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Conference Engrossed  
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State of Arizona  
Senate  
Forty-fourth Legislature  
Second Regular Session  
2000  
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SENATE BILL 1220  
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## AN ACT

AMENDING TITLE 5, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 8; AMENDING SECTION 41-2306, ARIZONA REVISED STATUTES; AMENDING SECTION 41-2306, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING SECTIONS 42-1116 AND 42-5029, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5032.01; AMENDING SECTIONS 42-5061, 42-5070, 42-5073, 42-5074 AND 42-5075, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-209; AMENDING SECTION 48-4234, ARIZONA REVISED STATUTES; PROVIDING FOR CONDITIONAL REPEAL; RELATING TO THE TOURISM AND SPORTS AUTHORITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Title 5, Arizona Revised Statutes, is amended by adding chapter 8, to read:

### CHAPTER 8

### TOURISM AND SPORTS AUTHORITY

#### ARTICLE 1. GENERAL PROVISIONS

##### 5-801. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "AUTHORITY" MEANS THE TOURISM AND SPORTS AUTHORITY.
2. "BOARD" MEANS THE BOARD OF DIRECTORS OF THE AUTHORITY.

3. "MULTIPURPOSE FACILITY" MEANS ANY FACILITY THAT IS SUITABLE TO BE USED TO ACCOMMODATE SPORTING EVENTS AND ENTERTAINMENT, CULTURAL, CIVIC, MEETING, TRADE SHOW OR CONVENTION EVENTS OR ACTIVITIES AND MAY INCLUDE A STADIUM, ON-SITE INFRASTRUCTURE, PARKING GARAGES AND LOTS AND RELATED COMMERCIAL USES WITHIN THE FACILITY.

5-802. Formation of authority

A. THE TOURISM AND SPORTS AUTHORITY IS ESTABLISHED. THE BOUNDARIES OF THE AUTHORITY ARE THE BOUNDARIES OF ANY COUNTY THAT HAS A POPULATION OF MORE THAN TWO MILLION PERSONS.

B. THE AUTHORITY IS A CORPORATE AND POLITICAL BODY AND, EXCEPT AS OTHERWISE LIMITED, MODIFIED OR PROVIDED BY THIS CHAPTER, HAS ALL OF THE RIGHTS, POWERS AND IMMUNITIES OF MUNICIPAL CORPORATIONS, INCLUDING THE POWER OF EMINENT DOMAIN.

C. THE BOARD OF DIRECTORS AND THE AUTHORITY DO NOT HAVE THE POWER TO LEVY OR OTHERWISE IMPOSE ANY TAX OR ASSESSMENT, OTHER THAN CHARGES FOR THE USE OF FACILITIES OWNED BY THE AUTHORITY. THE QUALIFIED ELECTORS RESIDING IN THE AUTHORITY MAY LEVY A TAX OR SURCHARGE FOR THE FISCAL NEEDS OF THE AUTHORITY AS PROVIDED BY THIS CHAPTER, BUT THE BOARD OF DIRECTORS HAS NO INDEPENDENT AUTHORITY TO IMPOSE OR COLLECT A TAX OR ASSESSMENT. SUBJECT TO THAT LIMITATION, THE AUTHORITY IS CONSIDERED TO BE A TAX LEVYING PUBLIC IMPROVEMENT DISTRICT FOR THE PURPOSES OF ARTICLE XIII, SECTION 7, CONSTITUTION OF ARIZONA.

D. THE AUTHORITY IS REGARDED AS PERFORMING A GOVERNMENTAL FUNCTION IN CARRYING OUT THE PURPOSES OF THIS CHAPTER. THE PROPERTY ACQUIRED OR CONSTRUCTED BY THE AUTHORITY, THE ACTIVITIES OF THE AUTHORITY IN MAINTAINING AND CARING FOR THE PROPERTY AND THE MONIES DERIVED BY THE AUTHORITY FROM OPERATING THE PROPERTY ARE EXEMPT FROM STATE AND LOCAL INCOME AND PROPERTY TAXATION.

5-803. Board of directors

A. THE AUTHORITY IS GOVERNED BY A BOARD OF DIRECTORS CONSISTING OF THE FOLLOWING MEMBERS WHO MUST RESIDE IN THE COUNTY IN WHICH THE AUTHORITY IS ESTABLISHED:

1. FIVE MEMBERS APPOINTED BY THE GOVERNOR PURSUANT TO SECTION 38-211. ONE OF THESE MEMBERS SHALL BE FROM THE TOURISM INDUSTRY AND ONE SHALL BE FROM THE HOTEL AND MOTEL INDUSTRY LOCATED IN

THE AUTHORITY. NO MORE THAN THREE OF THESE MEMBERS MAY BE FROM THE SAME POLITICAL PARTY.

2. TWO MEMBERS APPOINTED BY THE PRESIDENT OF THE SENATE WHO ARE NOT OF THE SAME POLITICAL PARTY.

3. TWO MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES WHO ARE NOT OF THE SAME POLITICAL PARTY.

B. NO MEMBER OF THE BOARD MAY SIMULTANEOUSLY HOLD ANY STATE OR LOCAL ELECTIVE PUBLIC OFFICE. THE GOVERNOR, PRESIDENT OF THE SENATE AND SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL MAKE APPOINTMENTS TO PRODUCE A GENERAL GEOGRAPHICALLY DIVERSE REPRESENTATION OF AREAS IN THE AUTHORITY. MEMBERS OF THE BOARD SHALL BE APPOINTED FOR TERMS OF FIVE YEARS. A MEMBER MAY BE REAPPOINTED FOR ONE FULL SUBSEQUENT TERM.

C. MEMBERS OF THE BOARD ARE ELIGIBLE FOR COMPENSATION AS PROVIDED BY SECTION 38-611.

5-804. Administrative powers and duties

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

1. ADOPT AND USE A CORPORATE SEAL.

2. SUE AND BE SUED.

3. ENTER INTO CONTRACTS, INCLUDING INTERGOVERNMENTAL AGREEMENTS UNDER TITLE 11, CHAPTER 7, ARTICLE 3, AS NECESSARY TO CARRY OUT THE PURPOSES AND REQUIREMENTS OF THIS CHAPTER.

4. ENTER INTO AN INTERGOVERNMENTAL AGREEMENT UNDER TITLE 11, CHAPTER 7, ARTICLE 3 WITH THE ARIZONA EXPOSITION AND STATE FAIR BOARD FOR THE JOINT USE OF PROPERTIES AND FACILITIES, SHARING ADMINISTRATION, PERSONNEL AND RESOURCES AND OTHER MATTERS THAT ARE BENEFICIAL TO THE PURPOSES OF THE MULTIPURPOSE FACILITY AND THE STATE FAIR.

5. ADOPT ADMINISTRATIVE RULES AS NECESSARY TO ADMINISTER AND OPERATE THE AUTHORITY AND ANY PROPERTY UNDER ITS JURISDICTION.

6. ACQUIRE BY ANY LAWFUL MEANS AND OPERATE, MAINTAIN, ENCUMBER AND DISPOSE OF REAL AND PERSONAL PROPERTY AND INTERESTS IN PROPERTY.

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

B. THE BOARD OF DIRECTORS SHALL:

1. APPOINT FROM AMONG ITS MEMBERS A CHAIRMAN, A SECRETARY AND SUCH OTHER OFFICERS AS MAY BE NECESSARY TO CONDUCT ITS BUSINESS.

2. EMPLOY AN EXECUTIVE DIRECTOR AND PRESCRIBE THE TERMS AND CONDITIONS OF EMPLOYMENT.

3. KEEP AND MAINTAIN A COMPLETE AND ACCURATE RECORD OF ALL OF ITS PROCEEDINGS. THE BOARD IS A PUBLIC BODY FOR PURPOSES OF TITLE 38, CHAPTER 3, ARTICLE 3.1 AND TITLE 39, CHAPTER 1.

4. PROVIDE FOR THE USE, MAINTENANCE AND OPERATION OF THE PROPERTIES AND INTERESTS OWNED OR CONTROLLED BY THE AUTHORITY.

5-805. Executive director powers and duties

A. THE EXECUTIVE DIRECTOR IS RESPONSIBLE FOR MANAGING, ADMINISTERING AND SUPERVISING THE ACTIVITIES OF THE AUTHORITY.

B. THE EXECUTIVE DIRECTOR SHALL NEGOTIATE, MAKE, EXECUTE, ACKNOWLEDGE AND PERFORM CONTRACTS AND OTHER AGREEMENTS IN THE INTEREST OF THE AUTHORITY OR TO CARRY OUT OR ACCOMPLISH THE PURPOSES OF THIS CHAPTER, INCLUDING CONSTRUCTION CONTRACTS AND AGREEMENTS WITH USERS OF THE MULTIPURPOSE FACILITY, ALL OF WHICH ARE SUBJECT TO APPROVAL BY THE BOARD.

C. THE EXECUTIVE DIRECTOR SHALL:

1. EMPLOY A TREASURER TO SERVE AS FISCAL AGENT TO DEPOSIT, HOLD, INVEST AND DISBURSE THE AUTHORITY'S MONIES.

2. EMPLOY ADMINISTRATIVE AND CLERICAL EMPLOYEES AND PRESCRIBE THE TERMS AND CONDITIONS OF THEIR EMPLOYMENT AS NECESSARY TO CARRY OUT THE PURPOSES OF THE AUTHORITY. EMPLOYEES OF THE AUTHORITY ARE CONSIDERED TO BE PUBLIC EMPLOYEES FOR PURPOSES OF TITLE 38.

3. RECOMMEND THE EMPLOYMENT OF CONSULTANTS BY THE BOARD, INCLUDING OUTSIDE COUNSEL AND A PROFESSIONAL FACILITY MANAGEMENT COMPANY.

4. DIRECT THE ACTIVITIES OF OUTSIDE CONSULTANTS.

5-806. Gift ban; principals and lobbyists; exemptions

A. A PRINCIPAL OR LOBBYIST OR ANY OTHER PERSON ACTING ON BEHALF OF A PRINCIPAL OR LOBBYIST SHALL NOT GIVE A GIFT TO ANY BOARD MEMBER OR EMPLOYEE OF THE BOARD AND A BOARD MEMBER OR EMPLOYEE OF THE BOARD SHALL NOT ACCEPT A GIFT FROM A PRINCIPAL OR LOBBYIST.

B. FOR THE PURPOSE OF THIS SECTION, A GIFT DOES NOT INCLUDE ANY OF THE FOLLOWING:

1. SALARY, COMPENSATION OR EMPLOYER REIMBURSED EXPENSES LAWFULLY PAID TO A BOARD MEMBER OR EMPLOYEE.
2. A FAMILY GIFT.
3. AN AWARD OR PRIZE THAT IS GIVEN TO COMPETITORS IN A CONTEST OR EVENT THAT IS OPEN TO THE PUBLIC INCLUDING A RANDOM DRAWING.
4. ANY DISCOUNT OR OTHER BENEFIT THAT IS OFFERED TO A BOARD MEMBER OR EMPLOYEE ON THE SAME CONDITIONS AS TO THE PUBLIC, TO A CLASS CONSISTING OF ALL BOARD MEMBERS AND EMPLOYEES OR TO A GROUP OR CLASS IN WHICH MEMBERSHIP IS UNRELATED TO BEING A BOARD MEMBER OR EMPLOYEE.
5. AN EDUCATIONAL EVENT OR SPEAKING ENGAGEMENT.
6. EXPENSES RELATING TO A SPECIAL EVENT OR FUNCTION TO WHICH ALL MEMBERS OF THE BOARD ARE INVITED AND THAT ARE PROPERLY REPORTED.
7. FLOWERS.
8. FOOD AND BEVERAGE.
9. INFORMATIONAL MATERIAL, INCLUDING A BOOK, CALENDAR, PAMPHLET, PERIODICAL, REPORT OR VIDEO.
10. AN ITEM THAT IS NOT USED AND THAT IS RETURNED WITHIN FIFTEEN DAYS OF RECEIPT TO THE DONOR OR THAT IS DELIVERED WITHIN FIFTEEN DAYS OF RECEIPT TO A CHARITABLE ORGANIZATION AND THAT IS NOT CLAIMED AS A CHARITABLE CONTRIBUTION FOR STATE OR FEDERAL INCOME TAX PURPOSES.

11. AN ITEM THAT IS GIVEN TO A BOARD MEMBER OR EMPLOYEE IF THE BOARD MEMBER OR EMPLOYEE GIVES AN ITEM OF APPROXIMATELY THE SAME VALUE TO THE GIVER OF THE ITEM AT THE SAME TIME THAT THE ITEM IS GIVEN OR ON A SIMILAR OCCASION AS THE ONE THAT PROMPTED THE ORIGINAL ITEM TO BE GIVEN.

12. AN ITEM OF A PERSONAL NATURE THAT WAS CUSTOMARILY RECEIVED BY AN INDIVIDUAL FROM THE DONOR BEFORE THE INDIVIDUAL BECAME A BOARD MEMBER OR EMPLOYEE.

13. AN ITEM THAT IS GIVEN TO THE GENERAL PUBLIC AT AN EVENT.

14. AN ITEM OF NOMINAL VALUE SUCH AS A GREETING CARD, BASEBALL CAP, T-SHIRT, MUG OR PEN.

15. NONRECREATIONAL TRAVEL OR LODGING, OR BOTH.

16. PERSONAL HOSPITALITY.

17. A PLAQUE OR OTHER FORM OF RECOGNITION SIMILAR TO A PLAQUE TO A BOARD MEMBER OR EMPLOYEE TO SIGNIFY THE HONORARY RECOGNITION OF A SERVICE OR OTHER NOTABLE ACCOMPLISHMENT.

18. PROFESSIONAL OR CONSULTING SERVICES RENDERED ON MATTERS DIRECTLY RELATED TO HOLDING A POSITION ON THE BOARD OR EMPLOYEE OF THE BOARD AND THAT ARE NOT RENDERED TO OBTAIN A BENEFIT FOR ANY REGISTERED PRINCIPAL, PUBLIC BODY, LOBBYIST, DESIGNATED PUBLIC LOBBYIST OR AUTHORIZED PUBLIC LOBBYIST OR THE CLIENTS OF A PRINCIPAL OR LOBBYIST.

5-807. Constructing and operating multipurpose facility

A. THE AUTHORITY SHALL CONSTRUCT, FINANCE, FURNISH, MAINTAIN, IMPROVE, OPERATE, MARKET AND PROMOTE THE USE OF A MULTIPURPOSE FACILITY AND DO ALL THINGS NECESSARY OR CONVENIENT TO ACCOMPLISH THOSE PURPOSES. THE COUNTY OR CITY IN WHICH THE MULTIPURPOSE FACILITY IS LOCATED SHALL PROVIDE THE LAND, INFRASTRUCTURE AND PARKING FACILITIES ASSOCIATED WITH THE MULTIPURPOSE FACILITY. THE AUTHORITY SHALL HOLD LEGAL TITLE TO ANY MULTIPURPOSE FACILITY, SUBJECT ONLY TO LIENS AND OTHER SECURITY INTERESTS OF RECORD.

B. THE EXECUTIVE DIRECTOR SHALL:

1. RECOMMEND TO THE BOARD FOR ITS APPROVAL A CONTRACTOR AND ARCHITECT, UNLESS THE ARCHITECT WILL BE EMPLOYED DIRECTLY BY THE CONTRACTOR.
2. WORK WITH THE USERS, CONTRACTOR AND ARCHITECT TO PREPARE A DESIGN FOR THE MULTIPURPOSE FACILITY AND SUBMIT THE DESIGN TO THE BOARD FOR ITS APPROVAL.
3. PREPARE THE CONSTRUCTION BUDGET AND SCHEDULE FOR THE MULTIPURPOSE FACILITY AND SUBMIT IT TO THE BOARD FOR ITS APPROVAL.
4. PREPARE THE ANNUAL OPERATING BUDGET FOR THE MULTIPURPOSE FACILITY AND SUBMIT IT TO THE BOARD FOR ITS APPROVAL.
5. NEGOTIATE USE AGREEMENTS WITH PARTIES THAT WILL USE THE MULTIPURPOSE FACILITY ON A REGULAR BASIS, INCLUDING PARTIES THAT WILL MAKE A CONTRIBUTION TOWARD THE CONSTRUCTION OF THE FACILITY, AND SUBMIT THE AGREEMENTS TO THE BOARD FOR ITS FINAL ACTION. ANY SUCH AGREEMENT THAT GRANTS NAMING OR OTHER ADVERTISING RIGHTS MUST INCLUDE A PROVISION REQUIRING THE FACILITY NAME AND OTHER ADVERTISING TO COMPLY WITH COMMUNITY DECENCY STANDARDS.
6. NEGOTIATE AGREEMENTS WITH THE CONTRACTOR AND ARCHITECT, UNLESS THE ARCHITECT WILL BE EMPLOYED DIRECTLY BY THE CONTRACTOR, AND SUBMIT THE AGREEMENTS TO THE BOARD FOR ITS FINAL ACTION.
7. REVIEW CONSTRUCTION CHANGE ORDER REQUESTS AND SUBMIT THEM TO THE BOARD WITH RECOMMENDATIONS FOR FINAL ACTION.
8. ARRANGE FOR CAPITAL AND OPERATING FINANCING, AS NEEDED, AND SUBMIT THE TRANSACTIONS TO THE BOARD FOR ITS FINAL ACTION.
9. ANALYZE AND RECOMMEND TO THE BOARD POTENTIAL SITES FOR THE FACILITY.
10. NEGOTIATE AN INTERGOVERNMENTAL AGREEMENT PURSUANT TO TITLE 11, CHAPTER 7, ARTICLE 3 WITH THE COUNTY OR THE CITY IN WHICH THE MULTIPURPOSE FACILITY WILL BE LOCATED CONCERNING THE LAND, INFRASTRUCTURE AND PARKING TO BE PROVIDED BY THE COUNTY OR CITY AND SUBMIT THE AGREEMENT TO THE BOARD FOR ITS FINAL ACTION.

11. IN CONSULTATION WITH THE USERS OF THE MULTIPURPOSE FACILITY, NEGOTIATE A CONTRACT WITH A MANAGEMENT FIRM TO OPERATE, PROMOTE AND MARKET THE MULTIPURPOSE FACILITY AND SUBMIT THE CONTRACT TO THE BOARD FOR ITS FINAL ACTION.

12. IN CONSULTATION WITH THE USERS OF THE MULTIPURPOSE FACILITY, NEGOTIATE CONTRACTS WITH CONCESSIONAIRES AND OTHER PROVIDERS FOR FOOD, BEVERAGE AND OTHER SERVICES AT THE MULTIPURPOSE FACILITY AND SUBMIT THE CONTRACTS TO THE BOARD FOR ITS FINAL ACTION.

13. TAKE OTHER ACTIONS THAT ARE NECESSARY TO ENSURE THAT THE MULTIPURPOSE FACILITY IS CONSTRUCTED ACCORDING TO THE SCHEDULE AND BUDGET APPROVED BY THE BOARD.

C. TITLE 34 APPLIES TO THE AUTHORITY, EXCEPT THAT REGARDLESS OF THE FUNDING SOURCE FOR DESIGN AND CONSTRUCTION OF FACILITIES AND STRUCTURES AND NOTWITHSTANDING TITLE 41, CHAPTER 23, THE AUTHORITY MAY ESTABLISH ALTERNATIVE SYSTEMS AND PROCEDURES, INCLUDING THE USE OF THE DESIGN-BUILD METHOD OF CONSTRUCTION AND THE USE OF QUALIFICATIONS-BASED SELECTION OF CONTRACTORS WITH EXPERIENCE IN STADIUM DESIGN OR CONSTRUCTION, BY EITHER DIRECT SELECTION OR BY PUBLIC COMPETITION, TO EXPEDITE THE DESIGN AND CONSTRUCTION OF ANY OF ITS FACILITIES OR STRUCTURES OR ANY FACILITIES OR STRUCTURES LEASED TO IT OR USED BY IT PURSUANT TO AN INTERGOVERNMENTAL AGREEMENT. FOR PURPOSES OF THIS SUBSECTION:

1. "DESIGN-BUILD" MEANS A PROCESS OF ENTERING INTO AND MANAGING A CONTRACT BETWEEN THE AUTHORITY AND ANOTHER PARTY IN WHICH THE OTHER PARTY AGREES TO BOTH DESIGN AND BUILD ANY STRUCTURE, FACILITY OR OTHER ITEMS SPECIFIED IN THE CONTRACT.

2. "QUALIFICATIONS-BASED SELECTION" MEANS A PROCESS OF ENTERING INTO AND MANAGING A CONTRACT BETWEEN THE AUTHORITY AND ANOTHER PARTY IN WHICH THE OTHER PARTY IS SELECTED BY THE AUTHORITY ON THE BASIS OF THE PARTY'S QUALIFICATIONS AND EXPERIENCE IN DESIGNING OR CONSTRUCTING FACILITIES, STRUCTURES OR OTHER ITEMS SIMILAR TO THOSE THE AUTHORITY IS AUTHORIZED TO CONSTRUCT OR LEASE.

D. THE PLANS AND SPECIFICATIONS FOR THE MULTIPURPOSE FACILITY ARE SUBJECT TO REVIEW AND APPROVAL BY THE BOARD. THE BOARD SHALL INSPECT AND APPROVE CONSTRUCTION OF THE FACILITY, IF IT CONFORMS TO THE PLANS AND SPECIFICATIONS AND APPLICABLE ENGINEERING STANDARDS. THROUGHOUT THE LIFE OF THE

MULTIPURPOSE FACILITY, THE BOARD IS RESPONSIBLE AND SHALL MONITOR AND TAKE ACTION AS NECESSARY TO ENSURE THE APPROPRIATE MAINTENANCE AND OPERATION OF THE FACILITY.

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

A. FROM MONIES IN THE CACTUS LEAGUE PROMOTION ACCOUNT ESTABLISHED BY SECTION 5-837, THE AUTHORITY MAY:

1. ACQUIRE LAND OR CONSTRUCT, FINANCE, FURNISH, IMPROVE, MARKET OR PROMOTE THE USE OF EXISTING OR PROPOSED MAJOR LEAGUE BASEBALL SPRING TRAINING FACILITIES THAT ARE LOCATED IN THE AUTHORITY AND OTHER STRUCTURES, UTILITIES, ROADS, PARKING AREAS OR BUILDINGS NECESSARY FOR FULL USE OF THE TRAINING FACILITIES FOR SPORTS AND OTHER PURPOSES.

2. DO ALL THINGS NECESSARY OR CONVENIENT TO ACCOMPLISH THOSE PURPOSES.

B. THE BOARD SHALL REQUIRE THAT ANY PROJECT UNDERTAKEN PURSUANT TO THIS SECTION INCLUDE FINANCIAL PARTICIPATION FROM THE COUNTY OR MUNICIPALITY IN WHICH THE PROJECT IS LOCATED, FROM A PRIVATE PARTY OR FROM ANY COMBINATION OF THESE ENTITIES THAT EQUALS OR EXCEEDS ONE-HALF OF THE AMOUNT TO BE SPENT OR DISTRIBUTED BY THE AUTHORITY. CAPITAL IMPROVEMENT MONIES SPENT BY A COUNTY, MUNICIPALITY OR PRIVATE PARTY FOR A PURPOSE AUTHORIZED BY THIS SECTION MAY BE CONSIDERED TO BE FINANCIAL PARTICIPATION WITH RESPECT TO ANY PROJECT THE AUTHORITY MAY UNDERTAKE.

C. FOR PURPOSES OF FINANCING, DESIGNING OR CONSTRUCTING FACILITIES OR STRUCTURES, THE AUTHORITY IS NOT THE AGENT OF ANY OTHER PARTY PARTICIPATING IN THE FUNDING OF THE FACILITY OR STRUCTURE.

D. BEFORE UNDERTAKING THE PLANNING OR CONSTRUCTION OF THE FIRST NEW FACILITY UNDER THIS SECTION, THE BOARD MAY CONSIDER THE COSTS OF ANTICIPATED REQUIRED RENOVATIONS OF EXISTING FACILITIES AND SHALL CONSIDER SUCH COSTS FOR SUBSEQUENT NEW FACILITIES.

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

A. FROM MONIES IN THE YOUTH AND AMATEUR SPORTS FACILITIES ACCOUNT ESTABLISHED BY SECTION 5-838, THE AUTHORITY MAY:

1. ACQUIRE LAND OR CONSTRUCT, FINANCE, FURNISH, MAINTAIN, IMPROVE, OPERATE, MARKET OR PROMOTE THE USE OF COMMUNITY YOUTH AND AMATEUR SPORTS FACILITIES, RECREATIONAL FACILITIES AND OTHER COMMUNITY FACILITIES OR PROGRAMS THAT ARE LOCATED IN THE AUTHORITY.

2. DO ALL THINGS NECESSARY OR CONVENIENT TO ACCOMPLISH THOSE PURPOSES.

B. THE BOARD SHALL REQUIRE THAT ANY PROJECT UNDERTAKEN PURSUANT TO THIS SECTION INCLUDE FINANCIAL PARTICIPATION FROM THE COUNTY, MUNICIPALITY OR SCHOOL DISTRICT IN WHICH THE PROJECT IS LOCATED, FROM ANY OTHER PARTY OR FROM ANY COMBINATION OF THESE ENTITIES THAT EQUALS OR EXCEEDS ONE-HALF OF THE AMOUNT TO BE SPENT OR DISTRIBUTED BY THE AUTHORITY. CAPITAL IMPROVEMENT MONIES SPENT BY A COUNTY, MUNICIPALITY, SCHOOL DISTRICT OR OTHER PARTY FOR A PURPOSE AUTHORIZED BY THIS SECTION MAY BE CONSIDERED TO BE FINANCIAL PARTICIPATION WITH RESPECT TO ANY PROJECT THE AUTHORITY MAY UNDERTAKE.

C. FOR PURPOSES OF FINANCING, DESIGNING, CONSTRUCTING OR OPERATING FACILITIES OR STRUCTURES, THE AUTHORITY IS NOT THE AGENT OF ANY OTHER PARTY PARTICIPATING IN THE FUNDING OF THE FACILITY OR STRUCTURE.

D. IN EVALUATING PROJECTS UNDER THIS SECTION, THE BOARD SHALL GIVE PRIORITY TO YOUTH RECREATIONAL FACILITIES THAT ARE ADJACENT, IN PROXIMITY OR OF BENEFIT TO PUBLIC SCHOOLS.

5-810. Regulating sale, use and consumption of alcoholic beverages

SUBJECT TO THE REQUIREMENTS OF TITLE 4, THE BOARD MAY PERMIT AND REGULATE THE SALE, USE AND CONSUMPTION OF ALCOHOLIC BEVERAGES AT EVENTS HELD ON PROPERTY ACQUIRED, LEASED OR SUBLEASED UNDER THIS CHAPTER.

5-811. Conflicts of interest; violation; classification

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

B. A DIRECTOR, OFFICER OR EMPLOYEE OF THE AUTHORITY SHALL NOT HAVE ANY DIRECT OR INDIRECT FINANCIAL INTEREST IN ANY PROPERTY OWNED, PURCHASED OR CONSTRUCTED BY THE AUTHORITY.

C. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 1 MISDEMEANOR.

5-812. Decennial performance audit

A. BEGINNING IN 2010 AND EVERY TENTH YEAR THEREAFTER, THE AUDITOR GENERAL SHALL CONDUCT A PERFORMANCE AUDIT OF THE AUTHORITY, AS DEFINED IN SECTION 41- 1278.

B. ON OR BEFORE NOVEMBER 30 OF THE RESPECTIVE YEAR THE AUDITOR GENERAL SHALL ISSUE A PUBLIC REPORT OF THE PERFORMANCE AUDIT INCLUDING FINDINGS AND SPECIFIC RECOMMENDATIONS FOR STATUTORY AND ADMINISTRATIVE CHANGES TO IMPROVE THE OPERATION OF THE AUTHORITY. THE AUDITOR GENERAL SHALL SUBMIT COPIES OF THE REPORT TO THE GOVERNOR, PRESIDENT OF THE SENATE, SPEAKER OF THE HOUSE OF REPRESENTATIVES, SECRETARY OF STATE AND DEPARTMENT OF LIBRARY, ARCHIVES AND PUBLIC RECORDS.

5-813. Disadvantaged business enterprise participation goals

A. NOTWITHSTANDING ANY OTHER LAW, THE AUTHORITY SHALL:

1. ESTABLISH DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION GOALS FOR THE DESIGN, ENGINEERING AND CONSTRUCTION OF THE MULTIPURPOSE FACILITY UNDER SECTION 5-807 BASED ON THE AVAILABILITY OF READY, WILLING AND ABLE DISADVANTAGED BUSINESS ENTERPRISES COMPARED TO THE GENERAL POPULATION OF CONSULTANTS, PRIME CONTRACTORS AND SUBCONTRACTORS, SUPPLIERS AND SERVICE PROVIDERS.

2. ESTABLISH PROCEDURES FOR MEETING THESE GOALS, INCLUDING COMPILING A REGISTRY OF DISADVANTAGED BUSINESS ENTERPRISES THAT ARE CERTIFIED BY A LOCAL, COUNTY OR STATE AGENCY.

3. REQUIRE MONTHLY REPORTS BY THE PROJECT COORDINATOR REGARDING COMPLIANCE WITH THE GOALS.

4. MONITOR COMPLIANCE WITH THIS SECTION THROUGH INTERGOVERNMENTAL AGREEMENTS WITH A STATE OR COUNTY DISADVANTAGED BUSINESS ENTERPRISE PROGRAM MONITOR OR A CONTRACT WITH AN INDEPENDENT ORGANIZATION THAT IS EXPERIENCED IN MONITORING DISADVANTAGED BUSINESS ENTERPRISE PROGRAMS.

5. IMPOSE SANCTIONS IF, BASED ON RECOMMENDATIONS OF THE MONITORING ORGANIZATION, THE AUTHORITY DETERMINES THAT A

GOOD FAITH EFFORT WAS NOT MADE TO COMPLY WITH THE ESTABLISHED PROCEDURES.

B. THE EXECUTIVE DIRECTOR, THE PROJECT COORDINATOR AND ALL PERSONS WHO ENTER INTO CONTRACTS, AGREEMENTS OR UNDERSTANDINGS RELATED TO THE CONSTRUCTION AND OPERATION OF THE MULTIPURPOSE FACILITY SHALL COMPLY WITH THE PROCEDURES ESTABLISHED PURSUANT TO THIS SECTION.

## ARTICLE 2. FINANCIAL PROVISIONS

### 5-831. Annual budget

A. BEGINNING IN 2001, ON OR BEFORE JUNE 30 OF EACH YEAR THE BOARD SHALL HOLD A PUBLIC HEARING TO ADOPT A BUDGET FOR THE FOLLOWING FISCAL YEAR THAT INCLUDES:

1. RECEIPTS DURING THE PAST FISCAL YEAR.
  2. EXPENDITURES DURING THE PAST FISCAL YEAR.
  3. ESTIMATES OF AMOUNTS NECESSARY FOR EXPENSES DURING THE FOLLOWING FISCAL YEAR INCLUDING AMOUNTS PROPOSED FOR:
    - (a) COSTS OF PLANNING, CONSTRUCTING, FINANCING, MAINTAINING, OPERATING AND MANAGING A MULTIPURPOSE FACILITY.
    - (b) PROMOTIONAL AND MARKETING EXPENSES OF THE AUTHORITY.
    - (c) ADMINISTRATIVE COSTS OF THE AUTHORITY.
  4. ANTICIPATED REVENUE TO THE AUTHORITY FROM EACH SOURCE IN THE FOLLOWING FISCAL YEAR.
  5. A COMPLETE ASSET AND LIABILITY STATEMENT.
  6. A STATEMENT OF PROFIT OR LOSS FROM OPERATIONS.
  7. CASH ON HAND AS OF THE DATE THE BUDGET IS ADOPTED AND THE ANTICIPATED BALANCE AT THE END OF THE CURRENT FISCAL YEAR.
  8. AN ITEMIZED STATEMENT OF COMMITMENTS, RESERVES AND ANTICIPATED OBLIGATIONS FOR THE FOLLOWING FISCAL YEAR.
- B. THE BOARD MAY AMEND THE BUDGET ON A FINDING OF GOOD CAUSE.

5-832. General fund; investments

A. THE AUTHORITY SHALL MAINTAIN A GENERAL FUND, DIVIDED INTO A CONSTRUCTION ACCOUNT, A FACILITY REVENUE CLEARING ACCOUNT AND A TOURISM REVENUE CLEARING ACCOUNT. THE AUTHORITY MAY ESTABLISH ADDITIONAL ACCOUNTS AND SUBACCOUNTS AS NECESSARY AND CONVENIENT. ALL REVENUES AND MONIES RECEIVED BY THE AUTHORITY SHALL INITIALLY BE DEPOSITED IN ACCOUNTS AND SUBACCOUNTS IN THE GENERAL FUND AS PROVIDED BY LAW.

B. THE AUTHORITY MAY INVEST ANY UNEXPENDED MONIES IN THE FUND AS PROVIDED IN TITLE 35, CHAPTER 2. INTEREST AND OTHER INCOME FROM INVESTMENTS OF MONIES IN ANY ACCOUNT SHALL BE CREDITED TO THAT ACCOUNT EXCEPT AS OTHERWISE PROVIDED BY LAW. THE AUTHORITY'S INVESTMENTS MUST MATURE WHEN THE FUND ASSETS WILL BE REQUIRED FOR THE PURPOSES OF THIS CHAPTER. IF THE LIQUID ASSETS IN THE FUND BECOME INSUFFICIENT TO MEET THE AUTHORITY'S OBLIGATIONS, THE BOARD SHALL DIRECT THE TREASURER TO LIQUIDATE SUFFICIENT SECURITIES TO MEET ALL OF THE CURRENT OBLIGATIONS AND IMMEDIATELY NOTIFY THE AUDITOR GENERAL OF THE INSUFFICIENCY. THE AUDITOR GENERAL SHALL INVESTIGATE AND AUDIT THE CIRCUMSTANCES SURROUNDING THE DEPLETION OF THE FUND AND REPORT THE FINDINGS TO THE BOARD.

5-833. Construction account

A. THE AUTHORITY SHALL MAINTAIN A CONSTRUCTION ACCOUNT IN THE GENERAL FUND CONSISTING OF:

1. MONIES RECEIVED BY THE AUTHORITY FROM ANY SOURCE FOR THE PURPOSE OF ACQUIRING LAND FOR AND FUNDING THE COST OF CONSTRUCTING A MULTIPURPOSE FACILITY, INCLUDING FINANCIAL PARTICIPATION FOR CAPITAL COSTS OF THE FACILITY FROM ANY PRIVATE OR PUBLIC SOURCE.

2. PROCEEDS OF BONDS ISSUED BY THE AUTHORITY PURSUANT TO SECTION 5-863, WHICH SHALL BE HELD IN A SEGREGATED BOND PROCEEDS SUBACCOUNT IN THE CONSTRUCTION ACCOUNT.

B. THE AUTHORITY MAY SPEND MONIES IN THE CONSTRUCTION ACCOUNT FOR COSTS OF ANY MULTIPURPOSE FACILITY PURPOSE, AS DEFINED IN SECTION 5-861.

5-834. Facility revenue clearing account

A. THE AUTHORITY SHALL MAINTAIN A FACILITY REVENUE CLEARING ACCOUNT IN THE GENERAL FUND CONSISTING OF:

1. REVENUES RECEIVED FROM DEDICATED PUBLIC FUNDING SOURCES AS PROVIDED BY LAW.
2. PAYMENTS RECEIVED FROM LEASING, SUBLEASING OR RENTING PROPERTY OWNED, LEASED OR CONTROLLED BY THE AUTHORITY.
3. REVENUES RECEIVED BY THE AUTHORITY FROM ADMISSIONS, CONCESSIONS AND OTHER PROCEEDS FROM EVENTS HELD AT A MULTIPURPOSE FACILITY OWNED OR LEASED BY THE AUTHORITY.
4. GIFTS, GRANTS AND DONATIONS RECEIVED FOR OPERATING PURPOSES FROM ANY PUBLIC OR PRIVATE SOURCE.
5. PROCEEDS FROM THE SALE OF ANY OF THE AUTHORITY'S PROPERTY.
6. FINANCIAL PARTICIPATION FOR OPERATING COSTS RECEIVED FROM THE COUNTY OR MUNICIPALITY IN WHICH A MULTIPURPOSE FACILITY OWNED OR LEASED BY THE AUTHORITY IS LOCATED.

B. ON THE SECOND TUESDAY OF EACH MONTH, THE TREASURER OF THE AUTHORITY SHALL DISTRIBUTE ALL MONIES IN THE ACCOUNT IN THE FOLLOWING ORDER OF PRIORITY:

1. TO THE DEBT SERVICE ACCOUNT ESTABLISHED BY SECTION 5-865, AN AMOUNT EQUAL TO ONE-TWELFTH OF THE ANNUAL DEBT SERVICE ON BONDS AND OTHER DEBT OBLIGATIONS OF THE AUTHORITY THAT ARE SECURED IN WHOLE OR IN PART BY AND PAYABLE FROM REVENUES OR MONIES DEPOSITED TO THE FACILITY REVENUE CLEARING ACCOUNT, NET OF DEPOSITS TO THE DEBT SERVICE ACCOUNT PURSUANT TO SECTION 5-835, SUBSECTION B, PARAGRAPH 1.
2. TO THE OPERATING ACCOUNT OF THE AUTHORITY ESTABLISHED BY SECTION 5-836, ALL REMAINING MONIES IN THE FACILITY REVENUE CLEARING ACCOUNT.

**5-835. Tourism revenue clearing account**

A. THE AUTHORITY SHALL MAINTAIN A TOURISM REVENUE CLEARING ACCOUNT WITHIN THE GENERAL FUND CONSISTING OF MONIES TRANSMITTED TO THE AUTHORITY BY THE STATE TREASURER PURSUANT TO SECTIONS 5-839 AND 5-840. ON THE SECOND TUESDAY OF EACH MONTH, THE TREASURER OF THE AUTHORITY SHALL DISTRIBUTE ALL MONIES IN THE ACCOUNT AS PROVIDED BY THIS SECTION.



DURING THE TWO HUNDRED FORTY-FIRST THROUGH

TWO HUNDRED EIGHTY-EIGHTH MONTHS

\$750,000 PER MONTH

DURING THE TWO HUNDRED EIGHTY-NINTH THROUGH

THREE HUNDRED TWELFTH MONTHS

\$833,333 PER MONTH

DURING THE THREE HUNDRED THIRTEENTH THROUGH

THREE HUNDRED SIXTIETH MONTHS

\$916,667 PER MONTH

4. TO THE OPERATING ACCOUNT ESTABLISHED BY SECTION 5-836, AN AMOUNT EQUAL TO ONE-TWELFTH OF THE AUTHORITY'S ADOPTED BUDGET FOR THE PERIOD FOR THE PURPOSES SET FORTH IN SECTION 5-836, SUBSECTION B, PARAGRAPHS 1 AND 2 AND NET OF ANY MONIES ESTIMATED TO BE AVAILABLE IN THE OPERATING ACCOUNT FOR THOSE PURPOSES IN THAT PERIOD.

5. TO THE YOUTH AND AMATEUR SPORTS FACILITIES FUND ESTABLISHED BY SECTION 5-838, AN AMOUNT EQUAL TO ONE-TWELFTH OF ONE MILLION DOLLARS OVER THE FIRST TWELVE MONTHS OF DISTRIBUTION, INCREASED IN EACH SUBSEQUENT TWELVE MONTH PERIOD BY AN ADDITIONAL ONE HUNDRED THOUSAND DOLLARS OVER THE PRIOR TWELVE MONTHS' DISTRIBUTION.

6. TO THE OPERATING ACCOUNT ESTABLISHED BY SECTION 5-836, ANY MONIES REMAINING UNALLOCATED EACH MONTH.

C. AFTER ALL BONDS AND OTHER DEBT OBLIGATIONS OF THE AUTHORITY THAT ARE SECURED IN WHOLE OR IN PART BY AND PAYABLE FROM REVENUES OR MONIES DEPOSITED IN THE TOURISM REVENUE CLEARING ACCOUNT ARE REDEEMED OR FULLY PROVIDED FOR, THE TREASURER OF THE AUTHORITY SHALL DISTRIBUTE ALL MONIES REMAINING IN THE ACCOUNT AFTER THE DISTRIBUTIONS PROVIDED FOR BY SUBSECTION B, PARAGRAPHS 2, 3 AND 5 OF THIS SECTION, AND AFTER THE AUTHORITY'S REPAIR AND REPLACEMENT REQUIREMENTS ARE FUNDED PURSUANT TO SECTION 5-836, SUBSECTION C, PARAGRAPH 2, AS FOLLOWS:

1. SEVENTY PER CENT TO THE TOURISM FUND ESTABLISHED BY SECTION 41-2306.

2. THIRTY PER CENT TO THE CACTUS LEAGUE PROMOTION ACCOUNT ESTABLISHED BY SECTION 5-837.

5-836. Operating account

A. THE AUTHORITY SHALL MAINTAIN AN OPERATING ACCOUNT CONSISTING OF MONIES TRANSMITTED TO THE ACCOUNT PURSUANT TO SECTIONS 5-834 AND 5-835.

B. THE AUTHORITY MAY SPEND MONIES IN THE OPERATING ACCOUNT FOR COSTS INCURRED FOR ANY OF THE FOLLOWING PURPOSES:

1. OPERATING, MARKETING, PROMOTING, FURNISHING AND EQUIPPING A MULTIPURPOSE FACILITY.

2. PAYING ALL COSTS ASSOCIATED WITH THE AUTHORITY'S ADMINISTRATIVE DUTIES AS PROVIDED IN SECTIONS 5-804 AND 5-805.

3. PAYMENT TO THE DEBT SERVICE ACCOUNT ESTABLISHED BY SECTION 5-865 TO BE USED FOR PAYMENT OR EARLY REDEMPTION OF BONDED INDEBTEDNESS.

C. THE AUTHORITY SHALL ESTABLISH IN THE OPERATING ACCOUNT:

1. A RESERVE TO MEET FUTURE OPERATING COSTS OF THE AUTHORITY, INCLUDING AMOUNTS THAT ARE SUFFICIENT TO PAY ALL COSTS ASSOCIATED WITH EVENTS HELD AT THE MULTIPURPOSE FACILITY.

2. A RESERVE FOR REPAIR AND REPLACEMENT COSTS ASSOCIATED WITH THE MULTIPURPOSE FACILITY IN AN AMOUNT AT LEAST EQUAL TO TWENTY-FIVE MILLION DOLLARS, ADJUSTED FOR INFLATION EACH YEAR AFTER 2001.

D. THIS STATE IS NOT LIABLE OR RESPONSIBLE FOR THE OPERATING COSTS OF THE AUTHORITY, INCLUDING THE OPERATING, MARKETING, PROMOTION, FURNISHING, EQUIPPING, REPAIR OR REPLACEMENT COSTS OF ANY FACILITY OR PROJECT FUNDED BY THE AUTHORITY.

5-837. Cactus league promotion account

A. THE AUTHORITY SHALL MAINTAIN A CACTUS LEAGUE PROMOTION ACCOUNT CONSISTING OF MONIES TRANSMITTED TO THE ACCOUNT PURSUANT TO SECTION 5-835.

B. THE AUTHORITY SHALL USE MONIES IN THE FUND FOR PURPOSES OF SECTION 5-808.

C. THE AUTHORITY MAY PLEDGE ALL OR PART OF THE REVENUES AND OTHER MONIES RECEIVED BY THE AUTHORITY TO SECURE BONDS OR OTHER DEBT OBLIGATIONS ISSUED BY THE AUTHORITY FOR THE PURPOSES OF PROVIDING MONIES FOR EXPENDITURE UNDER THIS SECTION. AS NEARLY AS PRACTICABLE, THE BONDS ISSUED PURSUANT TO THIS SUBSECTION SHALL BE AUTHORIZED AND ISSUED IN A MANNER CONSISTENT WITH ARTICLE 3 OF THIS CHAPTER, EXCEPT THAT THE PROCEEDS OF THE BONDS SHALL BE SPENT PURSUANT TO THIS SECTION. THE PLEDGE SECURING BONDS ISSUED PURSUANT TO THIS SECTION IS SUBORDINATE TO THE PLEDGE SECURING BONDS OR OTHER DEBT OBLIGATIONS ISSUED PURSUANT TO ARTICLE 3 OF THIS CHAPTER AND, EXCEPT FOR MONIES ALREADY IN THE CACTUS LEAGUE PROMOTION ACCOUNT, TO THE DISTRIBUTION OF MONIES PURSUANT TO SECTION 5-835, SUBSECTION B, PARAGRAPH 2.

5-838. Youth and amateur sports facilities account

A. THE AUTHORITY SHALL MAINTAIN A YOUTH AND AMATEUR SPORTS FACILITIES ACCOUNT CONSISTING OF MONIES TRANSMITTED TO THE ACCOUNT PURSUANT TO SECTION 5- 835.

B. THE AUTHORITY SHALL USE MONIES IN THE FUND FOR PURPOSES OF SECTION 5-809.

5-839. Car rental surcharge

A. THE QUALIFIED ELECTORS RESIDING IN THE AUTHORITY, BY MAJORITY VOTE AT AN ELECTION HELD IN THE AUTHORITY, MAY LEVY AND, IF LEVIED, THE DEPARTMENT OF REVENUE SHALL COLLECT A CAR RENTAL SURCHARGE BEGINNING ON THE FIRST DAY OF THE FIRST MONTH BEGINNING NINETY DAYS AFTER THE ELECTION TO LEVY THE SURCHARGE. THE SURCHARGE SHALL BE IN EFFECT FOR THREE HUNDRED SIXTY MONTHS, EXCEPT THAT IF NO BONDS ARE ISSUED UNDER THIS CHAPTER WITHIN TWO YEARS AFTER THE SURCHARGE TAKES EFFECT, THE SURCHARGE TERMINATES AND ANY MONIES REMAINING UNEXPENDED AND UNENCUMBERED SHALL BE TRANSFERRED TO THE STATE GENERAL FUND.

B. THE RATE OF THE SURCHARGE IS:

1. THREE AND ONE-FOURTH PER CENT OF THE GROSS PROCEEDS OR GROSS INCOME FROM THE BUSINESS OR TWO DOLLARS FIFTY CENTS ON EACH LEASE OR RENTAL, WHICHEVER IS MORE.

2. IN THE CASE OF A PERSON WHO LEASES OR RENTS THE MOTOR VEHICLE AS A TEMPORARY REPLACEMENT MOTOR VEHICLE, TWO DOLLARS FIFTY

CENTS ON EACH LEASE OR RENTAL. FOR PURPOSES OF THIS PARAGRAPH, "TEMPORARY REPLACEMENT MOTOR VEHICLE" MEANS A VEHICLE LOANED BY A MOTOR VEHICLE REPAIR FACILITY OR DEALER OR RENTED BY A PERSON TEMPORARILY TO USE WHILE THE VEHICLE THAT IT IS REPLACING IS NOT IN USE BECAUSE OF BREAKDOWN, REPAIR, SERVICE, DAMAGE OR LOSS.

C. THE SURCHARGE APPLIES TO THE BUSINESS OF LEASING OR RENTING FOR LESS THAN ONE YEAR MOTOR VEHICLES FOR HIRE WITHOUT A DRIVER, THAT ARE DESIGNED TO OPERATE ON THE STREETS AND HIGHWAYS OF THIS STATE AND THAT ARE PRIMARILY INTENDED TO CARRY NOT MORE THAN FOURTEEN PASSENGERS, REGARDLESS OF WHETHER THE VEHICLE IS REGISTERED OR LICENSED IN THIS STATE.

D. THE SURCHARGE DOES NOT APPLY TO THE LEASE OR RENTAL OF A MOTOR VEHICLE TO AN AUTOMOBILE DEALERSHIP, A REPAIR FACILITY, AN INSURANCE COMPANY OR ANY OTHER PERSON THAT PROVIDES THAT VEHICLE AT NO CHARGE TO A PERSON WHOSE OWN MOTOR VEHICLE IS BEING REPAIRED, ADJUSTED OR SERVICED.

E. THE SURCHARGE IS NOT TAXABLE UNDER SECTION 42-5071.

F. UNLESS THE CONTEXT OTHERWISE REQUIRES, SECTION 42-6102 GOVERNS THE ADMINISTRATION OF A SURCHARGE IMPOSED UNDER THIS SECTION, WHICH SHALL BE REPORTED ON A FORM PRESCRIBED BY THE DEPARTMENT OF REVENUE. THE DEPARTMENT OF REVENUE SHALL REQUIRE A REPORT OF THE NUMBER OF LEASE OR RENTAL TRANSACTIONS AND SHALL TRANSMIT THAT NUMBER TO THE STATE TREASURER.

G. EACH MONTH THE STATE TREASURER SHALL DISTRIBUTE REVENUES COLLECTED PURSUANT TO THIS SECTION AS FOLLOWS:

1. TRANSMIT AN AMOUNT EQUAL TO TWO DOLLARS FIFTY CENTS ON EACH LEASE OR RENTAL TRANSACTION TO THE COUNTY STADIUM DISTRICT ESTABLISHED IN THE COUNTY IN WHICH THE AUTHORITY IS LOCATED PURSUANT TO TITLE 48, CHAPTER 26 FOR DEPOSIT IN THE COUNTY STADIUM DISTRICT FUND. THE BOARD OF DIRECTORS OF THE COUNTY STADIUM DISTRICT MAY PLEDGE ALL OR PART OF THESE MONIES TO SECURE DISTRICT BONDS OR FINANCIAL OBLIGATIONS UNDER TITLE 48, CHAPTER 26.

2. PAY THE REMAINDER OF THE MONIES COLLECTED DURING THE MONTH TO THE AUTHORITY FOR DEPOSIT IN THE TOURISM REVENUE CLEARING ACCOUNT ESTABLISHED BY SECTION 5-835.

5-840. Tax on hotels

A. THE QUALIFIED ELECTORS RESIDING IN THE AUTHORITY, BY MAJORITY VOTE AT AN ELECTION HELD IN THE AUTHORITY, MAY LEVY AND, IF LEVIED, THE DEPARTMENT OF REVENUE SHALL COLLECT A TAX ON THE GROSS PROCEEDS OF SALES OR GROSS INCOME FROM THE BUSINESS OF EVERY PERSON ENGAGING OR CONTINUING IN A BUSINESS TAXED UNDER TITLE 42, CHAPTER 5 AND CLASSIFIED UNDER SECTION 42-5070 WITHIN THE AUTHORITY. A TAX UNDER THIS SECTION IS IN ADDITION TO THE TAX IMPOSED BY TITLE 42, CHAPTER 5 AND ANY TAX IMPOSED BY A CITY OR TOWN IN THE AUTHORITY.

B. IF LEVIED, THE TAX SHALL BE LEVIED UNDER THIS SECTION BEGINNING ON THE FIRST DAY OF THE FIRST MONTH BEGINNING NINETY DAYS AFTER THE ELECTION TO LEVY THE TAX. THE TAX SHALL BE IN EFFECT FOR THREE HUNDRED SIXTY MONTHS, EXCEPT THAT IF NO BONDS ARE ISSUED UNDER THIS CHAPTER WITHIN TWO YEARS AFTER THE TAX TAKES EFFECT, THE TAX TERMINATES AND ANY MONIES REMAINING UNEXPENDED AND UNENCUMBERED SHALL BE TRANSFERRED TO THE STATE GENERAL FUND.

C. THE RATE OF THE TAX IS ONE PER CENT OF THE TAX BASE PRESCRIBED BY SECTION 42-5070.

D. UNLESS THE CONTEXT OTHERWISE REQUIRES, SECTION 42-6102 GOVERNS THE ADMINISTRATION OF THE TAX IMPOSED UNDER THIS SECTION.

E. EACH MONTH THE STATE TREASURER SHALL TRANSMIT THE NET REVENUES COLLECTED PURSUANT TO THIS SECTION TO THE AUTHORITY FOR DEPOSIT IN THE TOURISM REVENUE CLEARING ACCOUNT ESTABLISHED BY SECTION 5-835.

5-841. Audit

A. THE BOARD OF DIRECTORS SHALL CAUSE AN ANNUAL AUDIT TO BE CONDUCTED OF EACH OF THE AUTHORITY'S FUNDS, ACCOUNTS AND SUBACCOUNTS BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT WITHIN ONE HUNDRED TWENTY DAYS AFTER THE END OF THE FISCAL YEAR.

B. THE BOARD SHALL IMMEDIATELY FILE A CERTIFIED COPY OF THE AUDIT WITH THE AUDITOR GENERAL. THE AUDITOR GENERAL MAY MAKE SUCH FURTHER AUDITS AND EXAMINATIONS AS NECESSARY AND MAY TAKE APPROPRIATE ACTION RELATING TO THE AUDIT OR EXAMINATION PURSUANT TO TITLE 41, CHAPTER 7, ARTICLE 10.1. IF THE AUDITOR

GENERAL TAKES NO FURTHER ACTION WITHIN THIRTY DAYS AFTER THE AUDIT IS FILED, THE AUDIT IS CONSIDERED TO BE SUFFICIENT.

C. THE BOARD SHALL PAY NEGOTIATED AND APPROVED FEES AND COSTS OF THE CERTIFIED PUBLIC ACCOUNTANT AND AUDITOR GENERAL UNDER THIS SECTION FROM THE OPERATING ACCOUNT OF THE AUTHORITY.

### ARTICLE 3. REVENUE BONDS

#### 5-861. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "BOND RELATED EXPENSES" MEANS ANY EXPENSES INCURRED BY THE AUTHORITY TO ISSUE AND ADMINISTER ITS BONDS INCLUDING UNDERWRITING FEES AND COSTS, TRUSTEE FEES, FINANCIAL CONSULTANT FEES, PRINTING AND ADVERTISING COSTS, PAYING AGENT FEES, TRANSFER AGENT FEES, LEGAL, ACCOUNTING, FEASIBILITY CONSULTANT AND OTHER PROFESSIONAL FEES AND EXPENSES, CREDIT ENHANCEMENT FEES, ATTORNEY AND ACCOUNTING FEES AND EXPENSES RELATED TO CREDIT ENHANCEMENT, BOND INSURANCE OR LIQUIDITY ENHANCEMENT, REMARKETING FEES, RATING AGENCY FEES AND COSTS, TRAVEL AND TELEPHONE EXPENSES AND ALL OTHER FEES CONSIDERED NECESSARY BY THE AUTHORITY IN ORDER TO MARKET AND ADMINISTER THE BONDS.

2. "BONDS" MEANS THE BONDS OF THE AUTHORITY ISSUED PURSUANT TO THIS ARTICLE.

3. "MULTIPURPOSE FACILITY PURPOSE" INCLUDES THE FOLLOWING PURPOSES:

(a) ACQUIRING, DESIGNING, DEVELOPING, CONSTRUCTING, RECONSTRUCTING, EQUIPPING, REPAIRING, MAINTAINING, OPERATING AND IMPROVING A MULTIPURPOSE FACILITY AND IMPROVEMENTS.

(b) THE PAYMENT OF BOND OBLIGATIONS.

(c) BOND RELATED EXPENSES.

#### 5-862. Authorization of bonds

A. THE AUTHORITY MAY ISSUE NEGOTIABLE BONDS PURSUANT TO THIS ARTICLE IN SUCH PRINCIPAL AMOUNT AS, IN THE OPINION OF THE BOARD, IS NECESSARY TO:

1. PROVIDE SUFFICIENT MONIES FOR ANY MULTIPURPOSE FACILITY PURPOSE.
2. PAY NECESSARY BOND RELATED EXPENSES.
3. ESTABLISH AND FULLY OR PARTIALLY FUND ANY RESERVES OR SINKING ACCOUNTS ESTABLISHED BY THE BOND RESOLUTION.
4. ISSUE REFUNDING BONDS IF THE BOARD CONSIDERS REFUNDING TO BE EXPEDIENT. THE BOARD MAY PROVIDE FOR INVESTING AND HOLDING THE PROCEEDS OF THE REFUNDING BONDS IN TRUST FOR THE BENEFIT OF THE HOLDERS OF THE BONDS BEING REFUNDED.
5. REFUND ANY BONDS ISSUED BY THE AUTHORITY IF THE BONDS ARE SECURED FROM THE SAME SOURCE OF REVENUES AS THE BONDS AUTHORIZED IN THIS ARTICLE BY ISSUING NEW BONDS, WHETHER THE BONDS TO BE REFUNDED HAVE OR HAVE NOT MATURED.
6. ISSUE BONDS PARTLY TO REFUND OUTSTANDING BONDS AND PARTLY FOR ANY MULTIPURPOSE FACILITY PURPOSE CONSISTENT WITH THIS ARTICLE.

B. THE BOARD SHALL AUTHORIZE THE BONDS BY RESOLUTION. THE RESOLUTION SHALL PRESCRIBE:

1. THE AUTHORITY'S REVENUE SOURCES THAT ARE PLEDGED AND DEDICATED TO SECURE THE BONDS.
2. THE RATE OR RATES OF INTEREST, WHICH MAY BE FIXED OR VARIABLE, THE DATE OR DATES ON WHICH INTEREST IS PAYABLE AND THE DENOMINATIONS OF THE BONDS.
3. THE DATE OR DATES OF THE BONDS AND MATURITY.
4. THE MANNER OF EXECUTING THE BONDS.
5. THE MEDIUM AND PLACE OF PAYMENT.
6. THE TERMS OF REDEMPTION, WHICH MAY PROVIDE FOR A PREMIUM FOR EARLY REDEMPTION.

5-863. Issuance and sale of bonds; notice

A. THE BOARD SHALL ISSUE THE BONDS IN THE NUMBER AND AMOUNT PROVIDED IN THE RESOLUTION.

B. THE BONDS MAY BE SOLD BY COMPETITIVE BID OR NEGOTIATED SALE FOR PUBLIC OR PRIVATE OFFERING AT THE PRICE AND ON THE TERMS PRESCRIBED IN THE RESOLUTION.

C. THE PROCEEDS FROM THE SALE OF THE BONDS SHALL BE DEPOSITED IN THE BOND PROCEEDS SUBACCOUNT ESTABLISHED BY SECTION 5-864.

D. TITLE 35, CHAPTER 3, ARTICLE 7 APPLIES TO THE BOARD AND TO BONDS ISSUED UNDER THIS ARTICLE.

5-864. Bond proceeds subaccount

A. IF THE AUTHORITY ISSUES BONDS UNDER THIS ARTICLE, THE BOARD SHALL ESTABLISH A BOND PROCEEDS SUBACCOUNT WITHIN THE CONSTRUCTION ACCOUNT ESTABLISHED BY SECTION 5-833 CONSISTING OF MONIES RECEIVED FROM THE SALE OF THE BONDS.

B. THE AUTHORITY MAY USE MONIES IN THE BOND PROCEEDS SUBACCOUNT ONLY FOR MULTIPURPOSE FACILITY PURPOSES IN THE MANNER PRESCRIBED BY THIS CHAPTER.

C. THE TREASURER OR FISCAL AGENT OF THE AUTHORITY SHALL ADMINISTER AND ACCOUNT FOR THE BOND PROCEEDS SUBACCOUNT.

5-865. Debt service account

A. IF THE AUTHORITY ISSUES BONDS UNDER THIS ARTICLE THE BOARD SHALL ESTABLISH A DEBT SERVICE ACCOUNT CONSISTING OF MONIES DESIGNATED AND DEDICATED BY THE BOARD FOR REPAYMENT OF THE BONDS AND PAYMENT OF COSTS AND RELATED EXPENSES ASSOCIATED WITH REDEEMING THE BONDS.

B. MONIES IN THE DEBT SERVICE ACCOUNT MAY BE USED ONLY FOR THE PURPOSES AUTHORIZED BY THIS ARTICLE.

C. THE TREASURER OR FISCAL AGENT OF THE AUTHORITY SHALL ADMINISTER AND ACCOUNT FOR THE DEBT SERVICE ACCOUNT.

5-866. Securing principal and interest

IN CONNECTION WITH ISSUING BONDS AUTHORIZED BY THIS ARTICLE AND TO SECURE THE PRINCIPAL AND INTEREST ON THE BONDS, THE BOARD BY RESOLUTION MAY:

1. PLEDGE FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON THE BONDS ALL OR PART OF THE REVENUES AND OTHER MONIES RECEIVED

BY THE AUTHORITY AND DEPOSITED IN THE GENERAL FUND OR ANY ACCOUNT OR SUBACCOUNT OF THE AUTHORITY.

2. PLEDGE AND ASSIGN TO OR IN TRUST FOR THE BENEFIT OF THE HOLDER OR HOLDERS OF THE BONDS ALL OR PART OF THE MONIES IN THE DEBT SERVICE ACCOUNT OR ANY OTHER ACCOUNT OR SUBACCOUNT AS NECESSARY TO SECURE AND PAY THE PRINCIPAL, THE INTEREST AND ANY PREMIUM ON THE BONDS AS THEY COME DUE.

3. SEGREGATE THE DEBT SERVICE ACCOUNT INTO ONE OR MORE SUBACCOUNTS AND PROVIDE THAT BONDS ISSUED UNDER THIS ARTICLE MAY BE SECURED BY A LIEN ON ALL OR PART OF THE MONIES PAID INTO THE DEBT SERVICE ACCOUNT OR INTO ANY SUBACCOUNT IN THE DEBT SERVICE ACCOUNT.

4. ESTABLISH PRIORITIES AMONG BONDHOLDERS BASED ON CRITERIA ADOPTED BY THE BOARD.

5. SET ASIDE, REGULATE AND DISPOSE OF RESERVES AND SINKING ACCOUNTS.

6. PRESCRIBE THE PROCEDURE, IF ANY, BY WHICH THE TERMS OF ANY CONTRACT WITH BONDHOLDERS MAY BE AMENDED OR ABROGATED, THE AMOUNT OF BONDS THE HOLDERS OF WHICH MUST CONSENT TO AND THE MANNER IN WHICH THE CONSENT MAY BE GIVEN.

7. PROVIDE FOR PAYMENT OF BOND RELATED EXPENSES FROM THE PROCEEDS OF THE SALE OF THE BONDS OR OTHER REVENUES AVAILABLE TO THE BOARD.

8. PROVIDE FOR THE SERVICES OF TRUSTEES, CO-TRUSTEES, AGENTS, CONSULTANTS AND OTHER SPECIALIZED SERVICES WITH RESPECT TO THE BONDS.

9. CONTRACT WITH A FINANCIAL INSTITUTION, INSURANCE COMPANY OR INDEMNITY COMPANY TO PROVIDE ADDITIONAL SECURITY FOR THE BONDS IN THE FORM OF A LINE OF CREDIT, LETTER OF CREDIT, INSURANCE POLICY OR OTHER SECURITY AND PAY THE COSTS OF THIS ADDITIONAL SECURITY FROM AMOUNTS PROVIDED IN THE BOND ISSUE OR FROM OTHER AVAILABLE SOURCES.

10. TAKE ANY OTHER ACTION THAT IN ANY WAY MAY AFFECT THE SECURITY AND PROTECTION OF THE BONDS OR INTEREST ON THE BONDS.

5-867. Lien of pledge

A. ANY PLEDGE MADE UNDER THIS ARTICLE IS VALID AND BINDING FROM THE TIME WHEN THE PLEDGE IS MADE.

B. THE MONIES PLEDGED TO THE HOLDERS OF THE BONDS AND RECEIVED BY THE AUTHORITY FOR PLACEMENT IN THE DEBT SERVICE ACCOUNT ARE IMMEDIATELY SUBJECT TO THE LIEN OF THE PLEDGE WITHOUT ANY FURTHER ACT. ANY LIEN OF ANY PLEDGE IS VALID AND BINDING AGAINST ALL PARTIES WHO HAVE CLAIMS OF ANY KIND AGAINST THE AUTHORITY, REGARDLESS OF WHETHER THE PARTIES HAVE NOTICE OF THE LIEN. THE OFFICIAL RESOLUTION OR ANY INSTRUMENT BY WHICH THIS PLEDGE IS CREATED, WHEN ADOPTED BY THE BOARD, IS NOTICE TO ALL CONCERNED OF THE CREATION OF THE PLEDGE, AND THOSE INSTRUMENTS NEED NOT BE RECORDED IN ANY OTHER PLACE TO PERFECT THE PLEDGE.

5-868. Bond purchase; cancellation

THE BOARD MAY PURCHASE BONDS FOR CANCELLATION, USING ANY AVAILABLE MONIES, AT A PRICE NOT EXCEEDING THE FOLLOWING:

1. IF THE BONDS ARE REDEEMABLE AT THE TIME OF PURCHASE, THE APPLICABLE REDEMPTION PRICE PLUS ACCRUED INTEREST TO THE NEXT INTEREST PAYMENT DATE.

2. IF THE BONDS ARE NOT REDEEMABLE AT THE TIME OF PURCHASE, THE APPLICABLE REDEMPTION PRICE ON THE FIRST DATE AFTER PURCHASE ON WHICH THE BONDS BECOME SUBJECT TO REDEMPTION PLUS ACCRUED INTEREST TO THAT DATE.

5-869. Payment of bonds

A. THE BONDS SHALL BE PAID SOLELY FROM MONIES IN THE DEBT SERVICE ACCOUNT.

B. NEITHER THE MEMBERS OF THE BOARD NOR ANY PERSON EXECUTING THE BONDS IS PERSONALLY LIABLE FOR THE PAYMENT OF THE BONDS.

C. THE TREASURER OR FISCAL AGENT OF THE AUTHORITY SHALL CANCEL ALL BONDS WHEN PAID.

5-870. Use of surplus monies

A. IF A BALANCE REMAINS IN THE BOND PROCEEDS SUBACCOUNT AFTER ALL ACQUISITION, CONSTRUCTION AND RELATED COSTS HAVE BEEN PAID:

1. THE BOARD SHALL CREDIT THE BALANCE TO REPAY ANY OTHER OUTSTANDING INDEBTEDNESS OF THE AUTHORITY.

2. IF THE AUTHORITY HAS NO OUTSTANDING INDEBTEDNESS, THE BOARD SHALL CREDIT THE REMAINING BALANCE TO THE AUTHORITY'S OPERATING ACCOUNT ESTABLISHED BY SECTION 5-836.

B. IF A BALANCE REMAINS IN THE DEBT SERVICE ACCOUNT AFTER PAYMENT OF ALL BONDS, INTEREST AND OTHER CHARGES RELATED TO BONDS ISSUED UNDER THIS ARTICLE, THE BOARD SHALL CREDIT THE BALANCE TO THE AUTHORITY'S OPERATING ACCOUNT ESTABLISHED BY SECTION 5-836.

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

A. THE BOARD MAY AUTHORIZE THE TREASURER OR FISCAL AGENT OF THE AUTHORITY TO INVEST MONIES IN THE BOND PROCEEDS SUBACCOUNT IN THE MANNER PRESCRIBED BY SECTION 5-873.

B. THE ORDER DIRECTING AN INVESTMENT SHALL STATE A DATE ON WHICH THE PROCEEDS FROM THE SALE OF THE BONDS WILL BE NEEDED FOR USE, AND THE TREASURER OR FISCAL AGENT SHALL MAKE THE INVESTMENT IN SUCH A WAY AS TO MATURE ON OR BEFORE THE SPECIFIED DATE.

C. ALL MONIES EARNED AS INTEREST OR OTHERWISE DERIVED FROM THE INVESTMENT OF THE MONIES IN THE BOND PROCEEDS SUBACCOUNT SHALL BE CREDITED TO THAT SUBACCOUNT.

5-872. Investment of monies in debt service account

A. THE BOARD MAY AUTHORIZE THE TREASURER OR FISCAL AGENT OF THE AUTHORITY TO INVEST AND REINVEST ANY MONIES IN THE DEBT SERVICE ACCOUNT AS PROVIDED BY SECTION 5-873.

B. THE ORDER DIRECTING AN INVESTMENT SHALL STATE A DATE ON WHICH THE MONIES AND OTHER RESOURCES IN THE DEBT SERVICE ACCOUNT WILL BE NEEDED FOR USE, AND THE TREASURER OR FISCAL AGENT SHALL MAKE THE INVESTMENT IN SUCH A WAY AS TO MATURE ON OR BEFORE THE SPECIFIED DATE.

C. ALL MONIES EARNED AS INTEREST OR OTHERWISE DERIVED FROM THE INVESTMENT OF THE MONIES IN THE DEBT SERVICE ACCOUNT SHALL BE CREDITED TO THAT ACCOUNT.

5-873. Authorized investments of monies

A. THE MONIES IN EITHER THE BOND PROCEEDS SUBACCOUNT OR THE DEBT SERVICE ACCOUNT MAY BE INVESTED AND REINVESTED AT THE DIRECTION OF THE BOARD IN ANY OF THE FOLLOWING:

1. UNITED STATES TREASURY OBLIGATIONS.
2. CONSOLIDATED FARM LOAN BONDS.
3. OBLIGATIONS ISSUED BY THE FEDERAL INTERMEDIATE CREDIT BANKS OR BY BONDS FOR COOPERATIVES ON AUTHORITY OF THE FARM CREDIT ACT OF 1933.
4. ANY OTHER OBLIGATIONS GUARANTEED BY THE UNITED STATES GOVERNMENT.
5. ANY INVESTMENTS THAT ARE AUTHORIZED BY ANY OTHER AGENCIES OF THE UNITED STATES GOVERNMENT AND THAT ARE AUTHORIZED TO SECURE PUBLIC DEPOSITS.
6. STATE AND LOCAL GOVERNMENT SERIES UNITED STATES TREASURY SECURITIES.
7. STATE, COUNTY OR MUNICIPAL BONDS ISSUED IN THIS STATE AND ON WHICH THE PAYMENTS OF INTEREST HAVE NOT BEEN DEFERRED.
8. INVESTMENT AGREEMENTS AND REPURCHASE AGREEMENTS COLLATERALIZED BY INVESTMENTS DESCRIBED IN PARAGRAPHS 1 THROUGH 5.

B. THE PURCHASE OF THE SECURITIES SHALL BE MADE BY THE TREASURER OR FISCAL AGENT ON AUTHORITY OF A RESOLUTION OF THE BOARD. THE TREASURER OR FISCAL AGENT SHALL ACT AS CUSTODIAN OF ALL SECURITIES PURCHASED.

C. THE BOARD MAY PLACE ANY RESTRICTIONS ON REINVESTMENT YIELD ON BOND PROCEEDS OR ON ANY MONIES PLEDGED TO PAY THE BONDS IF NECESSARY TO COMPLY WITH FEDERAL INCOME TAX LAWS AND REGULATIONS TO GAIN ANY FEDERAL TAX BENEFITS AVAILABLE WITH RESPECT TO THE BONDS.

5-874. Deposit and disbursement of monies

A. MONIES DERIVED FROM SELLING BONDS UNDER THIS ARTICLE OR PLEDGED OR ASSIGNED TO OR IN TRUST FOR THE BENEFIT OF THE HOLDER OR HOLDERS OF THE BONDS SHALL BE DEPOSITED BY THE TREASURER OR FISCAL AGENT IN FINANCIAL INSTITUTIONS THAT THE

BOARD DESIGNATES AND THAT ARE INSURED BY AN AGENCY OR INSTRUMENTALITY OF THE UNITED STATES. THE MONIES SHALL BE DISBURSED AS THE BOARD DIRECTS AND ACCORDING TO THE TERMS OF ANY AGREEMENTS WITH THE HOLDER OR HOLDERS OF THE BONDS.

B. THIS SECTION SHALL NOT BE CONSTRUED AS LIMITING THE POWER OF THE BOARD TO AGREE IN CONNECTION WITH THE ISSUANCE OF ANY OF ITS BONDS AS TO THE CUSTODY AND DISPOSITION OF THE MONIES RECEIVED FROM SELLING BONDS OR FROM THE INCOME AND REVENUES PLEDGED OR ASSIGNED TO OR IN TRUST FOR THE BENEFIT OF THE HOLDER OR HOLDERS OF THE BONDS.

5-875. Characteristics of bonds; negotiable; obligation; legal investments; exemption from taxation

A. BONDS ISSUED UNDER THIS ARTICLE ARE FULLY NEGOTIABLE WITHIN THE MEANING AND FOR ALL PURPOSES OF THE UNIFORM COMMERCIAL CODE, SUBJECT ONLY TO ANY PROVISIONS FOR REGISTRATION, REGARDLESS OF WHETHER THE BONDS ACTUALLY CONSTITUTE NEGOTIABLE INSTRUMENTS UNDER THE UNIFORM COMMERCIAL CODE.

B. THE BONDS, THEIR TRANSFER AND THE INCOME FROM THE BONDS ARE AT ALL TIMES FREE FROM TAXATION IN THIS STATE.

C. BONDS ISSUED UNDER THIS ARTICLE:

1. ARE OBLIGATIONS OF THE AUTHORITY. THE MEMBERS OF THE BOARD AND PERSONS WHO EXECUTE THE BONDS ARE NOT PERSONALLY LIABLE FOR PAYMENT OF THE BONDS.
2. ARE PAYABLE ONLY ACCORDING TO THEIR TERMS.
3. ARE OBLIGATIONS OF THE AUTHORITY AND ARE NOT GENERAL, SPECIAL OR OTHER OBLIGATIONS OF THIS STATE.
4. DO NOT CONSTITUTE A DEBT OF THIS STATE.
5. ARE NOT ENFORCEABLE AGAINST THIS STATE NOR IS PAYMENT OF THE BONDS ENFORCEABLE OUT OF ANY MONIES OTHER THAN THE REVENUE PLEDGED AND ASSIGNED TO, OR IN TRUST FOR THE BENEFIT OF, THE HOLDER OR HOLDERS OF THE BONDS.
6. ARE SECURITIES IN WHICH PUBLIC OFFICERS AND BODIES OF THIS STATE AND OF MUNICIPALITIES AND POLITICAL SUBDIVISIONS OF THIS STATE, ALL COMPANIES, ASSOCIATIONS AND OTHER PERSONS CARRYING ON AN INSURANCE BUSINESS, ALL FINANCIAL INSTITUTIONS,

INVESTMENT COMPANIES AND OTHER PERSONS CARRYING ON A BANKING BUSINESS, ALL FIDUCIARIES AND ALL OTHER PERSONS WHO ARE AUTHORIZED TO INVEST IN GOVERNMENT OBLIGATIONS MAY PROPERLY AND LEGALLY INVEST.

7. ARE SECURITIES THAT MAY BE DEPOSITED WITH PUBLIC OFFICERS OR BODIES OF THIS STATE AND MUNICIPALITIES AND POLITICAL SUBDIVISIONS OF THIS STATE FOR PURPOSES THAT REQUIRE THE DEPOSIT OF GOVERNMENT BONDS OR OBLIGATIONS.

5-876. Effect of changing circumstances on bonds; agreement of state

A. BONDS ISSUED UNDER THIS ARTICLE REMAIN VALID AND BINDING OBLIGATIONS OF THE AUTHORITY NOTWITHSTANDING THAT BEFORE THE DELIVERY OF THE BONDS ANY OF THE PERSONS WHOSE SIGNATURES APPEAR ON THE BONDS CEASE TO BE OFFICERS OF THE AUTHORITY.

B. AN AMENDMENT OF ANY PROVISION IN THIS CHAPTER DOES NOT DIMINISH OR IMPAIR THE VALIDITY OF BONDS ISSUED UNDER THIS ARTICLE OR THE REMEDIES AND RIGHTS OF BONDHOLDERS.

C. THIS STATE PLEDGES TO AND AGREES WITH THE HOLDERS OF THE BONDS AUTHORIZED BY THIS ARTICLE THAT THIS STATE WILL NOT LIMIT, ALTER OR IMPAIR THE RIGHTS VESTED IN THE AUTHORITY TO RECEIVE THE MONIES NECESSARY TO FULFILL THE TERMS OF ANY AGREEMENTS MADE WITH THE HOLDERS OF THE BONDS, OR IN ANY WAY IMPAIR THE RIGHTS AND REMEDIES OF THE BONDHOLDERS, UNTIL ALL BONDS ISSUED UNDER THIS ARTICLE, TOGETHER WITH INTEREST ON THE BONDS, INTEREST ON ANY UNPAID INSTALLMENTS OF PRINCIPAL OR INTEREST AND ALL COSTS AND EXPENSES IN CONNECTION WITH ANY ACTION OR PROCEEDINGS BY OR ON BEHALF OF THE BONDHOLDERS, ARE FULLY MET AND DISCHARGED. THE BOARD, AS AGENT FOR THIS STATE, MAY INCLUDE THIS PLEDGE AND UNDERTAKING IN ITS RESOLUTIONS AND INDENTURES AUTHORIZING AND SECURING ITS BONDS.

5-877. Validity of bonds; legal opinion

A. THIS ARTICLE CONSTITUTES FULL AUTHORITY FOR AUTHORIZING AND ISSUING BONDS WITHOUT REFERENCE TO ANY OTHER LAW OF THIS STATE. NO OTHER LAW WITH REGARD TO AUTHORIZING OR ISSUING OBLIGATIONS OR THAT IN ANY WAY IMPEDES OR RESTRICTS PERFORMING THE ACTS AUTHORIZED BY THIS ARTICLE MAY BE CONSTRUED TO APPLY TO ANY PROCEEDINGS TAKEN OR ACTS DONE PURSUANT TO THIS ARTICLE.

B. THE VALIDITY OF BONDS ISSUED UNDER THIS ARTICLE DOES NOT DEPEND ON AND IS NOT AFFECTED BY THE LEGALITY OF ANY PROCEEDING RELATING TO THE ACQUISITION, CONSTRUCTION, IMPROVEMENT, OPERATION OR MAINTENANCE OF A MULTIPURPOSE FACILITY FOR WHICH THE BONDS ARE ISSUED.

C. THE BOARD MAY SUBMIT ANY BONDS TO BE ISSUED UNDER THIS ARTICLE TO THE ATTORNEY GENERAL AFTER ALL PROCEEDINGS FOR AUTHORIZING THE BONDS HAVE BEEN COMPLETED. ON SUBMISSION THE ATTORNEY GENERAL SHALL EXAMINE AND PASS ON THE VALIDITY OF THE BONDS AND THE REGULARITY OF THE PROCEEDINGS. IF THE PROCEEDINGS COMPLY WITH THIS ARTICLE, AND IF THE BONDS WHEN DELIVERED AND PAID FOR WILL CONSTITUTE BINDING AND LEGAL OBLIGATIONS OF THE AUTHORITY, THE ATTORNEY GENERAL SHALL CERTIFY ON THE BACK OF EACH BOND, IN SUBSTANCE, THAT IT IS ISSUED ACCORDING TO THE CONSTITUTION AND LAWS OF THIS STATE AND THAT THE INTEREST ON THE BONDS WILL BE EXEMPT FROM STATE TAXES AS PROVIDED BY LAW.

D. THE BONDS SHALL RECITE THAT THEY ARE REGULARLY ISSUED PURSUANT TO THIS ARTICLE. THAT RECITAL, TOGETHER WITH THE LEGAL OPINION UNDER SUBSECTION C, CONSTITUTES PRIMA FACIE EVIDENCE OF THE LEGALITY AND VALIDITY OF THE BONDS. FROM AND AFTER THE SALE AND DELIVERY OF THE BONDS, THEY ARE INCONTESTABLE BY THIS STATE OR THE AUTHORITY.

Sec. 2. Section 41-2306, Arizona Revised Statutes, is amended to read:

41-2306. Tourism fund

A. The tourism fund is established consisting of:

1. Monies appropriated by the legislature for that purpose. ~~and~~
2. Revenues deposited pursuant to section 42-5029, subsection D, paragraph 4, subdivision (c).
3. REVENUES DEPOSITED PURSUANT TO SECTION 5-835, SUBSECTION B OR C, WHICH SHALL BE SEPARATELY ACCOUNTED FOR AND, IN CONSULTATION WITH A CONSORTIUM OF DESTINATION MARKETING ORGANIZATIONS IN THE COUNTY IN WHICH THE TOURISM AND SPORTS AUTHORITY IS ESTABLISHED, SPENT ONLY TO PROMOTE TOURISM WITHIN THAT COUNTY.

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

~~B. C.~~ Monies in the fund are appropriated to the office of tourism, in addition to its regular annual budget appropriation, to promote tourism in this state.

Sec. 3. Section 41-2306, Arizona Revised Statutes, as amended by section 2 of this act, is amended to read:

41-2306. Tourism fund

A. The tourism fund is established consisting of **SEPARATE ACCOUNTS DERIVED FROM:**

~~1. Monies appropriated by the legislature for that purpose.~~

~~2. Revenues deposited pursuant to section 42-5029, subsection D, paragraph 4, subdivision (e).~~

1. REVENUES DEPOSITED PURSUANT TO SECTION 42-5029, SUBSECTION D, PARAGRAPH 4, SUBDIVISION (f). THE LEGISLATURE SHALL APPROPRIATE ALL MONIES IN THIS ACCOUNT TO THE OFFICE OF TOURISM FOR THE PURPOSES OF OPERATIONS AND STATEWIDE TOURISM PROMOTION.

~~3.~~ 2. Revenues deposited pursuant to section 5-835, subsection B or C, ~~which shall be separately accounted for.~~ THE LEGISLATURE SHALL APPROPRIATE ALL MONIES IN THIS ACCOUNT TO THE OFFICE OF TOURISM **and WHICH**, in consultation with a consortium of destination marketing organizations in the county in which the tourism and sports authority is established, **SHALL BE** spent only to promote tourism within that county **AND SHALL NOT BE SPENT FOR ADMINISTRATIVE OR OVERHEAD EXPENSES.**

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

~~C. Monies in the fund are appropriated to the office of tourism, in addition to its regular annual budget appropriation, to promote tourism in this state.~~

Sec. 4. Section 42-1116, Arizona Revised Statutes, is amended to read:

42-1116. Disposition of tax revenues

A. The department shall promptly transmit to the state treasurer all monies it collects from the taxes administered pursuant to this article except the telecommunication services excise tax, separately accounting for each type of tax and each tax classification within each type of tax. At the same time the department of revenue shall also furnish copies of the transmittal schedules to the director of the department of administration.

B. **EXCEPT AS PROVIDED BY SUBSECTION C OF THIS SECTION**, the state treasurer shall deposit all monies and remittances received under this section in the state treasury to the credit of the following specific funds and accounts:

1. Amounts sufficient to meet the requirements for tax refunds to the tax refund account established in section 42-1117.
2. Amounts sufficient to meet the requirements of urban revenue sharing to the urban revenue sharing fund established in section 43-206.
3. Amounts collected pursuant to chapter 5, articles 1, 5 and 9 of this title and section 42-5352, subsection A, to the transaction privilege and severance tax clearing account established in section 42-5029.
4. Through June 30, 2000 amounts sufficient to meet the requirements of section 42-3104 to the corrections fund.
5. Amounts sufficient to meet the requirements of section 49-282, subsection B relating to the water quality assurance revolving fund.
6. All remaining monies to the state general fund.

C. **FROM THE MONIES AND REMITTANCES RECEIVED UNDER THIS SECTION, EACH MONTH BEGINNING JULY, 2001 THE STATE TREASURER SHALL TRANSMIT TO THE TOURISM AND SPORTS AUTHORITY, ESTABLISHED BY TITLE 5, CHAPTER 8, FOR DEPOSIT IN ITS FACILITY REVENUE CLEARING ACCOUNT ESTABLISHED BY SECTION 5-834, THE GREATER OF:**

1. **ONE-TWELFTH OF THE AMOUNT REPORTED BY THE DEPARTMENT PURSUANT TO SECTION 43-209.**
2. **TWO HUNDRED NINETY-TWO THOUSAND DOLLARS PER MONTH FOR THE FIRST TWELVE MONTH PERIOD, INCREASED IN EACH SUBSEQUENT TWELVE MONTH PERIOD BY AN ADDITIONAL EIGHT PER CENT OVER THE PRIOR TWELVE MONTHS' DISTRIBUTION.**

Sec. 5. Section 42-5029, Arizona Revised Statutes, is amended to read:

**42-5029. Remission and distribution of monies**

A. The department shall transmit all revenues collected under this article and articles 4, 5, 8 and 9 of this chapter to the state treasurer pursuant to section 42- 1116, separately accounting for:

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

2. Revenues collected pursuant to section 42-5070.

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

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

C. Each month the state treasurer shall distribute the monies deposited in the transaction privilege and severance tax clearing account in the manner prescribed by this section and by sections 42-5164, 42-5205, 42-5353 and 42-5409, after deducting warrants drawn against the account pursuant to sections 42-1118 and 42-1254.

D. Of the monies designated as distribution base the state treasurer shall:

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

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

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

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

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

(a) Average the following proportions:

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

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

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

(b) If the proportion computed under subdivision (a) of this paragraph for any county is greater than the proportion computed under paragraph 2 of this subsection, the state treasurer shall compute the difference between the amount distributed to that county under paragraph 2 of this subsection and the amount that would have been distributed under paragraph 2 of this subsection using the proportion computed under subdivision (a) of this paragraph and shall pay that difference to the county from the amount available for distribution under this paragraph. Any monies remaining after all payments under this subdivision shall be distributed among the counties according to the proportions computed under paragraph 2 of this subsection.

4. After any distributions required by sections 42-5030, 42-5030.01, 42-5031, ~~and~~ 42-5032 ~~AND~~ 42-5032.01, and after making any transfer to the water quality assurance revolving fund as required by section 49-282, subsection B, credit the remainder of the monies designated as distribution base to the state general fund. From this amount the legislature shall annually appropriate to:

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

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

(c) The tourism fund, ~~THROUGH JUNE 30, 2001~~, an amount equal to the sum of the following:

(i) Two million dollars.

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

(d) The Arizona arts endowment fund established by section 41-986, the full amount by which revenues derived from the amusement classification pursuant to section 42-5073 for the current fiscal year exceed the revenues that were derived from that classification in fiscal year 1993-1994, except that this amount shall not exceed two million dollars in any fiscal year. This subdivision applies for fiscal years through June 30, 2007.

(e) The shooting range relocation and assistance fund established by section 17- 273, fifty thousand dollars derived from the taxes collected from the retail classification pursuant to section 42-5061 for the current fiscal year.

(f) **THE TOURISM FUND, BEGINNING FROM AND AFTER JUNE 30, 2001 AN AMOUNT EQUAL TO THE SUM OF THE FOLLOWING:**

(i) **THREE AND ONE-HALF PER CENT OF THE GROSS REVENUES DERIVED FROM THE TRANSIENT LODGING CLASSIFICATION PURSUANT TO SECTION 42-5070 DURING THE PRECEDING FISCAL YEAR.**

(ii) **THREE PER CENT OF THE GROSS REVENUES DERIVED FROM THE AMUSEMENT CLASSIFICATION PURSUANT TO SECTION 42-5073 DURING THE PRECEDING FISCAL YEAR.**

(iii) **TWO PER CENT OF THE GROSS REVENUES DERIVED FROM THE RESTAURANT CLASSIFICATION PURSUANT TO SECTION 42-5074 DURING THE PRECEDING FISCAL YEAR.**

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

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

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

Sec. 6. Title 42, chapter 5, article 1, Arizona Revised Statutes, is amended by adding section 42-5032.01, to read:

42-5032.01. Distribution of revenues for tourism and sports authority

A. EACH MONTH THE STATE TREASURER SHALL PAY, FROM THE AMOUNT DESIGNATED AS DISTRIBUTION BASE PURSUANT TO SECTION 42-5029, SUBSECTION D, THE AMOUNT DETERMINED UNDER SUBSECTION B OF THIS SECTION TO THE TOURISM AND SPORTS AUTHORITY FOR DEPOSIT IN THE AUTHORITY'S FACILITY REVENUE CLEARING ACCOUNT ESTABLISHED BY SECTION 5-834.

B. THE AMOUNT TO BE PAID UNDER SUBSECTION A OF THIS SECTION IS THE TOTAL AMOUNT OF STATE TRANSACTION PRIVILEGE TAX REVENUES RECEIVED FROM PERSONS CONDUCTING BUSINESS UNDER:

1. THE RETAIL, AMUSEMENT AND RESTAURANT CLASSIFICATIONS AT, OR WITH RESPECT TO EVENTS HELD AT, A MULTIPURPOSE FACILITY THAT IS OWNED OR OPERATED BY THE AUTHORITY PURSUANT TO TITLE 5, CHAPTER 8.

2. THE RETAIL, AMUSEMENT AND RESTAURANT CLASSIFICATIONS AT, OR WITH RESPECT TO, PROFESSIONAL FOOTBALL CONTESTS THAT ARE HELD BEGINNING JULY, 2001 IN A STADIUM LOCATED ON THE CAMPUS OF AN INSTITUTION UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS.

C. EACH MONTH THE STATE TREASURER SHALL PAY, FROM THE AMOUNT DESIGNATED AS DISTRIBUTION BASE PURSUANT TO SECTION 42-5029, SUBSECTION D, THE TOTAL AMOUNT OF STATE TRANSACTION PRIVILEGE TAX REVENUES RECEIVED FROM PERSONS CONDUCTING BUSINESS UNDER THE PRIME CONTRACTING CLASSIFICATION AT A MULTIPURPOSE

FACILITY THAT IS OWNED OR OPERATED BY THE TOURISM AND SPORTS AUTHORITY PURSUANT TO TITLE 5, CHAPTER 8 FOR DEPOSIT IN THE AUTHORITY'S CONSTRUCTION ACCOUNT ESTABLISHED BY SECTION 5-833.

D. THE DEPARTMENT SHALL REPORT THE AMOUNTS UNDER SUBSECTIONS B AND C OF THIS SECTION TO THE STATE TREASURER ON OR BEFORE THE FIFTEENTH DAY OF EACH MONTH FOR PAYMENT IN THE FOLLOWING MONTH.

Sec. 7. Section 42-5061, Arizona Revised Statutes, is amended to read:

42-5061. Retail classification; definitions

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

1. Professional or personal service occupations or businesses which involve sales or transfers of tangible personal property only as inconsequential elements.
2. Services rendered in addition to selling tangible personal property at retail.
3. Sales of warranty or service contracts. The storage, use or consumption of tangible personal property provided under the conditions of such contracts is subject to tax under section 42-5156.
4. Sales of tangible personal property by any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.
5. Sales to persons engaged in business classified under the restaurant classification of articles used by human beings for food, drink or condiment, whether simple, mixed or compounded.
6. Business activity which is properly included in any other business classification which is taxable under article 1 of this chapter.
7. The sale of stocks and bonds.
8. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.
9. Prosthetic appliances as defined in section 23-501 prescribed or recommended by a health professional licensed pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.

10. Insulin, insulin syringes and glucose test strips.
11. Prescription eyeglasses or contact lenses.
12. Hearing aids as defined in section 36-1901.
13. Durable medical equipment which has a federal health care financing administration common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.
14. Sales to nonresidents of this state for use outside this state if the vendor ships or delivers the tangible personal property out of this state.
15. Food, as provided in and subject to the conditions of article 3 of this chapter and section 42-5074.
16. Items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786).
17. Textbooks by any bookstore that are required by any state university or community college.
18. Food and drink to a person who is engaged in business which is classified under the restaurant classification and which provides such food and drink without monetary charge to its employees for their own consumption on the premises during the employees' hours of employment.
19. Articles of food, drink or condiment and accessory tangible personal property to a school district if such articles and accessory tangible personal property are to be prepared and served to persons for consumption on the premises of a public school within the district during school hours.
20. Lottery tickets or shares pursuant to title 5, chapter 5, article 1.
21. The sale of precious metal bullion and monetized bullion to the ultimate consumer, but the sale of coins or other forms of money for manufacture into jewelry or works of art is subject to the tax. In this paragraph:
  - (a) "Monetized bullion" means coins and other forms of money which are manufactured from gold, silver or other metals and which have been or are used as a medium of exchange in this or another state, the United States or a foreign nation.

(b) "Precious metal bullion" means precious metal, including gold, silver, platinum, rhodium and palladium, which has been smelted or refined so that its value depends on its contents and not on its form.

22. Motor vehicle fuel and use fuel which are subject to a tax imposed under title 28, chapter 16, article 1 or 2, sales of use fuel to a holder of a valid single trip use fuel tax permit issued under section 28-5739, sales of aviation fuel which are subject to the tax imposed under section 28-8344 and sales of jet fuel which are subject to the tax imposed under article 8 of this chapter.

23. Tangible personal property sold to a person engaged in the business of leasing or renting such property under the personal property rental classification if such property is to be leased or rented by such person.

24. Tangible personal property sold in interstate or foreign commerce if prohibited from being so taxed by the Constitution of the United States or the constitution of this state.

25. Tangible personal property sold to:

(a) A qualifying hospital as defined in section 42-5001.

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

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

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

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

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

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

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

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

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

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

28. The sale of a motor vehicle to:

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

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

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

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

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

32. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily

farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

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

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

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

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

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

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

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

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

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

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

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

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

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

44. Livestock and poultry feed, salts, vitamins and other additives for livestock or poultry consumption that are sold to persons who are engaged in producing livestock, poultry, or livestock or poultry products or who are engaged in feeding livestock or poultry commercially. For purposes of this paragraph, "poultry" includes ratites.

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

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

47. Tangible personal property sold to a person engaged in business and subject to tax under the transient lodging classification if the tangible personal property is a personal hygiene item which is furnished to and intended to be consumed by the transient during the transient's occupancy.

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

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

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

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

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

51. Sales of new alternative fuel vehicles, as defined in section 43-1086, and equipment that is installed in a conventional motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 43-1086.

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

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

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

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

2. Mining machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted

material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

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

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

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

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

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

(a) A person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services. For purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

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

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or

manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

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

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

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

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

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

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

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

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

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

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

2. Janitorial equipment and hand tools.
3. Office equipment, furniture and supplies.
4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 16 of this section.
5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 11 of this section, without regard to the use of such motor vehicles.
6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.
7. Motors and pumps used in drip irrigation systems.

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

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

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

G. In computing the tax base, gross proceeds of sales or gross income from the sale of use fuel, as defined in section 28-5701, does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4091.

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

I. If a person is engaged in the business of selling tangible personal property at both wholesale and retail, the tax under this section applies only to the gross proceeds of the sales made other than at wholesale if the person's books are kept so as to show separately

the gross proceeds of sales of each class, and if the books are not so kept, the tax under this section applies to the gross proceeds of every sale so made.

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

1. Transporting classification.
2. Utility classification.
3. Telecommunications classification.
4. Pipeline classification.
5. Private car line classification.
6. Publication classification.
7. Job printing classification.
8. Prime contracting classification.
9. Owner builder sales classification.
10. Restaurant classification.

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

1. Sales made directly to the United States government or its departments or agencies by a manufacturer, modifier, assembler or repairer.
2. Sales made directly to a manufacturer, modifier, assembler or repairer if such sales are of any ingredient or component part of products sold directly to the United States government or its departments or agencies by the manufacturer, modifier, assembler or repairer.
3. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract.

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

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

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

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

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

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

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

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

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

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

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

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

U. FOR PURPOSES OF SECTION 42-5032.01, THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES COLLECTED UNDER THE RETAIL CLASSIFICATION FROM BUSINESSES SELLING TANGIBLE PERSONAL PROPERTY AT RETAIL:

1. ON THE PREMISES OF A MULTIPURPOSE FACILITY THAT IS OWNED, LEASED OR OPERATED BY THE TOURISM AND SPORTS AUTHORITY PURSUANT TO TITLE 5, CHAPTER 8.

2. AT PROFESSIONAL FOOTBALL CONTESTS THAT ARE HELD IN A STADIUM LOCATED ON THE CAMPUS OF AN INSTITUTION UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS.

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

1. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

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

Sec. 8. Section 42-5070, Arizona Revised Statutes, is amended to read:

**42-5070. Transient lodging classification**

A. The transient lodging classification is comprised of the business of operating, for occupancy by transients, a hotel or motel, including an inn, tourist home or house, dude ranch, resort, campground, studio or bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location or other similar structure, and also including a space, lot or slab which is occupied or intended or designed for occupancy by transients in a mobile home or house trailer furnished by them for such occupancy. For purposes of this subsection "transient" means any person who either at the person's own expense or at the expense of another obtains lodging space or the use of lodging space on a daily or weekly basis, or on any other basis for less than thirty consecutive days.

B. The transient lodging classification does not include:

1. Operating a convalescent home or facility, home for the aged, hospital, jail, military installation or fraternity or sorority house or operating any structure exclusively by an association, institution, governmental agency or corporation for religious, charitable or educational purposes, if no part of the net earnings of the association, corporation or other entity inures to the benefit of any private shareholder or individual.

2. A lease or rental of a mobile home or house trailer at a fixed location or any other similar structure, and also including a space, lot or slab which is occupied or intended or designed for occupancy by transients in a mobile home or house trailer furnished by them for such occupancy for thirty or more consecutive days.

3. Leasing or renting four or fewer rooms of an owner-occupied residential home, together with furnishing no more than a breakfast meal, to transient lodgers at no more than a fifty per cent average annual occupancy rate.

C. The tax base for the transient lodging classification is the gross proceeds of sales or gross income derived from the business, except that the tax base does not include:

1. Any amount attributable to the recreational vehicle spaces surcharge under section 48-4235.

2. Gross proceeds of sales or gross income derived from business activity that is properly included in another business classification under this article and that is taxable to the person engaged in that business classification, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

D. The department shall separately account for revenues collected under the transient lodging classification for purposes of section 42-5029, subsection D, paragraph 4, ~~subdivision~~ **SUBDIVISIONS** (c) **AND** (f).

Sec. 9. Section 42-5073, Arizona Revised Statutes, is amended to read:

42-5073. Amusement classification

A. The amusement classification is comprised of the business of operating or conducting theaters, movies, operas, shows of any type or nature, exhibitions, concerts, carnivals, circuses, amusement parks, menageries, fairs, races, contests, games, billiard or pool parlors, bowling alleys, public dances, dance halls, boxing and wrestling matches, skating rinks, tennis courts, except as provided in subsection B of this section, video games, pinball machines, sports events or any other business charging admission or user fees for exhibition, amusement or entertainment, **INCLUDING THE OPERATION OR SPONSORSHIP OF EVENTS BY A TOURISM AND SPORTS AUTHORITY UNDER TITLE 5, CHAPTER 8**. For purposes of this section, admission or user fees include, but are not limited to, any revenues derived from any form of contractual agreement for rights to or use of premium or special seating facilities or arrangements. The amusement classification does not include:

1. Activities or projects of bona fide religious or educational institutions.
2. Private or group instructional activities. For purposes of this paragraph, "private or group instructional activities" includes, but is not limited to, performing arts, martial arts, gymnastics and aerobic instruction.
3. The operation or sponsorship of events by the Arizona exposition and state fair board or county fair commissions.
4. A musical, dramatic or dance group or a botanical garden, museum or zoo that is qualified as a nonprofit charitable organization under section 501(c)(3) of the United States internal revenue code and if no part of its net income inures to the benefit of any private shareholder or individual.
5. Exhibition events in this state sponsored, conducted or operated by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with major league baseball teams or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.
6. Operating or sponsoring rodeos that feature primarily farm and ranch animals in this state and that are sponsored, conducted or operated by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.
7. Sales of admissions ~~to the 1996 national football league super bowl, and~~ to intercollegiate football contests if the contests are **BOTH**:

(a) Operated by a nonprofit organization that is exempt from taxation under section 501(c)(3) of the internal revenue code and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

(b) **NOT HELD IN A MULTIPURPOSE FACILITY THAT IS OWNED OR OPERATED BY THE TOURISM AND SPORTS AUTHORITY PURSUANT TO TITLE 5, CHAPTER 8.**

8. Activities and events of, or fees and assessments received by, a homeowners organization from persons who are members of the organization or accompanied guests of members. For purposes of this paragraph, "homeowners organization" means a mandatory membership organization comprised of owners of residential property within a specified residential real estate subdivision development or similar area and established to own property for the benefit of its members where both of the following apply:

(a) No part of the organization's net earnings inures to the benefit of any private shareholder or individual.

(b) The primary purpose of the organization is to provide for the acquisition, construction, management, maintenance or care of organization property.

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

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

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

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

provide for the right to use a transient lodging recreational establishment or any portion of the establishment for participatory purposes for twenty- eight days or more.

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

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

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

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

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

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

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

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

C. For purposes of subsection B of this section:

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

2. "Private recreational establishment" means a facility whose primary purpose is to provide recreational facilities, such as tennis, golf and swimming, for its members and where at least eighty per cent of the monthly gross revenue of the facility is received

through accounts of memberships and accompanied guest use fees which provide for the right to use the facility, or any portion of the facility, for participatory purposes for twenty-eight days or more.

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

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

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

**F. THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES COLLECTED UNDER THE AMUSEMENT CLASSIFICATION FOR PURPOSES OF SECTION 42-5029, SUBSECTION D, PARAGRAPH 4, SUBDIVISION (f).**

**G. FOR PURPOSES OF SECTION 42-5032.01, THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES COLLECTED UNDER THE AMUSEMENT CLASSIFICATION FROM SALES OF ADMISSIONS TO:**

**1. EVENTS THAT ARE HELD IN A MULTIPURPOSE FACILITY THAT IS OWNED OR OPERATED BY THE TOURISM AND SPORTS AUTHORITY PURSUANT TO TITLE 5, CHAPTER 8, INCLUDING INTERCOLLEGIATE FOOTBALL CONTESTS THAT ARE OPERATED BY A NONPROFIT ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE.**

**2. PROFESSIONAL FOOTBALL CONTESTS THAT ARE HELD IN A STADIUM LOCATED ON THE CAMPUS OF AN INSTITUTION UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS.**

Sec. 10. Section 42-5074, Arizona Revised Statutes, is amended to read:

42-5074. Restaurant classification

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

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

1. Sales to a person engaged in business classified under the restaurant classification if the items sold are to be resold in the regular course of the business.
2. Sales by a congressionally chartered veterans organization of food or drink prepared for consumption on the premises leased, owned or maintained by the organization.
3. Sales by churches, fraternal benefit societies and other nonprofit organizations, as these organizations are defined in the federal internal revenue code (26 United States Code section 501), which do not regularly engage or continue in the restaurant business for the purpose of fund-raising.
4. Sales by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.
5. Sales at a rodeo featuring primarily farm and ranch animals in this state by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.
6. Sales by any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the department and the United States internal revenue service as such an organization.
7. Sales to qualifying hospitals as defined in section 42-5001.
8. Sales to a qualifying health care organization as defined in section 42-5001 if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

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

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

**D. THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES COLLECTED UNDER THE RESTAURANT CLASSIFICATION FOR PURPOSES OF SECTION 42-5029, SUBSECTION D, PARAGRAPH 4, SUBDIVISION (f).**

**E. FOR PURPOSES OF SECTION 42-5032.01, THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES COLLECTED UNDER THE RESTAURANT CLASSIFICATION FROM BUSINESSES OPERATING RESTAURANTS, DINING ROOMS, LUNCHROOMS, LUNCH STANDS, SODA FOUNTAINS, CATERING SERVICES OR SIMILAR ESTABLISHMENTS:**

**1. ON THE PREMISES OF A MULTIPURPOSE FACILITY THAT IS OWNED OR OPERATED BY THE TOURISM AND SPORTS AUTHORITY PURSUANT TO TITLE 5, CHAPTER 8 FOR CONSUMPTION ON OR OFF THE PREMISES.**

**2. AT PROFESSIONAL FOOTBALL CONTESTS THAT ARE HELD IN A STADIUM LOCATED ON THE CAMPUS OF AN INSTITUTION UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS.**

Sec. 11. Section 42-5075, Arizona Revised Statutes, is amended to read:

**42-5075. Prime contracting classification; exemptions; definitions**

A. The prime contracting classification is comprised of the business of prime contracting and dealership of manufactured buildings. The sale of a used manufactured building is not taxable under this chapter.

B. The tax base for the prime contracting classification is sixty-five per cent of the gross proceeds of sales or gross income derived from the business. The following amounts shall be deducted from the gross proceeds of sales or gross income before computing the tax base:

1. The sales price of land, which shall not exceed the fair market value.

2. Sales and installation of groundwater measuring devices required under section 45-604 and groundwater monitoring wells required by law, including monitoring wells installed for acquiring information for a permit required by law.

3. The sales price of furniture, furnishings, fixtures, appliances, and attachments that are not incorporated as component parts of or attached to a manufactured building or the setup site. The sale of such items may be subject to the taxes imposed by article 1 of this chapter separately and distinctly from the sale of the manufactured building.

4. The gross proceeds of sales or gross income received from a contract entered into for the construction, alteration, repair, addition, subtraction, improvement, movement, wrecking or demolition of any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement located in a military reuse zone for providing aviation or aerospace services or for a manufacturer, assembler or fabricator of aviation or aerospace products within five years after the zone is initially established under section 41-1531. To qualify for this deduction, before beginning work under the contract the prime contractor must obtain a letter of qualification from the department of revenue.

5. The gross proceeds of sales or gross income derived from a contract to construct a qualified environmental technology manufacturing, producing or processing facility, as described in section 41-1514.02, and from subsequent construction and installation contracts that begin within ten years after the start of initial construction. To qualify for this deduction, before beginning work under the contract the prime contractor must obtain a letter of qualification from the department of revenue. This paragraph shall apply for ten full consecutive calendar or fiscal years after the start of initial construction.

6. The gross proceeds of sales or gross income from a contract to provide for one or more of the following actions, or a contract for site preparation, constructing, furnishing or installing machinery, equipment or other tangible personal property, including structures necessary to protect exempt incorporated materials or installed machinery or equipment, and tangible personal property incorporated into the project, to perform one or more of the following actions in response to a release or suspected release of a hazardous substance, pollutant or contaminant from a facility to the environment, unless the release was authorized by a permit issued by a governmental authority:

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

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

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

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

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

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

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

(a) To be incorporated into real property.

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

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

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

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

(b) All state and local transaction privilege tax returns for the period of time during which the prime contractor received gross proceeds of sales or gross income from the sale of the property, showing the amount exempted from state and local taxation.

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

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

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

(b) Section 42-5061, subsection B.

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

(d) Section 42-5159, subsection B.

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

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

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

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

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

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

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

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

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

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

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

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

E. Amounts received by a contractor for a project are excluded from the contractor's gross proceeds of sales or gross income derived from the business if the person who hired the contractor executes and provides a certificate to the contractor stating that the person

providing the certificate is a prime contractor and is liable for the tax under article 1 of this chapter. The department shall prescribe the form of the certificate. If the contractor has reason to believe that the information contained on the certificate is erroneous or incomplete, the department may disregard the certificate. If the person who provides the certificate is not liable for the tax as a prime contractor, that person is nevertheless deemed to be the prime contractor in lieu of the contractor and is subject to the tax under this section on the gross receipts or gross proceeds received by the contractor.

F. Every person engaging or continuing in this state in the business of prime contracting or dealership of manufactured buildings shall present to the purchaser of such prime contracting or manufactured building a written receipt of the gross income or gross proceeds of sales from such activity and 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.

~~G.~~ H. 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. 12. Title 43, chapter 2, article 1, Arizona Revised Statutes, is amended by adding section 43-209, to read:

43-209. Collection of tax on income of professional athletes earned in this state; separate accounting for tax revenue from professional football; definition

A. THE DEPARTMENT SHALL ADOPT AND ENFORCE RULES FOR THE COLLECTION OF TAX UNDER THIS TITLE ON THE INCOME EARNED FOR SERVICES RENDERED IN THIS STATE BY PROFESSIONAL ATHLETES AND EMPLOYEES OF PROFESSIONAL SPORT FRANCHISE ORGANIZATIONS.

B. ON OR BEFORE DECEMBER 31 OF EACH YEAR EACH PROFESSIONAL FOOTBALL FRANCHISE ORGANIZATION THAT IS DOMICILED IN THIS STATE SHALL PROVIDE TO THE DEPARTMENT THE FEDERAL TAXPAYER IDENTIFICATION NUMBER, ASSIGNED PURSUANT TO SECTION 6109 OF THE INTERNAL REVENUE CODE, FOR EACH RESIDENT AND NONRESIDENT EMPLOYEE OF THE ORGANIZATION WHO RENDERED SERVICES IN THIS STATE FOR THE ORGANIZATION DURING THE CALENDAR YEAR. UNLESS DUE TO REASONABLE CAUSE AND NOT DUE TO WILFUL NEGLIGENCE, A PROFESSIONAL FOOTBALL FRANCHISE ORGANIZATION THAT FAILS TO PROVIDE TAXPAYER IDENTIFICATION NUMBERS PURSUANT TO THIS SUBSECTION SHALL PAY A CIVIL PENALTY OF FIVE DOLLARS FOR EACH SUCH NUMBER.

C. FOR PURPOSES OF SECTION 42-1116, SUBSECTION C, ON OR BEFORE MARCH 31 OF EACH YEAR THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR AND REPORT TO THE STATE TREASURER AS A SINGLE AGGREGATE AMOUNT THE TOTAL NET REVENUES COLLECTED DURING THE PRECEDING CALENDAR YEAR FROM THE IMPOSITION OF TAX UNDER THIS TITLE ON THE INCOME FROM ALL SOURCES OF:

1. ANY PROFESSIONAL FOOTBALL FRANCHISE ORGANIZATION THAT IS DOMICILED IN THIS STATE.

2. RESIDENT AND NONRESIDENT EMPLOYEES OF ANY PROFESSIONAL FOOTBALL FRANCHISE ORGANIZATION THAT IS DOMICILED IN THIS STATE. FOR REPORTING PURPOSES UNDER THIS SUBSECTION, THE DEPARTMENT SHALL INCLUDE ALL INCOME REPORTED ON JOINT RETURNS, REGARDLESS OF THE SPOUSE TO WHOM IT IS ATTRIBUTABLE, AND THE INCOME OF AN EMPLOYEE'S SPOUSE THAT IS REPORTED ON A SEPARATE RETURN.

D. FOR PURPOSES OF THIS SECTION, "PROFESSIONAL FOOTBALL FRANCHISE ORGANIZATION" MEANS AN ORGANIZATION THAT HAS THE RIGHT TO FIELD A TEAM FOR PARTICIPATION IN PROFESSIONAL FOOTBALL CONTESTS SCHEDULED BY A NATIONWIDE LEAGUE DURING A REGULAR SEASON HELD IN THE MONTHS OF SEPTEMBER THROUGH DECEMBER EACH YEAR.

Sec. 13. Section 48-4234, Arizona Revised Statutes, is amended to read:

48-4234. Car rental surcharge for major league spring training; rate; administration; credit; definition

A. If the board of directors determines that it is necessary in order to retain, attract or relocate a major league baseball spring training operation, the board may levy and, if levied, the department of revenue shall collect a car rental surcharge pursuant to subsection B of this section in addition to or in lieu of other revenues collected pursuant to this article to be used and expended for the purposes set forth in section 48-4204, subsection A. The surcharge is effective and shall be collected beginning January 1 or July 1, whichever date first occurs at least three months after the board approves the surcharge.

B. The board shall set the car rental surcharge as follows:

1. Except as provided in paragraph 2, at a rate not to exceed two dollars fifty cents on each lease or rental of a motor vehicle licensed for hire for less than one year and designed to carry fewer than fifteen passengers regardless of whether such vehicle is licensed in this state.

2. In a county with a population of more than five hundred thousand but less than two million persons, according to the most recent United States decennial census, the board shall set the surcharge at a rate not to exceed three dollars fifty cents on each lease or rental of a motor vehicle licensed for hire for less than one year and designed to carry fewer than fifteen passengers regardless of whether the vehicle is licensed in this state.

C. The surcharge is not taxable under section 42-5071.

D. THE SURCHARGE DOES NOT APPLY TO THE LEASE OR RENTAL OF A MOTOR VEHICLE TO AN AUTOMOBILE DEALERSHIP, A REPAIR FACILITY, AN INSURANCE COMPANY OR ANY OTHER PERSON THAT PROVIDES THAT VEHICLE AT NO CHARGE TO A PERSON WHOSE OWN MOTOR VEHICLE IS BEING REPAIRED, ADJUSTED OR SERVICED.

E. THE SURCHARGE APPLIES THROUGHOUT THE DISTRICT, BUT IF A BUSINESS DEMONSTRATES THAT IT IS SUBJECT TO A SURCHARGE IMPOSED BY THE VOTERS UNDER SECTION 5-839, THE BUSINESS IS ENTITLED TO A CREDIT AGAINST THE SURCHARGE IMPOSED PURSUANT TO THIS SECTION EQUAL TO THE AMOUNT OF THE SURCHARGE PAID PURSUANT TO SECTION 5-839, EXCEPT THAT THE CREDIT SHALL NOT EXCEED THE AMOUNT OF THE SURCHARGE IMPOSED PURSUANT TO THIS SECTION.

~~D.~~ F. Unless the context otherwise requires, section 42-6102 governs the administration of a surcharge imposed under this section which shall be reported on a form prescribed by the department of revenue.

~~E.~~ G. Each month the state treasurer shall remit to the district treasurer the net revenues collected under this section during the preceding month. The district treasurer shall deposit the monies in the county stadium district fund.

~~F.~~ H. The board of directors may pledge all or part of the surcharge levied under this section to secure district bonds or financial obligations under this chapter. The surcharge shall not be terminated until all bonds, obligations and associated payments that are secured by the surcharge are fully met and discharged.

~~G.~~ I. For the purposes of this section, "motor vehicle" means a self-propelled vehicle that is operated on the streets and highways of this state, that is primarily intended to carry passengers and that is licensed for hire in the district without a driver.

Sec. 14. Initial members and initial meeting of tourism and sports authority board of directors

A. On the effective date of this act, the governor, president of the senate and speaker of the house of representatives shall appoint the initial members of the tourism and sports authority board of directors pursuant to section 5-803, subsection A, Arizona Revised Statutes, as added by this act. Section 38-211, Arizona Revised Statutes, applies to initial members appointed by the governor.

B. The members of the initial board of directors shall meet within three days after the effective date of this act. Notwithstanding section 5-803, subsection B, Arizona Revised Statutes, as added by this act, the initial members shall assign themselves by lot to terms of three, four and five years in office. The chairman who is appointed at the first meeting shall notify the governor, the president of the senate and speaker of the house of

representatives of these initial terms. On the expiration of their initial terms of office, members of the initial board may be reappointed for one full subsequent term.

Sec. 15. Prerequisites for election

Before the election pursuant to section 16 of this act, the tourism and sports authority, established by title 5, chapter 8, Arizona Revised Statutes, as added by this act, shall:

1. Enter into a binding agreement with any party that will be a regular user of the multipurpose facility and an initial lease term that begins when the facility is complete and ends not sooner than the surcharge and tax established by sections 5-839 and 5-840, Arizona Revised Statutes, expire and that will be making a contribution to the cost of designing and constructing the facility. Any such agreement with a professional football franchise shall be consistent with industry standards and, in exchange for the right to all football uses of the facility other than a major college bowl game, require the franchise to provide eighty-five million dollars toward the construction and development costs of the multipurpose facility. As a condition to entering into the agreement, each party that will be a regular user of the multipurpose facility shall pay to the authority a fee for deposit in its facility revenue clearing account established by section 5-834, Arizona Revised Statutes, as added by this act. If the election pursuant to section 16 of this act is successful, the user is entitled to credit against its capital contribution requirements for the amount of the fee. The amount of the fee is:

(a) Two hundred thousand dollars for any professional football franchise.

(b) Twenty-five thousand dollars for a tax-exempt nonprofit organization that sponsors intercollegiate football bowl contests.

2. Select one or more sites for the multipurpose facility. In selecting the location for the multipurpose facility, the authority shall give special consideration to sites that are offered without cost in determining the best financial circumstances to be considered with all other factors in selecting the site or sites.

3. Enter into one or more agreements with a county or city or cities in which the potential site or sites are located. The agreement:

(a) Shall address how the county or city will provide land, parking and infrastructure needed for the facility.

(b) May require that if an ordinance of the county or city requires a public vote for the county or city to participate in or fund the facility, then the county or city election shall be held on the same date as the election to be held under section 16 of this act, and that if the county or city election is defeated on that date but the election held under section 16 is approved, the county or city may resubmit the issue to the qualified electors of the county or city at the next regular county or city election.

4. Select a conceptual design for the multipurpose facility.
5. Establish a schedule for the design and construction of the multipurpose facility.
6. Establish a budget for:
  - (a) The construction of the multipurpose facility.
  - (b) The operation, maintenance, marketing and promotion of the multipurpose facility.

Sec. 16. Election to authorize car rental surcharge and tax on hotels in tourism and sports authority

A. The tourism and sports authority and the county in which the authority is established pursuant to this act shall enter into an intergovernmental agreement pursuant to title 11, chapter 7, article 3, Arizona Revised Statutes, to conduct an election in the authority on the date of the next county general election. The election shall be called not later than August 1, 2000. The issue shall be included in the regular county general election, and that portion of the ballot shall contain the single issue of approving the levy of both:

1. A car rental surcharge in the authority as provided by section 5-839, Arizona Revised Statutes, as added by this act.
2. A tax on hotels in the authority as provided by section 5-840, Arizona Revised Statutes, as added by this act.

B. If a majority of the qualified electors in the authority who vote on the issue approves the measure, the surcharge and tax shall be levied as provided by law.

C. The authority and the county shall enter into an intergovernmental agreement pursuant to title 11, chapter 7, article 3, Arizona Revised Statutes, for the preparation and printing of a publicity pamphlet concerning the ballot question and the distribution of one copy of the pamphlet at the same time as provided by section 19-123, Arizona Revised Statutes. The pamphlets shall contain the following information:

1. The purposes for which the revenues may be spent and the proposed distribution of revenues over the course of the levy.
2. The number of years the levies will be in effect and an estimate of the annual amount of revenues to be raised.
3. The costs of the multipurpose facility including a statement that the county or city in which the multipurpose facility is located shall provide the land, infrastructure and parking facilities associated with the multipurpose facility.

4. A breakdown of the public monies to be expended on the multipurpose facility, and the sources of these monies, and the private monies to be expended, and the sources of these monies.

5. An estimate of the public economic benefits derived from the multipurpose facility, major league baseball spring training facilities, amateur sports recreational facilities and tourism promotion funded by the revenues.

6. The form in which the measure will appear on the ballot, the official title, the descriptive title containing the summary as provided in subsection E of this section and the number by which the measure will be designated.

7. Any arguments for and against the ballot measure. Affirmative arguments, arranged in the order in which the elections director received them, shall be placed before the negative arguments, also arranged in the order in which they were received.

D. At least seventy-five days before the election a person may file with the elections director an argument, not more than three hundred words in length, advocating or opposing the ballot measure. The person who files the argument shall also pay to the elections director a publication fee, not to exceed twenty dollars, prescribed by the county board of supervisors. If the argument is sponsored by one or more individuals, the argument shall be signed by each sponsoring individual. If the argument is sponsored by one or more organizations, the argument shall be signed by two executive officers of each organization. If the argument is sponsored by one or more political committees, the argument shall be signed by each committee's chairman or treasurer. Payment of the fee required by this subsection, or reimbursement of the payor, constitutes sponsorship of the argument. The names of persons who have signed arguments and the names of sponsoring organizations shall appear with the argument in the pamphlet. The person or persons signing the argument shall also give their residence or post office address and a telephone number, which shall not appear in the pamphlet.

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

1. The official title and number of the measure to be voted on at the election.

2. A descriptive title, not exceeding fifty words, containing a summary of the principal provisions of the measure and the purposes for which the revenues may be spent.

3. The phrases:

A "yes" vote has the effect of funding a multipurpose sport and event facility, youth and amateur sports recreational facilities, tourism promotion and Cactus League facilities by imposing a new local surcharge on car rentals and a new local tax on hotels, in addition to other existing taxes throughout the county for a period of thirty years. Over the thirty year

time period the money raised by the imposition of these new taxes is projected to be expended as follows: twenty-seven per cent for debt service for the multipurpose facility, twenty-nine per cent for enhanced tourism promotion, thirty-one per cent for Cactus League major league baseball facilities, five per cent for amateur and youth sport facilities and three per cent for stadium operations and five per cent for capital repairs and replacement.

A "no" vote has the effect of rejecting a local surcharge on car rentals and a local tax on hotels and removing the authority to fund a multipurpose sport and event facility, youth and amateur sports recreational facilities, tourism and Cactus League facilities with these public funds.

Sec. 17. Retention of tax revenues pending funding of students FIRST deficiencies corrections fund

Notwithstanding sections 5-839 and 5-840, Arizona Revised Statutes, as added by this act:

1. The state treasurer shall retain revenues from the car rental surcharge and tax on hotels that are payable to:

(a) The debt service account pursuant to section 5-835, subsection B, paragraph 1, Arizona Revised Statutes, as added by this act.

(b) The tourism fund pursuant to section 5-835, subsection B, paragraph 2, Arizona Revised Statutes, as added by this act.

(c) The operating account pursuant to section 5-835, subsection B, paragraph 4, Arizona Revised Statutes, as added by this act.

2. The state treasurer shall not transfer those monies to the stadium and tourism authority established by title 5, chapter 8, Arizona Revised Statutes, as added by this act, until the school facilities board, in consultation with the governor's office of strategic planning and budgeting, and after review by the joint legislative budget committee, certifies that sufficient monies are dedicated to the deficiencies corrections fund to make the school improvements required pursuant to section 15-2021, Arizona Revised Statutes.

Sec. 18. Delayed effective date

Section 41-2306, Arizona Revised Statutes, as amended by section 3 of this act, is effective from and after June 30, 2001.

Sec. 19. Conditional repeal

If a majority of the qualified electors voting on the issue in the election held pursuant to section 16 of this act rejects the levy of a surcharge on car rentals and a tax on hotels:

1. Sections 1 through 15 and 18 of this act are repealed from and after November 30, 2000.
2. Any unexpended and unencumbered monies held as of November 30, 2000 in any funds or accounts of the tourism and sports authority established by this act revert to the state general fund.