for the benefit of the
18 holder or holders of the bonds.

19 Sec. 49. Section 5-877, Arizona Revised Statutes, is amended to read:
20 5-877. Validity of bonds; legal opinion

21 A. This article constitutes full authority for authorizing and issuing
22 bonds without reference to any other law of this state. No other law with
23 regard to authorizing or issuing obligations or that in any way impedes or
24 restricts performing the acts authorized by this article may be construed to
25 apply to any proceedings taken or acts done pursuant to this article.

26 B. The validity of bonds issued under this article does not depend on
27 and is not affected by the legality of any proceeding relating to the
28 acquisition, construction, improvement, operation or maintenance of a
29 ~~multipurpose~~ facility for which the bonds are issued.

30 C. The board may submit any bonds to be issued under this article to
31 the attorney general after all proceedings for authorizing the bonds have
32 been completed. On submission the attorney general shall examine and pass on
33 the validity of the bonds and the regularity of the proceedings. If the
34 proceedings comply with this article, and if the bonds when delivered and
35 paid for will constitute binding and legal obligations of the authority, the
36 attorney general shall certify on the back of each bond, in substance, that
37 it is issued according to the constitution and laws of this state and that
38 the interest on the bonds will be exempt from state taxes as provided by law.

39 D. The bonds shall recite that they are regularly issued pursuant to
40 this article. That recital, together with the legal opinion under subsection
41 C, constitutes prima facie evidence of the legality and validity of the
42 bonds. From and after the sale and delivery of the bonds, they are
43 incontestable by this state or the authority.

1 Sec. 50. Section 42-1116, Arizona Revised Statutes, is amended to
2 read:

3 42-1116. Disposition of tax revenues

4 A. The department shall promptly deposit, pursuant to sections 35-146
5 and 35-147, all monies it collects from the taxes administered pursuant to
6 this article except the telecommunication services excise tax, separately
7 accounting for each type of tax and each tax classification within each type
8 of tax. At the same time the department of revenue shall also furnish copies
9 of the transmittal schedules to the director of the department of
10 administration.

11 B. ~~Except as provided by subsection C of this section,~~ The department
12 shall deposit all monies and remittances received under this section to the
13 credit of the following specific funds and accounts:

14 1. Amounts sufficient to meet the requirements for tax refunds to the
15 tax refund account established in section 42-1117.

16 2. Amounts sufficient to meet the requirements of urban revenue
17 sharing to the urban revenue sharing fund established in section 43-206.

18 3. Amounts collected pursuant to chapter 5, articles 1, 5 and 9 of
19 this title and section 42-5352, subsection A, ~~to the transaction privilege~~
20 and severance tax clearing account established in section 42-5029.

21 4. Through June 30, ~~2000~~ 2005 amounts sufficient to meet the
22 requirements of section 42-3104 to the corrections fund.

23 5. Amounts sufficient to meet the requirements of section 49-282,
24 subsection B relating to the water quality assurance revolving fund.

25 6. All remaining monies to the state general fund.

26 ~~C. From the monies and remittances received under this section, each~~
27 ~~month beginning July, 2001 the state treasurer shall transmit to the tourism~~
28 ~~and sports authority, established by title 5, chapter 8, for deposit in its~~
29 ~~facility revenue clearing account established by section 5-834, the greater~~
30 ~~of:~~

31 ~~1. One-twelfth of the amount reported by the department pursuant to~~
32 ~~section 43-209.~~

33 ~~2. Two hundred ninety-two thousand dollars per month for the first~~
34 ~~twelve month period, increased in each subsequent twelve month period by an~~
35 ~~additional eight per cent over the prior twelve months' distribution.~~

36 Sec. 51. Section 42-5029, Arizona Revised Statutes, as amended by
37 section 15 of this act, is amended to read:

38 42-5029. Remission and distribution of monies

39 A. The department shall deposit, pursuant to sections 35-146 and
40 35-147, all revenues collected under this article and articles 4, 5, 8 and 9
41 of this chapter pursuant to section 42-1116, separately accounting for:

42 1. Payments of estimated tax under section 42-5014, subsection D.

43 2. Revenues collected pursuant to section 42-5070.

1 3. Revenues collected under this article and article 5 of this chapter
2 from and after June 30, 2000 from sources located on Indian reservations in
3 this state.

4 4. Revenues collected pursuant to section 42-5010, subsection G and
5 section 42-5155, subsection D.

6 B. The department shall credit payments of estimated tax to an
7 estimated tax clearing account and each month shall transfer all monies in
8 the estimated tax clearing account to a fund designated as the transaction
9 privilege and severance tax clearing account. The department shall credit
10 all other payments to the transaction privilege and severance tax clearing
11 account, separately accounting for the monies designated as distribution base
12 under sections 42-5010, 42-5164, 42-5205, 42-5353 and 42-5409. Each month
13 the department shall report to the state treasurer the amount of monies
14 collected pursuant to this article and articles 4, 5, 8 and 9 of this
15 chapter.

16 C. On notification by the department, the state treasurer shall
17 distribute the monies deposited in the transaction privilege and severance
18 tax clearing account in the manner prescribed by this section and by sections
19 42-5164, 42-5205, 42-5353 and 42-5409, after deducting warrants drawn against
20 the account pursuant to sections 42-1118 and 42-1254.

21 D. Of the monies designated as distribution base the department shall:

22 1. Pay twenty-five per cent to the various incorporated municipalities
23 in this state in proportion to their population as shown by the last United
24 States decennial or special census, or revisions to the decennial or special
25 census certified by the United States bureau of the census, to be used by the
26 municipalities for any municipal purpose.

27 2. Pay 38.08 per cent to the counties in this state by averaging the
28 following proportions:

29 (a) The proportion that the population of each county bears to the
30 total state population, as shown by the most recent United States decennial
31 or special census, or revisions to the decennial or special census certified
32 by the United States bureau of the census.

33 (b) The proportion that the distribution base monies collected during
34 the calendar month in each county under this article, section 42-5164,
35 subsection B, section 42-5205, subsection B and sections 42-5353 and 42-5409
36 bear to the total distribution base monies collected under this article,
37 section 42-5164, subsection B, section 42-5205, subsection B and sections
38 42-5353 and 42-5409 throughout the state for the calendar month.

39 3. Pay an additional 2.43 per cent to the counties in this state as
40 follows:

41 (a) Average the following proportions:

42 (i) The proportion that the assessed valuation used to determine
43 secondary property taxes of each county, after deducting that part of the
44 assessed valuation that is exempt from taxation at the beginning of the month
45 for which the amount is to be paid, bears to the total assessed valuations

1 used to determine secondary property taxes of all the counties after
2 deducting that portion of the assessed valuations that is exempt from
3 taxation at the beginning of the month for which the amount is to be paid.
4 Property of a city or town that is not within or contiguous to the municipal
5 corporate boundaries and from which water is or may be withdrawn or diverted
6 and transported for use on other property is considered to be taxable
7 property in the county for purposes of determining assessed valuation in the
8 county under this item.

9 (ii) The proportion that the distribution base monies collected during
10 the calendar month in each county under this article, section 42-5164,
11 subsection B, section 42-5205, subsection B and sections 42-5353 and 42-5409
12 bear to the total distribution base monies collected under this article,
13 section 42-5164, subsection B, section 42-5205, subsection B and sections
14 42-5353 and 42-5409 throughout the state for the calendar month.

15 (b) If the proportion computed under subdivision (a) of this paragraph
16 for any county is greater than the proportion computed under paragraph 2 of
17 this subsection, the department shall compute the difference between the
18 amount distributed to that county under paragraph 2 of this subsection and
19 the amount that would have been distributed under paragraph 2 of this
20 subsection using the proportion computed under subdivision (a) of this
21 paragraph and shall pay that difference to the county from the amount
22 available for distribution under this paragraph. Any monies remaining after
23 all payments under this subdivision shall be distributed among the counties
24 according to the proportions computed under paragraph 2 of this subsection.

25 4. After any distributions required by sections 42-5030.01, 42-5031,
26 42-5032, ~~42-5032.01~~ and 42-5032.02, and after making any transfer to the
27 water quality assurance revolving fund as required by section 49-282,
28 subsection B, credit the remainder of the monies designated as distribution
29 base to the state general fund. From this amount:

30 (a) The legislature shall annually appropriate to:

31 (i) The department of revenue sufficient monies to administer and
32 enforce this article and articles 5, 8 and 9 of this chapter.

33 (ii) The department of economic security monies to be used for the
34 purposes stated in title 46, chapter 1.

35 (iii) The Arizona arts endowment fund established by section 41-986,
36 the full amount by which revenues derived from the amusement classification
37 pursuant to section 42-5073 for the current fiscal year exceed the revenues
38 that were derived from that classification in fiscal year 1993-1994, except
39 that this amount shall not exceed two million dollars through fiscal year
40 2008-2009.

41 (iv) The firearms safety and ranges fund established by section
42 17-273, fifty thousand dollars derived from the taxes collected from the
43 retail classification pursuant to section 42-5061 for the current fiscal
44 year.

1 (b) The state treasurer shall transfer to the tourism fund an amount
2 equal to the sum of the following:

3 (i) Three and one-half per cent of the gross revenues derived from the
4 transient lodging classification pursuant to section 42-5070 during the
5 preceding fiscal year.

6 (ii) Three per cent of the gross revenues derived from the amusement
7 classification pursuant to section 42-5073 during the preceding fiscal year.

8 (iii) Two per cent of the gross revenues derived from the restaurant
9 classification pursuant to section 42-5074 during the preceding fiscal year.

10 E. If approved by the qualified electors voting at a statewide general
11 election, all monies collected pursuant to section 42-5010, subsection G and
12 section 42-5155, subsection D shall be distributed each fiscal year pursuant
13 to this subsection. The monies distributed pursuant to this subsection are
14 in addition to any other appropriation, transfer or other allocation of
15 public or private monies from any other source and shall not supplant,
16 replace or cause a reduction in other school district, charter school,
17 university or community college funding sources. The monies shall be
18 distributed as follows:

19 1. If there are outstanding state school facilities revenue bonds
20 pursuant to title 15, chapter 16, article 7, each month one-twelfth of the
21 amount that is necessary to pay the fiscal year's debt service on outstanding
22 state school improvement revenue bonds for the current fiscal year shall be
23 transferred each month to the school improvement revenue bond debt service
24 fund established by section 15-2084. The total amount of bonds for which
25 these monies may be allocated for the payment of debt service shall not
26 exceed a principal amount of eight hundred million dollars exclusive of
27 refunding bonds and other refinancing obligations.

28 2. After any transfer of monies pursuant to paragraph 1 of this
29 subsection, twelve per cent of the remaining monies collected during the
30 preceding month shall be transferred to the technology and research
31 initiative fund established by section 15-1648 to be distributed among the
32 universities for the purpose of investment in technology and research-based
33 initiatives.

34 3. After the transfer of monies pursuant to paragraph 1 of this
35 subsection, three per cent of the remaining monies collected during the
36 preceding month shall be transferred to the workforce development account
37 established in each community college district pursuant to section 15-1472
38 for the purpose of investment in workforce development programs.

39 4. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
40 subsection, one-twelfth of the amount a community college that is owned,
41 operated or chartered by a qualifying Indian tribe on its own Indian
42 reservation would receive pursuant to section 15-1472, subsection D,
43 paragraph 2 if it were a community college district under the jurisdiction of
44 the state board of directors for community colleges shall be distributed each
45 month to the treasurer or other designated depository of a qualifying Indian

1 tribe. Monies distributed pursuant to this paragraph are for the exclusive
2 purpose of providing support to one or more community colleges owned,
3 operated or chartered by a qualifying Indian tribe and shall be used in a
4 manner consistent with section 15-1472, subsection B. For purposes of this
5 paragraph, "qualifying Indian tribe" has the same meaning as defined in
6 section 42-5031.01, subsection D.

7 5. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
8 subsection, one-twelfth of the following amounts shall be transferred each
9 month to the department of education for the increased cost of basic state
10 aid under section 15-971 due to added school days and associated teacher
11 salary increases enacted in 2000:

12 (a) In fiscal year 2001-2002, \$15,305,900.

13 (b) In fiscal year 2002-2003, \$31,530,100.

14 (c) In fiscal year 2003-2004, \$48,727,700.

15 (d) In fiscal year 2004-2005, \$66,957,200.

16 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
17 \$86,280,500.

18 6. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
19 subsection, seven million eight hundred thousand dollars is appropriated each
20 fiscal year, to be paid in monthly installments, to the department of
21 education to be used for school safety as provided in section 15-154 and two
22 hundred thousand dollars is appropriated each fiscal year, to be paid in
23 monthly installments to the department of education to be used for the
24 character education matching grant program as provided in section 15-154.01.

25 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
26 subsection, no more than seven million dollars may be appropriated by the
27 legislature each fiscal year to the department of education to be used for
28 accountability purposes as described in section 15-241 and title 15, chapter
29 9, article 8.

30 8. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
31 subsection, one million five hundred thousand dollars is appropriated each
32 fiscal year, to be paid in monthly installments, to the failing schools
33 tutoring fund established by section 15-241.

34 9. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
35 subsection, twenty-five million dollars shall be transferred each fiscal year
36 to the state general fund to reimburse the general fund for the cost of the
37 income tax credit allowed by section 43-1072.01.

38 10. After the payment of monies pursuant to paragraphs 1 through 9 of
39 this subsection, the remaining monies collected during the preceding month
40 shall be transferred to the classroom site fund established by section
41 15-977. The monies shall be allocated as follows in the manner prescribed by
42 section 15-977:

43 (a) Forty per cent shall be allocated for teacher compensation based
44 on performance.

1 (b) Twenty per cent shall be allocated for increases in teacher base
2 compensation and employee related expenses.

3 (c) Forty per cent shall be allocated for maintenance and operation
4 purposes.

5 F. The department shall credit the remainder of the monies in the
6 transaction privilege and severance tax clearing account to the state general
7 fund, subject to any distribution required by section 42-5030.01.

8 G. Notwithstanding subsection D of this section, if a court of
9 competent jurisdiction finally determines that tax monies distributed under
10 this section were illegally collected under this article or articles 5, 8 and
11 9 of this chapter and orders the monies to be refunded to the taxpayer, the
12 department shall compute the amount of such monies that was distributed to
13 each city, town and county under this section. The department shall notify
14 the state treasurer of that amount plus the proportionate share of additional
15 allocated costs required to be paid to the taxpayer. Each city's, town's and
16 county's proportionate share of the costs shall be based on the amount of the
17 original tax payment each municipality and county received. Each month the
18 state treasurer shall reduce the amount otherwise distributable to the city,
19 town and county under this section by one thirty-sixth of the total amount to
20 be recovered from the city, town or county until the total amount has been
21 recovered, but the monthly reduction for any city, town or county shall not
22 exceed ten per cent of the full monthly distribution to that entity. The
23 reduction shall begin for the first calendar month after the final
24 disposition of the case and shall continue until the total amount, including
25 interest and costs, has been recovered.

26 H. On receiving a certificate of default from the greater Arizona
27 development authority pursuant to section 41-1554.06 or 41-1554.07 and to the
28 extent not otherwise expressly prohibited by law, the state treasurer shall
29 withhold from the next succeeding distribution of monies pursuant to this
30 section due to the defaulting political subdivision the amount specified in
31 the certificate of default and immediately deposit the amount withheld in the
32 greater Arizona development authority revolving fund. The state treasurer
33 shall continue to withhold and deposit the monies until the greater Arizona
34 development authority certifies to the state treasurer that the default has
35 been cured. In no event may the state treasurer withhold any amount that the
36 defaulting political subdivision certifies to the state treasurer and the
37 authority as being necessary to make any required deposits then due for the
38 payment of principal and interest on bonds of the political subdivision that
39 were issued before the date of the loan repayment agreement or bonds and that
40 have been secured by a pledge of distributions made pursuant to this section.

41 Sec. 52. Repeal

42 Section 42-5032.01, Arizona Revised Statutes, is repealed.

1 Sec. 53. Section 42-5061, Arizona Revised Statutes, is amended to
2 read:

3 42-5061. Retail classification; definitions

4 A. The retail classification is comprised of the business of selling
5 tangible personal property at retail. The tax base for the retail
6 classification is the gross proceeds of sales or gross income derived from
7 the business. The tax imposed on the retail classification does not apply to
8 the gross proceeds of sales or gross income from:

9 1. Professional or personal service occupations or businesses which
10 involve sales or transfers of tangible personal property only as
11 inconsequential elements.

12 2. Services rendered in addition to selling tangible personal property
13 at retail.

14 3. Sales of warranty or service contracts. The storage, use or
15 consumption of tangible personal property provided under the conditions of
16 such contracts is subject to tax under section 42-5156.

17 4. Sales of tangible personal property by any nonprofit organization
18 organized and operated exclusively for charitable purposes and recognized by
19 the United States internal revenue service under section 501(c)(3) of the
20 internal revenue code.

21 5. Sales to persons engaged in business classified under the
22 restaurant classification of articles used by human beings for food, drink or
23 condiment, whether simple, mixed or compounded.

24 6. Business activity which is properly included in any other business
25 classification which is taxable under article 1 of this chapter.

26 7. The sale of stocks and bonds.

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

30 9. Prosthetic appliances as defined in section 23-501 prescribed or
31 recommended by a health professional licensed pursuant to title 32, chapter
32 7, 8, 11, 13, 14, 15, 16, 17 or 29.

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

34 11. Prescription eyeglasses or contact lenses.

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

36 13. Durable medical equipment which has a ~~federal health care financing~~
37 ~~administration~~ CENTERS FOR MEDICARE AND MEDICAID SERVICES common procedure
38 code, is designated reimbursable by medicare, is prescribed by a person who
39 is licensed under title 32, chapter 7, 8, 13, 14, 15, 17 or 29, can withstand
40 repeated use, is primarily and customarily used to serve a medical purpose,
41 is generally not useful to a person in the absence of illness or injury and
42 is appropriate for use in the home.

43 14. Sales to nonresidents of this state for use outside this state if
44 the vendor ships or delivers the tangible personal property out of this
45 state.

- 1 15. Food, as provided in and subject to the conditions of article 3 of
2 this chapter and section 42-5074.
- 3 16. Items purchased with United States department of agriculture food
4 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
5 958) or food instruments issued under section 17 of the child nutrition act
6 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
7 section 1786).
- 8 17. Textbooks by any bookstore that are required by any state
9 university or community college.
- 10 18. Food and drink to a person who is engaged in business which is
11 classified under the restaurant classification and which provides such food
12 and drink without monetary charge to its employees for their own consumption
13 on the premises during the employees' hours of employment.
- 14 19. Articles of food, drink or condiment and accessory tangible
15 personal property to a school district if such articles and accessory
16 tangible personal property are to be prepared and served to persons for
17 consumption on the premises of a public school within the district during
18 school hours.
- 19 20. Lottery tickets or shares pursuant to title 5, chapter 5,
20 article 1.
- 21 21. The sale of precious metal bullion and monetized bullion to the
22 ultimate consumer, but the sale of coins or other forms of money for
23 manufacture into jewelry or works of art is subject to the tax. In this
24 paragraph:
- 25 (a) "Monetized bullion" means coins and other forms of money which are
26 manufactured from gold, silver or other metals and which have been or are
27 used as a medium of exchange in this or another state, the United States or a
28 foreign nation.
- 29 (b) "Precious metal bullion" means precious metal, including gold,
30 silver, platinum, rhodium and palladium, which has been smelted or refined so
31 that its value depends on its contents and not on its form.
- 32 22. Motor vehicle fuel and use fuel which are subject to a tax imposed
33 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
34 valid single trip use fuel tax permit issued under section 28-5739, sales of
35 aviation fuel which are subject to the tax imposed under section 28-8344 and
36 sales of jet fuel which are subject to the tax imposed under article 8 of
37 this chapter.
- 38 23. Tangible personal property sold to a person engaged in the business
39 of leasing or renting such property under the personal property rental
40 classification if such property is to be leased or rented by such person.
- 41 24. Tangible personal property sold in interstate or foreign commerce
42 if prohibited from being so taxed by the Constitution of the United States or
43 the constitution of this state.
- 44 25. Tangible personal property sold to:
- 45 (a) A qualifying hospital as defined in section 42-5001.

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

4 (c) A qualifying health care organization as defined in section
5 42-5001 if the organization is dedicated to providing educational,
6 therapeutic, rehabilitative and family medical education training for blind,
7 visually impaired and multihandicapped children from the time of birth to age
8 twenty-one.

9 (d) A qualifying community health center as defined in section
10 42-5001.

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

14 (f) For taxable periods beginning from and after June 30, 2001, a
15 nonprofit charitable organization that has qualified under section 501(c)(3)
16 of the internal revenue code and that provides residential apartment housing
17 for low income persons over sixty-two years of age in a facility that
18 qualifies for a federal housing subsidy, if the tangible personal property is
19 used by the organization solely to provide residential apartment housing for
20 low income persons over sixty-two years of age in a facility that qualifies
21 for a federal housing subsidy.

22 26. Magazines or other periodicals or other publications by this state
23 to encourage tourist travel.

24 27. Tangible personal property sold to a person that is subject to tax
25 under this article by reason of being engaged in business classified under
26 the prime contracting classification under section 42-5075, or to a
27 subcontractor working under the control of a prime contractor that is subject
28 to tax under article 1 of this chapter, if the property so sold is any of the
29 following:

30 (a) Incorporated or fabricated by the person into any real property,
31 structure, project, development or improvement as part of the business.

32 (b) Used in environmental response or remediation activities under
33 section 42-5075, subsection B, paragraph 6.

34 (c) Incorporated or fabricated by the person into any lake facility
35 development in a commercial enhancement reuse district under conditions
36 prescribed for the deduction allowed by section 42-5075, subsection B,
37 paragraph 8.

38 28. The sale of a motor vehicle to:

39 (a) A nonresident of this state if the purchaser's state of residence
40 does not allow a corresponding use tax exemption to the tax imposed by
41 article 1 of this chapter and if the nonresident has secured a special
42 thirty-day nonresident registration of the vehicle by applying according to
43 section 28-2154.

44 (b) An enrolled member of an Indian tribe who resides on the Indian
45 reservation established for that tribe.

1 29. Tangible personal property purchased or leased in this state by a
2 nonprofit charitable organization that has qualified under section 501(c)(3)
3 of the United States internal revenue code and that engages in and uses such
4 property exclusively for training, job placement or rehabilitation programs
5 or testing for mentally or physically handicapped persons.

6 30. Sales of tangible personal property by a nonprofit organization
7 that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)
8 of the internal revenue code if the organization is associated with a major
9 league baseball team or a national touring professional golfing association
10 and no part of the organization's net earnings inures to the benefit of any
11 private shareholder or individual.

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

17 32. Sales of tangible personal property by a nonprofit organization
18 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
19 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
20 sponsors or operates a rodeo featuring primarily farm and ranch animals and
21 no part of the organization's net earnings inures to the benefit of any
22 private shareholder or individual.

23 33. Sales of new semitrailers, as defined in section 28-101,
24 manufactured in Arizona, or new parts manufactured in Arizona for
25 semitrailers sold by the manufacturer to a person who holds an interstate
26 commerce commission license for use in interstate commerce.

27 34. Sales of seeds, seedlings, roots, bulbs, cuttings and other
28 propagative material to persons who use those items to commercially produce
29 agricultural, horticultural, viticultural or floricultural crops in this
30 state.

31 35. Machinery, equipment, technology or related supplies that are only
32 useful to assist a person who is physically disabled as defined in section
33 46-191, has a developmental disability as defined in section 36-551 or has a
34 head injury as defined in section 41-3201 to be more independent and
35 functional.

36 36. Sales of tangible personal property that is shipped or delivered
37 directly to a destination outside the United States for use in that foreign
38 country.

39 37. Sales of natural gas or liquefied petroleum gas used to propel a
40 motor vehicle.

41 38. Paper machine clothing, such as forming fabrics and dryer felts,
42 sold to a paper manufacturer and directly used or consumed in paper
43 manufacturing.

44 39. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
45 sold to a qualified environmental technology manufacturer, producer or

1 processor as defined in section 41-1514.02 and directly used or consumed in
2 the generation or provision of on-site power or energy solely for
3 environmental technology manufacturing, producing or processing or
4 environmental protection. This paragraph shall apply for fifteen full
5 consecutive calendar or fiscal years from the date the first paper
6 manufacturing machine is placed in service. In the case of an environmental
7 technology manufacturer, producer or processor who does not manufacture
8 paper, the time period shall begin with the date the first manufacturing,
9 processing or production equipment is placed in service.

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

22 41. Through December 31, 1994, personal property liquidation
23 transactions, conducted by a personal property liquidator. From and after
24 December 31, 1994, personal property liquidation transactions shall be
25 taxable under this section provided that nothing in this subsection shall be
26 construed to authorize the taxation of casual activities or transactions
27 under this chapter. In this paragraph:

28 (a) "Personal property liquidation transaction" means a sale of
29 personal property made by a personal property liquidator acting solely on
30 behalf of the owner of the personal property sold at the dwelling of the
31 owner or upon the death of any owner, on behalf of the surviving spouse, if
32 any, any devisee or heir or the personal representative of the estate of the
33 deceased, if one has been appointed.

34 (b) "Personal property liquidator" means a person who is retained to
35 conduct a sale in a personal property liquidation transaction.

36 42. Sales of food, drink and condiment for consumption within the
37 premises of any prison, jail or other institution under the jurisdiction of
38 the state department of corrections, the department of public safety, the
39 department of juvenile corrections or a county sheriff.

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

44 44. Livestock and poultry feed, salts, vitamins and other additives for
45 livestock or poultry consumption that are sold to persons who are engaged in

1 producing livestock, poultry, or livestock or poultry products or who are
2 engaged in feeding livestock or poultry commercially. For purposes of this
3 paragraph, "poultry" includes ratites.

4 45. Sales of implants used as growth promotants and injectable
5 medicines, not already exempt under paragraph 8 of this subsection, for
6 livestock or poultry owned by or in possession of persons who are engaged in
7 producing livestock, poultry, or livestock or poultry products or who are
8 engaged in feeding livestock or poultry commercially. For purposes of this
9 paragraph, "poultry" includes ratites.

10 46. Sales of motor vehicles at auction to nonresidents of this state
11 for use outside this state if the vehicles are shipped or delivered out of
12 this state, regardless of where title to the motor vehicles passes or its
13 free on board point.

14 47. Tangible personal property sold to a person engaged in business and
15 subject to tax under the transient lodging classification if the tangible
16 personal property is a personal hygiene item or articles used by human beings
17 for food, drink or condiment, except alcoholic beverages, which are furnished
18 without additional charge to and intended to be consumed by the transient
19 during the transient's occupancy.

20 48. Sales of alternative fuel, as defined in section 1-215, to a used
21 oil fuel burner who has received a permit to burn used oil or used oil fuel
22 under section 49-426 or 49-480.

23 49. Sales of materials that are purchased by or for publicly funded
24 libraries including school district libraries, charter school libraries,
25 community college libraries, state university libraries or federal, state,
26 county or municipal libraries for use by the public as follows:

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

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

29 50. Tangible personal property sold to a commercial airline and
30 consisting of food, beverages and condiments and accessories used for serving
31 the food and beverages, if those items are to be provided without additional
32 charge to passengers for consumption in flight. For purposes of this
33 paragraph, "commercial airline" means a person holding a federal certificate
34 of public convenience and necessity or foreign air carrier permit for air
35 transportation to transport persons, property or United States mail in
36 intrastate, interstate or foreign commerce.

37 51. Sales of alternative fuel vehicles, as defined in section 43-1086,
38 if the vehicle was manufactured as a diesel fuel vehicle and converted to
39 operate on alternative fuel and equipment that is installed in a conventional
40 diesel fuel motor vehicle to convert the vehicle to operate on an alternative
41 fuel, as defined in section 1-215.

42 52. Sales of any spirituous, vinous or malt liquor by a person that is
43 licensed in this state as a wholesaler by the department of liquor licenses
44 and control pursuant to title 4, chapter 2, article 1.

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

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

9 B. In addition to the deductions from the tax base prescribed by
10 subsection A of this section, the gross proceeds of sales or gross income
11 derived from sales of the following categories of tangible personal property
12 shall be deducted from the tax base:

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

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

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

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

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

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

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

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

7 (b) Any foreign government for use by such government outside of this
8 state.

9 (c) Persons who are not residents of this state and who will not use
10 such property in this state other than in removing such property from this
11 state. This subdivision also applies to corporations that are not
12 incorporated in this state, regardless of maintaining a place of business in
13 this state, if the principal corporate office is located outside this state
14 and the property will not be used in this state other than in removing the
15 property from this state.

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

20 9. Railroad rolling stock, rails, ties and signal control equipment
21 used directly to transport persons or property.

22 10. Machinery or equipment used directly to drill for oil or gas or
23 used directly in the process of extracting oil or gas from the earth for
24 commercial purposes.

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

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

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

40 (a) "New machinery and equipment" means machinery and equipment which
41 have never been sold at retail except pursuant to leases or rentals which do
42 not total two years or more.

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

1 14. Machinery or equipment used in research and development. In this
2 paragraph, "research and development" means basic and applied research in the
3 sciences and engineering, and designing, developing or testing prototypes,
4 processes or new products, including research and development of computer
5 software that is embedded in or an integral part of the prototype or new
6 product or that is required for machinery or equipment otherwise exempt under
7 this section to function effectively. Research and development do not
8 include manufacturing quality control, routine consumer product testing,
9 market research, sales promotion, sales service, research in social sciences
10 or psychology, computer software research that is not included in the
11 definition of research and development, or other nontechnological activities
12 or technical services.

13 15. Machinery and equipment that are purchased by or on behalf of the
14 owners of a soundstage complex and primarily used for motion picture,
15 multimedia or interactive video production in the complex. This paragraph
16 applies only if the initial construction of the soundstage complex begins
17 after June 30, 1996 and before January 1, 2002 and the machinery and
18 equipment are purchased before the expiration of five years after the start
19 of initial construction. For purposes of this paragraph:

20 (a) "Motion picture, multimedia or interactive video production"
21 includes products for theatrical and television release, educational
22 presentations, electronic retailing, documentaries, music videos, industrial
23 films, CD-ROM, video game production, commercial advertising and television
24 episode production and other genres that are introduced through developing
25 technology.

26 (b) "Soundstage complex" means a facility of multiple stages including
27 production offices, construction shops and related areas, prop and costume
28 shops, storage areas, parking for production vehicles and areas that are
29 leased to businesses that complement the production needs and orientation of
30 the overall facility.

31 16. Tangible personal property that is used by either of the following
32 to receive, store, convert, produce, generate, decode, encode, control or
33 transmit telecommunications information:

34 (a) Any direct broadcast satellite television or data transmission
35 service that operates pursuant to 47 Code of Federal Regulations parts 25 and
36 100.

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

39 (i) Over two-thirds of the transmissions, measured in megabytes,
40 transmitted by the facility during the test period were transmitted to or on
41 behalf of one or more direct broadcast satellite television or data
42 transmission services that operate pursuant to 47 Code of Federal Regulations
43 parts 25 and 100.

44 (ii) Over two-thirds of the transmissions, measured in megabytes,
45 transmitted by or on behalf of those direct broadcast television or data

1 transmission services during the test period were transmitted by the facility
2 to or on behalf of those services.

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

8 17. Clean rooms that are used for manufacturing, processing,
9 fabrication or research and development, as defined in paragraph 14 of this
10 subsection, of semiconductor products. For purposes of this paragraph,
11 "clean room" means all property that comprises or creates an environment
12 where humidity, temperature, particulate matter and contamination are
13 precisely controlled within specified parameters, without regard to whether
14 the property is actually contained within that environment or whether any of
15 the property is affixed to or incorporated into real property. Clean room:

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

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

24 18. Machinery and equipment used directly in the feeding of poultry,
25 the environmental control of housing for poultry, the movement of eggs within
26 a production and packaging facility or the sorting or cooling of eggs. This
27 exemption does not apply to vehicles used for transporting eggs.

28 19. Machinery or equipment, including related structural components,
29 that is employed in connection with manufacturing, processing, fabricating,
30 job printing, refining, mining, natural gas pipelines, metallurgical
31 operations, telecommunications, producing or transmitting electricity or
32 research and development and that is used directly to meet or exceed rules or
33 regulations adopted by the federal energy regulatory commission, the United
34 States environmental protection agency, the United States nuclear regulatory
35 commission, the Arizona department of environmental quality or a political
36 subdivision of this state to prevent, monitor, control or reduce land, water
37 or air pollution.

38 20. Machinery and equipment that are sold to a person engaged in the
39 commercial production of livestock, livestock products or agricultural,
40 horticultural, viticultural or floricultural crops or products in this state
41 and that are used directly and primarily to prevent, monitor, control or
42 reduce air, water or land pollution.

43 21. Machinery or equipment that enables a television station to
44 originate and broadcast or to receive and broadcast digital television
45 signals and that was purchased to facilitate compliance with the

1 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
2 Code section 336) and the federal communications commission order issued
3 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
4 not exempt any of the following:

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

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

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

12 C. The deductions provided by subsection B of this section do not
13 include sales of:

14 1. Expendable materials. For purposes of this paragraph, expendable
15 materials do not include any of the categories of tangible personal property
16 specified in subsection B of this section regardless of the cost or useful
17 life of that property.

18 2. Janitorial equipment and hand tools.

19 3. Office equipment, furniture and supplies.

20 4. Tangible personal property used in selling or distributing
21 activities, other than the telecommunications transmissions described in
22 subsection B, paragraph 16 of this section.

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

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

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

30 D. In computing the tax base, gross proceeds of sales or gross income
31 from retail sales of automobiles does not include any amount attributable to
32 federal excise taxes imposed by 26 United States Code section 4001.

33 E. In addition to the deductions from the tax base prescribed by
34 subsection A of this section, there shall be deducted from the tax base the
35 gross proceeds of sales or gross income derived from sales of machinery,
36 equipment, materials and other tangible personal property used directly and
37 predominantly to construct a qualified environmental technology
38 manufacturing, producing or processing facility as described in section
39 41-1514.02. This subsection applies for ten full consecutive calendar or
40 fiscal years after the start of initial construction.

41 F. In computing the tax base, gross proceeds of sales or gross income
42 from retail sales of heavy trucks and trailers does not include any amount
43 attributable to federal excise taxes imposed by 26 United States Code section
44 4051.

1 G. In computing the tax base, gross proceeds of sales or gross income
2 from the sale of use fuel, as defined in section 28-5601, does not include
3 any amount attributable to federal excise taxes imposed by 26 United States
4 Code section 4091.

5 H. If a person is engaged in an occupation or business to which
6 subsection A of this section applies, the person's books shall be kept so as
7 to show separately the gross proceeds of sales of tangible personal property
8 and the gross income from sales of services, and if not so kept the tax shall
9 be imposed on the total of the person's gross proceeds of sales of tangible
10 personal property and gross income from services.

11 I. If a person is engaged in the business of selling tangible personal
12 property at both wholesale and retail, the tax under this section applies
13 only to the gross proceeds of the sales made other than at wholesale if the
14 person's books are kept so as to show separately the gross proceeds of sales
15 of each class, and if the books are not so kept, the tax under this section
16 applies to the gross proceeds of every sale so made.

17 J. A person who engages in manufacturing, baling, crating, boxing,
18 barreling, canning, bottling, sacking, preserving, processing or otherwise
19 preparing for sale or commercial use any livestock, agricultural or
20 horticultural product or any other product, article, substance or commodity
21 and who sells the product of such business at retail in this state is deemed,
22 as to such sales, to be engaged in business classified under the retail
23 classification. This subsection does not apply to businesses classified
24 under the:

- 25 1. Transporting classification.
- 26 2. ~~Utility~~ UTILITIES classification.
- 27 3. Telecommunications classification.
- 28 4. Pipeline classification.
- 29 5. Private car line classification.
- 30 6. Publication classification.
- 31 7. Job printing classification.
- 32 8. Prime contracting classification.
- 33 9. Owner builder sales classification.
- 34 10. Restaurant classification.

35 K. The gross proceeds of sales or gross income derived from the
36 following shall be deducted from the tax base for the retail classification:

- 37 1. Sales made directly to the United States government or its
38 departments or agencies by a manufacturer, modifier, assembler or repairer.
- 39 2. Sales made directly to a manufacturer, modifier, assembler or
40 repairer if such sales are of any ingredient or component part of products
41 sold directly to the United States government or its departments or agencies
42 by the manufacturer, modifier, assembler or repairer.
- 43 3. Overhead materials or other tangible personal property that is used
44 in performing a contract between the United States government and a
45 manufacturer, modifier, assembler or repairer, including property used in

1 performing a subcontract with a government contractor who is a manufacturer,
2 modifier, assembler or repairer, to which title passes to the government
3 under the terms of the contract or subcontract.

4 4. Sales of overhead materials or other tangible personal property to
5 a manufacturer, modifier, assembler or repairer if the gross proceeds of
6 sales or gross income derived from the property by the manufacturer,
7 modifier, assembler or repairer will be exempt under paragraph 3 of this
8 subsection.

9 L. There shall be deducted from the tax base fifty per cent of the
10 gross proceeds or gross income from any sale of tangible personal property
11 made directly to the United States government or its departments or agencies,
12 which is not deducted under subsection K of this section.

13 M. The department shall require every person claiming a deduction
14 provided by subsection K or L of this section to file on forms prescribed by
15 the department at such times as the department directs a sworn statement
16 disclosing the name of the purchaser and the exact amount of sales on which
17 the exclusion or deduction is claimed.

18 N. In computing the tax base, gross proceeds of sales or gross income
19 does not include:

20 1. A manufacturer's cash rebate on the sales price of a motor vehicle
21 if the buyer assigns the buyer's right in the rebate to the retailer.

22 2. The waste tire disposal fee imposed pursuant to section 44-1302.

23 O. There shall be deducted from the tax base the amount received from
24 sales of solar energy devices, but the deduction shall not exceed five
25 thousand dollars for each solar energy device. Before deducting any amount
26 under this subsection, the retailer shall register with the department as a
27 solar energy retailer. By registering, the retailer acknowledges that it
28 will make its books and records relating to sales of solar energy devices
29 available to the department for examination.

30 P. In computing the tax base in the case of the sale or transfer of
31 wireless telecommunications equipment as an inducement to a customer to enter
32 into or continue a contract for telecommunications services that are taxable
33 under section 42-5064, gross proceeds of sales or gross income does not
34 include any sales commissions or other compensation received by the retailer
35 as a result of the customer entering into or continuing a contract for the
36 telecommunications services.

37 Q. For the purposes of this section, a sale of wireless
38 telecommunications equipment to a person who holds the equipment for sale or
39 transfer to a customer as an inducement to enter into or continue a contract
40 for telecommunications services that are taxable under section 42-5064 is
41 considered to be a sale for resale in the regular course of business.

42 R. Retail sales of prepaid calling cards or prepaid authorization
43 numbers for telecommunications services, including sales of reauthorization
44 of a prepaid card or authorization number, are subject to tax under this
45 section.

1 S. For the purposes of this section, the diversion of gas from a
2 pipeline by a person engaged in the business of operating a natural or
3 artificial gas pipeline, for the sole purpose of fueling compressor equipment
4 to pressurize the pipeline, is not a sale of the gas to the operator of the
5 pipeline.

6 T. If a seller is entitled to a deduction pursuant to subsection B,
7 paragraph 16, subdivision (b) of this section, the department may require the
8 purchaser to establish that the requirements of subsection B, paragraph 16,
9 subdivision (b) of this section have been satisfied. If the purchaser cannot
10 establish that the requirements of subsection B, paragraph 16, subdivision
11 (b) of this section have been satisfied, the purchaser is liable in an amount
12 equal to any tax, penalty and interest which the seller would have been
13 required to pay under article 1 of this chapter if the seller had not made a
14 deduction pursuant to subsection B, paragraph 16, subdivision (b) of this
15 section. Payment of the amount under this subsection exempts the purchaser
16 from liability for any tax imposed under article 4 of this chapter and
17 related to the tangible personal property purchased. The amount shall be
18 treated as transaction privilege tax to the purchaser and as tax revenues
19 collected from the seller to designate the distribution base pursuant to
20 section 42-5029.

21 ~~U. For purposes of section 42-5032.01, the department shall separately~~
22 ~~account for revenues collected under the retail classification from~~
23 ~~businesses selling tangible personal property at retail:~~

24 ~~1. On the premises of a multipurpose facility that is owned, leased or~~
25 ~~operated by the tourism and sports authority pursuant to title 5, chapter 8.~~

26 ~~2. At professional football contests that are held in a stadium~~
27 ~~located on the campus of an institution under the jurisdiction of the Arizona~~
28 ~~board of regents.~~

29 ~~V.~~ U. For the purposes of this section:

30 1. "Aircraft" includes:

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

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

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

40 3. "Selling at retail" means a sale for any purpose other than for
41 resale in the regular course of business in the form of tangible personal
42 property, but transfer of possession, lease and rental as used in the
43 definition of sale mean only such transactions as are found on investigation
44 to be in lieu of sales as defined without the words lease or rental.

45 ~~W.~~ V. For purposes of subsection K of this section:

1 1. "Assembler" means a person who unites or combines products, wares
2 or articles of manufacture so as to produce a change in form or substance
3 without changing or altering the component parts.

4 2. "Manufacturer" means a person who is principally engaged in the
5 fabrication, production or manufacture of products, wares or articles for use
6 from raw or prepared materials, imparting to those materials new forms,
7 qualities, properties and combinations.

8 3. "Modifier" means a person who reworks, changes or adds to products,
9 wares or articles of manufacture.

10 4. "Overhead materials" means tangible personal property, the gross
11 proceeds of sales or gross income derived from which would otherwise be
12 included in the retail classification, and which are used or consumed in the
13 performance of a contract, the cost of which is charged to an overhead
14 expense account and allocated to various contracts based upon generally
15 accepted accounting principles and consistent with government contract
16 accounting standards.

17 5. "Repairer" means a person who restores or renews products, wares or
18 articles of manufacture.

19 6. "Subcontract" means an agreement between a contractor and any
20 person who is not an employee of the contractor for furnishing of supplies or
21 services that, in whole or in part, are necessary to the performance of one
22 or more government contracts, or under which any portion of the contractor's
23 obligation under one or more government contracts is performed, undertaken or
24 assumed and that includes provisions causing title to overhead materials or
25 other tangible personal property used in the performance of the subcontract
26 to pass to the government or that includes provisions incorporating such
27 title passing clauses in a government contract into the subcontract.

28 Sec. 54. Section 42-5073, Arizona Revised Statutes, is amended to
29 read:

30 42-5073. Amusement classification

31 A. The amusement classification is comprised of the business of
32 operating or conducting theaters, movies, operas, shows of any type or
33 nature, exhibitions, concerts, carnivals, circuses, amusement parks,
34 menageries, fairs, races, contests, games, billiard or pool parlors, bowling
35 alleys, public dances, dance halls, boxing and wrestling matches, skating
36 rinks, tennis courts, except as provided in subsection B of this section,
37 video games, pinball machines, sports events or any other business charging
38 admission or user fees for exhibition, amusement or entertainment, ~~including~~
39 ~~the operation or sponsorship of events by a tourism and sports authority~~
40 ~~under title 5, chapter 8~~. For purposes of this section, admission or user
41 fees include, but are not limited to, any revenues derived from any form of
42 contractual agreement for rights to or use of premium or special seating
43 facilities or arrangements. The amusement classification does not include:

44 1. Activities or projects of bona fide religious or educational
45 institutions.

- 1 2. Private or group instructional activities. For purposes of this
2 paragraph, "private or group instructional activities" includes, but is not
3 limited to, performing arts, martial arts, gymnastics and aerobic
4 instruction.
- 5 3. The operation or sponsorship of events by the Arizona exposition
6 and state fair board or county fair commissions.
- 7 4. A musical, dramatic or dance group or a botanical garden, museum or
8 zoo that is qualified as a nonprofit charitable organization under section
9 501(c)(3) of the United States internal revenue code and if no part of its
10 net income inures to the benefit of any private shareholder or individual.
- 11 5. Exhibition events in this state sponsored, conducted or operated by
12 a nonprofit organization that is exempt from taxation under section
13 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
14 organization is associated with major league baseball teams or a national
15 touring professional golfing association and no part of the organization's
16 net earnings inures to the benefit of any private shareholder or individual.
- 17 6. Operating or sponsoring rodeos that feature primarily farm and
18 ranch animals in this state and that are sponsored, conducted or operated by
19 a nonprofit organization that is exempt from taxation under section
20 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal
21 revenue code and no part of the organization's net earnings inures to the
22 benefit of any private shareholder or individual.
- 23 7. Sales of admissions to intercollegiate football contests if the
24 contests are ~~both:~~
- 25 ~~(a)~~ operated by a nonprofit organization that is exempt from taxation
26 under section 501(c)(3) of the internal revenue code and no part of the
27 organization's net earnings inures to the benefit of any private shareholder
28 or individual.
- 29 ~~(b) Not held in a multipurpose facility that is owned or operated by~~
30 ~~the tourism and sports authority pursuant to title 5, chapter 8.~~
- 31 8. Activities and events of, or fees and assessments received by, a
32 homeowners organization from persons who are members of the organization or
33 accompanied guests of members. For purposes of this paragraph, "homeowners
34 organization" means a mandatory membership organization comprised of owners
35 of residential property within a specified residential real estate
36 subdivision development or similar area and established to own property for
37 the benefit of its members where both of the following apply:
- 38 (a) No part of the organization's net earnings inures to the benefit
39 of any private shareholder or individual.
- 40 (b) The primary purpose of the organization is to provide for the
41 acquisition, construction, management, maintenance or care of organization
42 property.
- 43 9. Activities and events of, or fees received by, a nonprofit
44 organization that is exempt from taxation under section 501(c)(6) of the
45 internal revenue code if the organization produces, organizes or promotes

1 cultural or civic related festivals or events and no part of the
2 organization's net earnings inures to the benefit of any private shareholder
3 or individual.

4 B. The tax base for the amusement classification is the gross proceeds
5 of sales or gross income derived from the business, except that the following
6 shall be deducted from the tax base:

7 1. The gross proceeds of sales or gross income derived from
8 memberships, including initiation fees, which provide for the right to use a
9 health or fitness establishment or a private recreational establishment, or
10 any portion of an establishment, including tennis and other racquet courts at
11 that establishment, for participatory purposes for twenty-eight days or more
12 and fees charged for use of the health or fitness establishment or private
13 recreational establishment by bona fide accompanied guests of members, except
14 that this paragraph does not include additional fees, other than initiation
15 fees, charged by a health or fitness establishment or a private recreational
16 establishment for purposes other than memberships which provide for the right
17 to use a health or fitness establishment or private recreational
18 establishment, or any portion of an establishment, for participatory purposes
19 for twenty-eight days or more and accompanied guest use fees.

20 2. Amounts that are exempt under section 5-111, subsection H.

21 3. The gross proceeds of sales or gross income derived from membership
22 fees, including initiation fees, that provide for the right to use a
23 transient lodging recreational establishment, including golf courses and
24 tennis and other racquet courts at that establishment, for participatory
25 purposes for twenty-eight days or more, except that this paragraph does not
26 include additional fees, other than initiation fees, that are charged by a
27 transient lodging recreational establishment for purposes other than
28 memberships and that provide for the right to use a transient lodging
29 recreational establishment or any portion of the establishment for
30 participatory purposes for twenty-eight days or more.

31 4. The gross proceeds of sales or gross income derived from sales to
32 persons engaged in the business of transient lodging classified under section
33 42-5070, if all of the following apply:

34 (a) The persons who are engaged in the transient lodging business sell
35 the amusement to another person for consideration.

36 (b) The consideration received by the transient lodging business is
37 equal to or greater than the amount to be deducted under this subsection.

38 (c) The transient lodging business has provided an exemption
39 certificate to the person engaging in business under this section.

40 5. The gross proceeds of sales or gross income derived from:

41 (a) Business activity that is properly included in any other business
42 classification under this article and that is taxable to the person engaged
43 in that classification, but the gross proceeds of sales or gross income to be
44 deducted shall not exceed the consideration paid to the person conducting the
45 activity.

1 (b) Business activity that is arranged by the person who is subject to
2 tax under this section and that is not taxable to the person conducting the
3 activity due to an exclusion, exemption or deduction under this section or
4 section 42-5062, but the gross proceeds of sales or gross income to be
5 deducted shall not exceed the consideration paid to the person conducting the
6 activity.

7 (c) Business activity that is arranged by a person who is subject to
8 tax under this section and that is taxable to another person under this
9 section who conducts the activity, but the gross proceeds of sales or gross
10 income to be deducted shall not exceed the consideration paid to the person
11 conducting the activity.

12 C. For purposes of subsection B of this section:

13 1. "Health or fitness establishment" means a facility whose primary
14 purpose is to provide facilities, equipment, instruction or education to
15 promote the health and fitness of its members and at least eighty per cent of
16 the monthly gross revenue of the facility is received through accounts of
17 memberships and accompanied guest use fees which provide for the right to use
18 the facility, or any portion of the facility, under the terms of the
19 membership agreement for participatory purposes for twenty-eight days or
20 more.

21 2. "Private recreational establishment" means a facility whose primary
22 purpose is to provide recreational facilities, such as tennis, golf and
23 swimming, for its members and where at least eighty per cent of the monthly
24 gross revenue of the facility is received through accounts of memberships and
25 accompanied guest use fees which provide for the right to use the facility,
26 or any portion of the facility, for participatory purposes for twenty-eight
27 days or more.

28 3. "Transient lodging recreational establishment" means a facility
29 whose primary purpose is to provide facilities for transient lodging, that is
30 subject to taxation under this chapter and that also provides recreational
31 facilities, such as tennis, golf and swimming, for members for a period of
32 twenty-eight days or more.

33 D. Until December 31, 1988, the revenues from hayrides and other
34 animal-drawn amusement rides, from horseback riding and riding instruction
35 and from recreational tours using motor vehicles designed to operate on and
36 off public highways are exempt from the tax imposed by this section.
37 Beginning January 1, 1989, the gross proceeds or gross income from hayrides
38 and other animal-drawn amusement rides, from horseback riding and from
39 recreational tours using motor vehicles designed to operate on and off public
40 highways are subject to taxation under this section. Tax liabilities,
41 penalties and interest paid for taxable periods before January 1, 1989 shall
42 not be refunded unless the taxpayer requesting the refund provides proof
43 satisfactory to the department that the taxes will be returned to the
44 customer.

1 E. If a person is engaged in the business of offering both exhibition,
2 amusement or entertainment and private or group instructional activities, the
3 person's books shall be kept to show separately the gross income from
4 exhibition, amusement or entertainment and the gross income from
5 instructional activities. If the books do not provide this separate
6 accounting, the tax is imposed on the person's total gross income from the
7 business.

8 F. The department shall separately account for revenues collected
9 under the amusement classification for purposes of section 42-5029,
10 subsection D, paragraph 4, subdivision (f).

11 ~~G. For purposes of section 42-5032.01, the department shall separately~~
12 ~~account for revenues collected under the amusement classification from sales~~
13 ~~of admissions to:~~

14 ~~1. Events that are held in a multipurpose facility that is owned or~~
15 ~~operated by the tourism and sports authority pursuant to title 5, chapter 8,~~
16 ~~including intercollegiate football contests that are operated by a nonprofit~~
17 ~~organization that is exempt from taxation under section 501(c)(3) of the~~
18 ~~internal revenue code.~~

19 ~~2. Professional football contests that are held in a stadium located~~
20 ~~on the campus of an institution under the jurisdiction of the Arizona board~~
21 ~~of regents.~~

22 Sec. 55. Section 42-5074, Arizona Revised Statutes, is amended to
23 read:

24 42-5074. Restaurant classification

25 A. The restaurant classification is comprised of the business of
26 operating restaurants, dining cars, dining rooms, lunchrooms, lunch stands,
27 soda fountains, catering services or similar establishments where articles of
28 food or drink are sold for consumption on or off the premises.

29 B. The tax base for the restaurant classification is the gross
30 proceeds of sales or gross income derived from the business. The gross
31 proceeds of sales or gross income derived from the following shall be
32 deducted from the tax base:

33 1. Sales to a person engaged in business classified under the
34 restaurant classification if the items sold are to be resold in the regular
35 course of the business.

36 2. Sales by a congressionally chartered veterans organization of food
37 or drink prepared for consumption on the premises leased, owned or maintained
38 by the organization.

39 3. Sales by churches, fraternal benefit societies and other nonprofit
40 organizations, as these organizations are defined in the federal internal
41 revenue code (26 United States Code section 501), which do not regularly
42 engage or continue in the restaurant business for the purpose of
43 fund-raising.

44 4. Sales by a nonprofit organization that is exempt from taxation
45 under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code

1 if the organization is associated with a major league baseball team or a
2 national touring professional golfing association and no part of the
3 organization's net earnings inures to the benefit of any private shareholder
4 or individual.

5 5. Sales at a rodeo featuring primarily farm and ranch animals in this
6 state by a nonprofit organization that is exempt from taxation under section
7 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal
8 revenue code and no part of the organization's net earnings inures to the
9 benefit of any private shareholder or individual.

10 6. Sales by any nonprofit organization organized and operated
11 exclusively for charitable purposes and recognized by the United States
12 internal revenue service under section 501(c)(3) of the internal revenue
13 code.

14 7. Sales to qualifying hospitals as defined in section 42-5001.

15 8. Sales to a qualifying health care organization as defined in
16 section 42-5001 if the tangible personal property is used by the organization
17 solely to provide health and medical related educational and charitable
18 services.

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

23 C. The tax imposed on the restaurant classification pursuant to this
24 section does not apply to the gross proceeds of sales or gross income from
25 tangible personal property sold to a commercial airline consisting of food,
26 beverages and condiments and accessories used for serving the food and
27 beverages, if those items are to be provided without additional charge to
28 passengers for consumption in flight. For purposes of this subsection,
29 "commercial airline" means a person holding a federal certificate of public
30 convenience and necessity or foreign air carrier permit for air
31 transportation to transport persons, property or United States mail in
32 intrastate, interstate or foreign commerce.

33 D. The department shall separately account for revenues collected
34 under the restaurant classification for purposes of section 42-5029,
35 subsection D, paragraph 4, subdivision (f).

36 ~~E. For purposes of section 42-5032.01, the department shall separately~~
37 ~~account for revenues collected under the restaurant classification from~~
38 ~~businesses operating restaurants, dining rooms, lunchrooms, lunch stands,~~
39 ~~soda fountains, catering services or similar establishments:~~

40 ~~1. On the premises of a multipurpose facility that is owned or~~
41 ~~operated by the tourism and sports authority pursuant to title 5, chapter 8~~
42 ~~for consumption on or off the premises.~~

43 ~~2. At professional football contests that are held in a stadium~~
44 ~~located on the campus of an institution under the jurisdiction of the Arizona~~
45 ~~board of regents.~~

1 other tangible personal property, including structures necessary to protect
2 exempt incorporated materials or installed machinery or equipment, and
3 tangible personal property incorporated into the project, to perform one or
4 more of the following actions in response to a release or suspected release
5 of a hazardous substance, pollutant or contaminant from a facility to the
6 environment, unless the release was authorized by a permit issued by a
7 governmental authority:

8 (a) Actions to monitor, assess and evaluate such a release or a
9 suspected release.

10 (b) Excavation, removal and transportation of contaminated soil and
11 its treatment or disposal.

12 (c) Treatment of contaminated soil by vapor extraction, chemical or
13 physical stabilization, soil washing or biological treatment to reduce the
14 concentration, toxicity or mobility of a contaminant.

15 (d) Pumping and treatment or in situ treatment of contaminated
16 groundwater or surface water to reduce the concentration or toxicity of a
17 contaminant.

18 (e) The installation of structures, such as cutoff walls or caps, to
19 contain contaminants present in groundwater or soil and prevent them from
20 reaching a location where they could threaten human health or welfare or the
21 environment.

22 This paragraph does not include asbestos removal or the construction or use
23 of ancillary structures such as maintenance sheds, offices or storage
24 facilities for unattached equipment, pollution control equipment, facilities
25 or other control items required or to be used by a person to prevent or
26 control contamination before it reaches the environment.

27 7. The gross proceeds of sales or gross income that is derived from a
28 contract entered into for the installation, assembly, repair or maintenance
29 of machinery, equipment or other tangible personal property that is deducted
30 from the tax base of the retail classification pursuant to section 42-5061,
31 subsection B, or that is exempt from use tax pursuant to section 42-5159,
32 subsection B, and that does not become a permanent attachment to a building,
33 highway, road, railroad, excavation or manufactured building or other
34 structure, project, development or improvement. If the ownership of the
35 realty is separate from the ownership of the machinery, equipment or tangible
36 personal property, the determination as to permanent attachment shall be made
37 as if the ownership were the same. The deduction provided in this paragraph
38 does not include gross proceeds of sales or gross income from that portion of
39 any contracting activity which consists of the development of, or
40 modification to, real property in order to facilitate the installation,
41 assembly, repair, maintenance or removal of machinery, equipment or other
42 tangible personal property that is deducted from the tax base of the retail
43 classification pursuant to section 42-5061, subsection B or that is exempt
44 from use tax pursuant to section 42-5159, subsection B. For purposes of this
45 paragraph, "permanent attachment" means at least one of the following:

1 (a) To be incorporated into real property.

2 (b) To become so affixed to real property that it becomes a part of
3 the real property.

4 (c) To be so attached to real property that removal would cause
5 substantial damage to the real property from which it is removed.

6 8. The gross proceeds of sales or gross income received from a
7 contract for constructing any lake facility development in a commercial
8 enhancement reuse district that is designated pursuant to section 9-499.08 if
9 the prime contractor maintains the following records in a form satisfactory
10 to the department and to the city or town in which the property is located:

11 (a) The certificate of qualification of the lake facility development
12 issued by the city or town pursuant to section 9-499.08, subsection D.

13 (b) All state and local transaction privilege tax returns for the
14 period of time during which the prime contractor received gross proceeds of
15 sales or gross income from a contract to construct a lake facility
16 development in a designated commercial enhancement reuse district, showing
17 the amount exempted from state and local taxation.

18 (c) Any other information that the department considers to be
19 necessary.

20 9. The gross proceeds of sales or gross income attributable to the
21 purchase of machinery, equipment or other tangible personal property that is
22 exempt from or deductible from transaction privilege and use tax under:

23 (a) Section 42-5061, subsection A, paragraph 25 or 29.

24 (b) Section 42-5061, subsection B.

25 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b),
26 (c), (d), (e), (f), (i) or (j).

27 (d) Section 42-5159, subsection B.

28 10. The gross proceeds of sales or gross income received from a
29 contract for the construction of an environmentally controlled facility for
30 the raising of poultry for the production of eggs and the sorting, cooling
31 and packaging of eggs.

32 11. The gross proceeds of sales or gross income that is derived from a
33 contract entered into with a person who is engaged in the commercial
34 production of livestock, livestock products or agricultural, horticultural,
35 viticultural or floricultural crops or products in this state for the
36 construction, alteration, repair, improvement, movement, wrecking or
37 demolition or addition to or subtraction from any building, highway, road,
38 excavation, manufactured building or other structure, project, development or
39 improvement used directly and primarily to prevent, monitor, control or
40 reduce air, water or land pollution.

41 12. The gross proceeds of sales or gross income that is derived from
42 the installation, assembly, repair or maintenance of clean rooms that are
43 deducted from the tax base of the retail classification pursuant to section
44 42-5061, subsection B, paragraph 17.

1 13. For taxable periods beginning from and after June 30, 2001, the
2 gross proceeds of sales or gross income derived from a contract entered into
3 for the construction of a residential apartment housing facility that
4 qualifies for a federal housing subsidy for low income persons over sixty-two
5 years of age and that is owned by a nonprofit charitable organization that
6 has qualified under section 501(c)(3) of the internal revenue code.

7 14. For taxable periods beginning from and after December 31, 1996 and
8 ending before January 1, 2011, the contractor's retail cost of solar energy
9 devices that the contractor supplies and installs pursuant to contracts. The
10 deduction shall not exceed five thousand dollars for each solar energy
11 device. Before deducting any amount under this paragraph, the contractor
12 shall register with the department as a solar energy contractor. By
13 registering, the contractor acknowledges that it will make its books and
14 records relating to sales of solar energy devices available to the department
15 for examination.

16 15. The gross proceeds of sales or gross income derived from a contract
17 entered into for the construction of a launch site, as defined in 14 Code of
18 Federal Regulations section 401.5.

19 16. The gross proceeds of sales or gross income derived from a contract
20 entered into for the construction of a domestic violence shelter that is
21 owned and operated by a nonprofit charitable organization that has qualified
22 under section 501(c)(3) of the internal revenue code.

23 17. The gross proceeds of sales or gross income derived from contracts
24 to perform postconstruction treatment of real property for termite and
25 general pest control, including wood destroying organisms.

26 C. Entitlement to the deduction pursuant to subsection B, paragraph 7
27 of this section is subject to the following provisions:

28 1. A prime contractor may establish entitlement to the deduction by
29 both:

30 (a) Marking the invoice for the transaction to indicate that the gross
31 proceeds of sales or gross income derived from the transaction was deducted
32 from the base.

33 (b) Obtaining a certificate executed by the purchaser indicating the
34 name and address of the purchaser, the precise nature of the business of the
35 purchaser, the purpose for which the purchase was made, the necessary facts
36 to establish the deductibility of the property under section 42-5061,
37 subsection B, and a certification that the person executing the certificate
38 is authorized to do so on behalf of the purchaser. The certificate may be
39 disregarded if the prime contractor has reason to believe that the
40 information contained in the certificate is not accurate or complete.

41 2. A person who does not comply with paragraph 1 of this subsection
42 may establish entitlement to the deduction by presenting facts necessary to
43 support the entitlement, but the burden of proof is on that person.

44 3. The department may prescribe a form for the certificate described
45 in paragraph 1, subdivision (b) of this subsection. The department may also

1 adopt rules that describe the transactions with respect to which a person is
2 not entitled to rely solely on the information contained in the certificate
3 provided in paragraph 1, subdivision (b) of this subsection but must instead
4 obtain such additional information as required in order to be entitled to the
5 deduction.

6 4. If a prime contractor is entitled to a deduction by complying with
7 paragraph 1 of this subsection, the department may require the purchaser who
8 caused the execution of the certificate to establish the accuracy and
9 completeness of the information required to be contained in the certificate
10 which would entitle the prime contractor to the deduction. If the purchaser
11 cannot establish the accuracy and completeness of the information, the
12 purchaser is liable in an amount equal to any tax, penalty and interest which
13 the prime contractor would have been required to pay under article 1 of this
14 chapter if the prime contractor had not complied with paragraph 1 of this
15 subsection. Payment of the amount under this paragraph exempts the purchaser
16 from liability for any tax imposed under article 4 of this chapter. The
17 amount shall be treated as a transaction privilege tax to the purchaser and
18 as tax revenues collected from the prime contractor in order to designate the
19 distribution base for purposes of section 42-5029.

20 D. Subcontractors or others who perform services in respect to any
21 improvement, building, highway, road, railroad, excavation, manufactured
22 building or other structure, project, development or improvement are not
23 subject to tax if they can demonstrate that the job was within the control of
24 a prime contractor or contractors or a dealership of manufactured buildings
25 and that the prime contractor or dealership is liable for the tax on the
26 gross income, gross proceeds of sales or gross receipts attributable to the
27 job and from which the subcontractors or others were paid.

28 E. Amounts received by a contractor for a project are excluded from
29 the contractor's gross proceeds of sales or gross income derived from the
30 business if the person who hired the contractor executes and provides a
31 certificate to the contractor stating that the person providing the
32 certificate is a prime contractor and is liable for the tax under article 1
33 of this chapter. The department shall prescribe the form of the certificate.
34 If the contractor has reason to believe that the information contained on the
35 certificate is erroneous or incomplete, the department may disregard the
36 certificate. If the person who provides the certificate is not liable for
37 the tax as a prime contractor, that person is nevertheless deemed to be the
38 prime contractor in lieu of the contractor and is subject to the tax under
39 this section on the gross receipts or gross proceeds received by the
40 contractor.

41 F. Every person engaging or continuing in this state in the business
42 of prime contracting or dealership of manufactured buildings shall present to
43 the purchaser of such prime contracting or manufactured building a written
44 receipt of the gross income or gross proceeds of sales from such activity and
45 shall separately state the taxes to be paid pursuant to this section.

~~G. For purposes of section 42-5032.01, the department shall separately account for revenues collected under the prime contracting classification from any prime contractor engaged in the preparation or construction of a multipurpose facility, and related infrastructure, that is owned, operated or leased by the tourism and sports authority pursuant to title 5, chapter 8.~~

~~H.~~ G. For purposes of this section:

1. "Contracting" means engaging in business as a contractor.

2. "Contractor" is synonymous with the term "builder" and means any person, firm, partnership, corporation, association or other organization, or a combination of any of them, that undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does personally or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement, or to do any part of such a project, including the erection of scaffolding or other structure or works in connection with such a project, and includes subcontractors and specialty contractors. For all purposes of taxation or deduction, this definition shall govern without regard to whether or not such contractor is acting in fulfillment of a contract.

3. "Dealership of manufactured buildings" means a dealer who either:

(a) Is licensed pursuant to title 41, chapter 16 and who sells at retail manufactured buildings.

(b) Supervises, performs or coordinates the excavation and completion of site improvements, setup or moving of a manufactured building including the contracting, if any, with any subcontractor or specialty contractor for the completion of the contract.

4. "Manufactured building" means a manufactured home, mobile home or factory-built building, as defined in section 41-2142.

5. "Prime contracting" means engaging in business as a prime contractor.

6. "Prime contractor" means a contractor who supervises, performs or coordinates the construction, alteration, repair, addition, subtraction, improvement, movement, wreckage or demolition of any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement including the contracting, if any, with any subcontractors or specialty contractors and who is responsible for the completion of the contract.

7. "Sale of a used manufactured building" does not include a lease of a used manufactured building.

Sec. 57. Repeal

Section 43-209, Arizona Revised Statutes, is repealed.

Sec. 58. Transition and succession

1 A. As provided by this act, the spring training and amateur sports
2 authority succeeds to the authority, powers, duties, responsibilities,
3 obligations and liabilities of the tourism and sports authority.

4 B. This act does not alter the effect of any actions or impair the
5 obligations of the tourism and sports authority taken or incurred before
6 January 1, 2003.

7 C. Administrative rules and orders adopted by the tourism and sports
8 authority continue in effect until superseded by administrative action by the
9 spring training and amateur sports authority.

10 D. All administrative matters, contracts and judicial and
11 quasi-judicial actions, whether completed, pending or in process, of the
12 tourism and sports authority on January 1, 2003 are transferred to and retain
13 the same status with the spring training and amateur sports authority.

14 E. All equipment, records, furnishings and other property and assets,
15 all data and monies of the tourism and sports authority are transferred to
16 the spring training and amateur sports authority.

17 F. On or before January 1, 2003, the governor, the president of the
18 senate and the speaker of the house of representatives shall appoint the
19 members of the board of directors of the spring training and amateur sports
20 authority pursuant to section 5-803, Arizona Revised Statutes, as amended by
21 this act. Notwithstanding section 5-803, subsection B, Arizona Revised
22 Statutes, as amended by this act, at the first meeting of the initial board
23 of directors the members shall assign themselves, by lot, to terms of office
24 ending, respectively on January 1, 2006, 2007 and 2008. All subsequent
25 members of the board shall be appointed to serve terms as prescribed by law.

26 Sec. 59. Disposition of current obligations of tourism and sports
27 authority

28 A. The spring training and amateur sports authority established by
29 this act shall distribute current revenues each month pro rata among all
30 obligations and liabilities of the tourism and sports authority that were
31 existing and outstanding on January 1, 2003, based on the amount of the
32 obligations to the respective entities, including any existing:

33 1. Intergovernmental agreements with cities and towns.

34 2. Debts and other obligations to banks, other financial institutions,
35 materials and construction companies and for professional and consulting
36 services.

37 3. Commitments to other obligees, including public entities and
38 nonprofit and charitable organizations.

39 B. As provided by section 5-835, subsection B, Arizona Revised
40 Statutes, as amended by section 35 of this act, the spring training and
41 amateur sports authority shall make payments under subsection A of this
42 section before allocating monies for debt service on bonds, tourism, cactus
43 league promotion and youth and amateur sports pursuant to section 5-835,
44 subsection B, paragraphs 1 through 6, Arizona Revised Statutes, as amended by
45 section 35 of this act.

1 C. The joint legislative budget committee shall monitor the payment of
2 the existing obligations under this section. At least six months before
3 those obligations are projected to be paid and retired, the staff director of
4 the joint legislative budget committee shall notify the governor, the
5 president of the senate and the speaker of the house of representatives and
6 recommend reduced rates for the car rental surcharge and tax on hotels,
7 pursuant to sections 5-839 and 5-840, Arizona Revised Statutes, as amended by
8 this act, that will provide adequate revenues to meet the statutory
9 responsibilities and allocations of the tourism revenue clearing account
10 under section 5-835, Arizona Revised Statutes, as amended by section 35 of
11 this act.

12 Sec. 60. Severability

13 If a provision of this act or its application to any person or
14 circumstance is held invalid, the invalidity does not affect other provisions
15 or applications of the act that can be given effect without the invalid
16 provision or application, and to this end the provisions of this act are
17 severable.

18 Sec. 61. Emergency

19 This act is an emergency measure that is necessary to preserve the
20 public peace, health or safety and is operative immediately as provided by
21 law.