Senate Engrossed House Bill

**FILED**

**JANICE K. BREWER**
**SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 225

# HOUSE BILL 2322

AN ACT

AMENDING SECTION 41-1517, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1517.01; AMENDING SECTION 42-2003, ARIZONA REVISED STATUTES; AMENDING SECTION 43-222, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 7, SECTION 1; AMENDING SECTIONS 43-1021 AND 43-1075, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1075.01; AMENDING SECTIONS 43-1121 AND 43-1163, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1163.01; RELATING TO MOTION PICTURE PRODUCTION TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 41-1517, Arizona Revised Statutes, is amended to read:

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

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

1. EXCEPT AS PROVIDED IN SUBSECTION K OF THIS SECTION, a motion picture production company must ~~incur production costs in this state of at least two hundred fifty thousand dollars in producing one or more motion pictures during each twelve month period for which it is qualified for the tax incentives~~ SPEND AT LEAST TWO HUNDRED FIFTY THOUSAND DOLLARS TOWARD PRODUCTION COSTS IN THIS STATE PRODUCING EACH MOTION PICTURE.

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

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

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

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

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

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

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

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

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

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

(j) EXPENSES INCURRED BEFORE THE DATE OF NOTICE OF PREAPPROVAL UNDER SUBSECTION D OF THIS SECTION DO NOT QUALIFY AS PRODUCTION COSTS.

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

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

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

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

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

5. A motion picture production company must include in the credits for each motion picture, other than a commercial advertisement OR MUSIC VIDEO, an acknowledgement that the production was filmed in ~~this state~~ ARIZONA.

B. ONLY A MOTION PICTURE PRODUCTION COMPANY THAT DEMONSTRATES THAT IT HAS THE LAWFUL RIGHT TO PRODUCE A PARTICULAR PRODUCTION MAY APPLY FOR QUALIFICATION UNDER THIS SECTION WITH RESPECT TO THAT PRODUCTION.

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

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

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

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

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

5. The estimated total budget of the production.

6. The estimated total expenditures in this state.

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

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

9. A script, including a synopsis, the proposed director and a preliminary list of the cast and producer, EXCEPT THAT, WITH RESPECT TO A TELEVISION SERIES, OTHER THAN A PILOT PRODUCTION, IN LIEU OF A SCRIPT THE APPLICANT MUST INCLUDE:

(a) A SYNOPSIS OF THE GENERAL NATURE OF THE SERIES.

(b) A DESCRIPTION OF THE CHARACTERS AND THE INTENDED NATURE OF THEIR INTERACTION WITH EACH OTHER.

(c) A DESCRIPTION OF THE LOCATIONS.

(d) A DESCRIPTION OF THE SETS.

(e) THE INTENDED DISTRIBUTION OR BROADCAST MEDIUM WITH SPECIFIC TELEVISION CHANNELS, IF KNOWN.

10. ~~A signed affirmation from the applicant~~ AN AFFIRMATION SIGNED BY ANY PERSON WHO WILL BE CREDITED ON SCREEN AS THE PRODUCER OR PRODUCERS OF THE MOTION PICTURE, NOT INCLUDING THE EXECUTIVE PRODUCERS, ASSOCIATE PRODUCERS, ASSISTANT PRODUCERS OR LINE PRODUCERS, that:

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

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

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

~~D.~~ E. ~~If a company fails to begin production within four months after the department preapproves the company or fails to provide notice pursuant to this subsection, the preapproval lapses, the application is void and the amount of the preapproved incentives does not apply to the dollar limit prescribed by subsection E of this section for that year.~~ The department of commerce may conduct a site visit to verify that production has begun. Within ~~four months~~ NINETY DAYS after the department preapproves the company's initial application, the company must submit notice to the department ~~of commerce~~ that production has begun and provide at least one of the following:

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

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

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

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

F. PREAPPROVAL BY THE DEPARTMENT OF COMMERCE UNDER SUBSECTION D OF THIS SECTION LAPSES, THE APPLICATION IS VOID AND THE AMOUNT OF THE PREAPPROVED INCENTIVES DOES NOT APPLY AGAINST THE DOLLAR LIMIT PRESCRIBED BY SUBSECTION J OF THIS SECTION IF, WITHIN NINETY DAYS AFTER THE DEPARTMENT PREAPPROVES THE COMPANY, THE COMPANY FAILS TO PROVIDE DOCUMENTATION OF EITHER:

1. ITS EXPENDITURE IN THIS STATE OF THE LESSER OF:

(a) TEN PER CENT OF THE ESTIMATED TOTAL STATE BUDGET OF THE PRODUCTION.

(b) TWO HUNDRED FIFTY THOUSAND DOLLARS.

2. A COMPLETION BOND, EQUAL TO THE ESTIMATED TOTAL BUDGET OF THE PRODUCTION, FOR THE PRODUCTION OF THE MOTION PICTURE FOR WHICH THE COMPANY WAS PREAPPROVED. FOR THE PURPOSES OF THIS PARAGRAPH, "COMPLETION BOND" MEANS AN EXECUTED WRITTEN CONTRACT, ISSUED BY AN INSURANCE COMPANY WITH AN INSURANCE INDUSTRY RATING OF B+ OR BETTER BY A.M. BEST COMPANY GUARANTYING TO THE FINANCIERS OF THE PROJECT THAT IT WILL BE COMPLETED ACCORDING TO THE

TERMS OF THE PREAPPROVED APPLICATION SUBMITTED BY THE PRODUCTION COMPANY IN ITS APPLICATION.

G. THE PREAPPROVED AMOUNT APPLIES AGAINST THE DOLLAR LIMIT PRESCRIBED BY SUBSECTION J OF THIS SECTION FOR THE YEAR IN WHICH THE APPLICATION WAS SUBMITTED REGARDLESS OF WHETHER THE INITIAL PREAPPROVAL PERIOD EXTENDS INTO THE FOLLOWING YEAR OR YEARS. BEFORE THE EXPIRATION OF THE INITIAL PREAPPROVAL OR REQUALIFICATION PERIOD, A COMPANY MAY VOLUNTARILY RELINQUISH UNUSED CREDIT AMOUNTS.

H. THE DEPARTMENT OF COMMERCE SHALL REALLOCATE THE AMOUNT OF CREDITS THAT IS VOLUNTARILY RELINQUISHED UNDER SUBSECTION G OF THIS SECTION, THAT LAPSE UNDER SUBSECTION F OF THIS SECTION OR THAT LAPSE UNDER SUBSECTION O OF THIS SECTION. THE REALLOCATION SHALL BE TO OTHER MOTION PICTURE PRODUCTION COMPANIES THAT APPLIED IN THE ORIGINAL CREDIT YEAR BASED ON PRIORITY PLACEMENT. THE AMOUNT OF THE REALLOCATED CREDITS SHALL CONTINUE TO APPLY AGAINST THE DOLLAR LIMIT OF THE ORIGINAL CREDIT YEAR REGARDLESS OF THE YEAR IN WHICH THE REALLOCATION OCCURS. IF FOR ANY YEAR AN UNUSED BALANCE OCCURS IN THE INCOME TAX CREDITS AUTHORIZED UNDER THE DOLLAR LIMIT PRESCRIBED BY SUBSECTION J OF THIS SECTION:

1. THE BALANCE SHALL BE ALLOCATED TO MOTION PICTURE PRODUCTION COMPANIES THAT SUCCESSFULLY APPEAL THE DENIAL OF APPROVAL UNDER THIS SECTION OR SECTION 41-1517.01. ANY AMOUNT OF INCOME TAX CREDITS DUE TO SUCCESSFUL APPEALS THAT ARE NOT PAID FROM AN UNUSED BALANCE IN ANY YEAR SHALL BE PAID AGAINST THE DOLLAR LIMIT ALLOWED BY SUBSECTION J OF THIS SECTION IN THE FOLLOWING YEAR.

2. ANY REMAINING UNUSED BALANCE SHALL BE REALLOCATED FOR THE PURPOSES OF THIS SECTION IN THE FOLLOWING YEAR.

I. BEGINNING WITH THE TAX CREDITS ALLOCATED FOR 2006 PURSUANT TO SUBSECTION J OF THIS SECTION, AN APPROVED CREDIT OFFSETS TAX LIABILITY FOR THE TAXABLE YEAR FOR WHICH THE CREDIT WAS ORIGINALLY ALLOCATED OR ANY SUBSEQUENT TAXABLE YEAR WITHIN THE APPLICABLE CARRY FORWARD PERIOD PURSUANT TO SECTION 43-1075, SUBSECTION G OR SECTION 43-1163, SUBSECTION G. THE CREDITS MUST BE CLAIMED ON A TIMELY FILED ORIGINAL INCOME TAX RETURN, INCLUDING EXTENSIONS.

~~E.~~ J. SUBJECT TO THE REQUIREMENTS OF SECTION 41-1517.01 AND SUBSECTIONS K AND U OF THIS SECTION, the department OF COMMERCE shall not preapprove income tax credits exceeding a total of:

1. Thirty million dollars ~~in~~ FOR 2006.
2. Forty million dollars ~~in~~ FOR 2007.
3. Fifty million dollars ~~in~~ FOR 2008.
4. Sixty million dollars ~~in~~ FOR 2009.
5. From and after December 31, 2009, seventy million dollars ~~in~~ FOR a single year.

~~6. Five million dollars for an individual motion picture application.~~

6. FIVE MILLION DOLLARS FOR AN INDIVIDUAL MOTION PICTURE APPLICATION IN 2007.

1 7. SEVEN MILLION DOLLARS FOR AN INDIVIDUAL MOTION PICTURE APPLICATION
2 IN 2008.
3 8. EIGHT MILLION DOLLARS FOR AN INDIVIDUAL MOTION PICTURE APPLICATION
4 IN 2009.
5 9. FROM AND AFTER DECEMBER 31, 2009, NINE MILLION DOLLARS FOR AN
6 INDIVIDUAL MOTION PICTURE APPLICATION.
7 K. BEGINNING IN 2008, THE FOLLOWING PROVISIONS APPLY WITH RESPECT TO
8 COMMERCIAL ADVERTISEMENT AND MUSIC VIDEO PRODUCTION:
9 1. FIVE PER CENT OF THE MAXIMUM DOLLAR AMOUNT OF INCOME TAX CREDITS
10 PRESCRIBED FOR ANY YEAR BY SUBSECTION J OF THIS SECTION IS RESERVED FOR USE
11 WITH RESPECT TO COMMERCIAL ADVERTISEMENT AND MUSIC VIDEO PRODUCTION.
12 2. A COMMERCIAL ADVERTISEMENT OR MUSIC VIDEO PRODUCTION COMPANY MAY
13 APPLY FOR QUALIFICATION UNDER SUBSECTION C OF THIS SECTION BEFORE THE COMPANY
14 REACHES THE MINIMUM EXPENDITURE THRESHOLD REQUIREMENTS OF SUBSECTION A,
15 PARAGRAPH 1 OF THIS SECTION.
16 3. IN LIEU OF A SCRIPT UNDER SUBSECTION C, PARAGRAPH 9 OF THIS
17 SECTION, THE APPLICANT MUST SUBMIT A SYNOPSIS OR STORYBOARD THAT:
18 (a) IDENTIFIES THE PRODUCT, SERVICE, PERSON OR EVENT FOR A COMMERCIAL
19 ADVERTISEMENT OR THE ARTIST AND SONG FOR A MUSIC VIDEO.
20 (b) DESCRIBES THE GENERAL CONTENT OR MESSAGE TO BE CONVEYED.
21 (c) DESCRIBES THE LOCATION OR LOCATIONS.
22 (d) DESCRIBES THE SETS.
23 (e) DESCRIBES THE INTENDED DISTRIBUTION OR MEDIUM AND SPECIFIC
24 CHANNELS, IF KNOWN.
25 4. THE DEPARTMENT MUST REVIEW THE COMPLETED APPLICATION WITHIN FIFTEEN
26 BUSINESS DAYS.
27 5. EXPENSES INCURRED BEFORE THE DATE OF SUBMISSION OF A COMPLETED
28 APPLICATION UNDER SUBSECTION C OF THIS SECTION DO NOT QUALIFY AS PRODUCTION
29 COSTS.
30 6. THE DEPARTMENT SHALL ALLOCATE THE INCOME TAX CREDIT INCENTIVES
31 BASED ON PRIORITY PLACEMENT ESTABLISHED BY THE DATE THAT THE COMPANY FILES
32 ITS APPLICATION AND BASED ON THE PERCENTAGE OF ESTIMATED TOTAL EXPENDITURES
33 IN THIS STATE ALLOWED AS A CREDIT UNDER SECTION 43-1075 OR 43-1163.
34 7. WITHIN SIXTY DAYS AFTER APPLYING WITH THE DEPARTMENT UNDER
35 SUBSECTION C OF THIS SECTION, A COMPANY THAT IS PREAPPROVED FOR A SPECIFIC
36 PRODUCTION MUST NOTIFY AND PROVIDE DOCUMENTATION OF EXPENDITURES TO THE
37 DEPARTMENT OF THE TOTAL AMOUNT OF ELIGIBLE PRODUCTION COSTS ASSOCIATED WITH
38 THE PRODUCTION.
39 8. THE COMPANY IS NOT ELIGIBLE FOR INCOME TAX CREDIT INCENTIVES UNTIL
40 THE COMPANY'S ELIGIBLE PRODUCTION EXPENDITURES REACH TWO HUNDRED FIFTY
41 THOUSAND DOLLARS IN A PERIOD OF TWELVE CONSECUTIVE MONTHS. WHEN THE COMPANY
42 REACHES THAT THRESHOLD, THE COMPANY MAY APPLY TO THE DEPARTMENT FOR APPROVAL
43 OF THE INCOME TAX CREDIT INCENTIVES PURSUANT TO SUBSECTION P OF THIS SECTION.
44 APPLICATIONS FOR APPROVAL OF INCOME TAX CREDIT INCENTIVES MAY NOT BE
45 SUBMITTED BY THE SAME COMPANY MORE FREQUENTLY THAN ONCE A CALENDAR MONTH.

9. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE DEPARTMENT OF COMMERCE SHALL ADOPT RULES AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY FOR THE PURPOSES OF THIS SUBSECTION.

~~F.~~ L. EXCEPT FOR APPLICATIONS WITH RESPECT TO COMMERCIAL ADVERTISEMENT AND MUSIC VIDEO PRODUCTION UNDER SUBSECTION K OF THIS SECTION, after October 31 of each year, if the department has preapproved the maximum calendar year tax credit amount pursuant to subsection ~~E~~ J of this section, the department may accept initial applications for the next calendar year. The preapproval of any application pursuant to this subsection shall not be effective prior to the first business day of the following calendar year. THE DEPARTMENT MAY ACCEPT INITIAL APPLICATIONS WITH RESPECT TO COMMERCIAL ADVERTISEMENT AND MUSIC VIDEO PRODUCTION UNDER SUBSECTION K OF THIS SECTION ONLY DURING THE CALENDAR YEAR IN WHICH THE CREDITS WOULD BE ALLOTTED.

~~G.~~ M. SUBJECT TO THE PROVISIONS OF SUBSECTION O OF THIS SECTION, the department of commerce shall deny an application submitted ON COMPLETION OF THE PRODUCTION pursuant to subsection ~~B or I~~ O of this section if it determines that:

1. The motion picture production company does not meet all of the established criteria provided in subsection A of this section.

2. The production would constitute an obscene motion picture film or obscene pictorial publication under title 12, chapter 7, article 1.1.

3. The production depicts sexual activity as defined in title 13, chapter 35.

4. The production would constitute sexual exploitation of a minor or commercial sexual exploitation of a minor under title 13, chapter 35.1.

~~H.~~ N. On a determination by the department of commerce that a motion picture production company qualifies for motion picture production tax incentives, the department shall issue the company a written letter of qualification and transmit a copy of the letter to the department of revenue. BEGINNING FROM AND AFTER DECEMBER 31, 2007, a letter of qualification is effective for ~~twelve~~ TWENTY-FOUR consecutive months as stated in the letter.

~~I. A motion picture production company that applies for requalification must continue to meet all of the eligibility criteria provided under subsection A of this section and must provide the department of commerce with updated information on the location, ownership and operations of the business. For purposes of efficiency and reducing duplicative or redundant reporting duties, the department may establish a streamlined process for requalification.~~

~~J.~~ O. Upon completion of the motion picture production, a motion picture production company that qualifies for the motion picture tax incentives shall ~~certify~~ APPLY to the department IN WRITING FOR APPROVAL OF INCOME TAX CREDITS, SUBMIT A VIEWABLE COPY OF THE MOTION PICTURE AND CERTIFY the total amount of eligible production costs associated with the project incurred from and after December 31, 2005. From and after June 30, 2006, the department shall provide approval to a motion picture production company that

it has met the eligibility requirements of this section and shall notify the department of revenue that ~~a~~ THE motion picture production company may claim the tax credits pursuant to sections 43-1075 and 43-1163. If the eligible production costs actually ~~incurred~~ SPENT are less than the amount preapproved for income tax credits, the preapproved amount not incurred lapses and does not apply ~~to~~ AGAINST the dollar limit prescribed by subsection ~~E~~ J of this section for that year.

P. A MOTION PICTURE PRODUCTION COMPANY MAY APPLY FOR POSTAPPROVAL OF THE PRODUCTION BEFORE A VIEWABLE COPY OF THE PRODUCTION IS AVAILABLE. TO DO SO, THE COMPANY MUST SUBMIT WITH ITS APPLICATION A LETTER OF CREDIT, PAYABLE TO THE DEPARTMENT OF REVENUE, PROVIDING THAT WITHIN TWO BUSINESS DAYS AFTER THE ISSUER RECEIVES A WRITTEN DETERMINATION FROM THE DEPARTMENT OF COMMERCE THAT THE PRODUCTION FAILS TO QUALIFY FOR THE TAX CREDITS THE ISSUER WILL PAY TO THE DEPARTMENT OF REVENUE THE FULL FACE VALUE OF THE INCOME TAX CREDITS IN THE APPLICATION. IF THE DEPARTMENT OF REVENUE DRAWS ON THE LETTER OF CREDIT, THE MONIES SHALL BE TRANSFERRED TO AND HELD IN AN INTEREST BEARING ACCOUNT PENDING THE FINAL OUTCOME OF AN APPEAL, IF ANY. THE LETTER OF CREDIT MAY BE RELEASED ON THE DETERMINATION BY THE DEPARTMENT OF COMMERCE THAT THE COMPLETED PRODUCTION QUALIFIES FOR THE TAX CREDITS.

Q. IF A PREAPPROVED MOTION PICTURE PRODUCTION COMPANY FAILS TO UNDERTAKE PRODUCTION, AS DESCRIBED IN SUBSECTION F OF THIS SECTION, AND ALSO FAILS TO VOLUNTARILY RELINQUISH THE UNUSED CREDIT AMOUNTS FOR REALLOCATION BY THE DEPARTMENT AS PROVIDED BY SUBSECTION G OF THIS SECTION WITHIN THE NINETY-DAY PERIOD, THE COMPANY AND ALL PERSONS SIGNING THE APPLICATION FOR PREAPPROVAL ARE DISQUALIFIED FROM RECEIVING, OR PARTICIPATING IN ANY MOTION PICTURE PRODUCTION COMPANY THAT APPLIES FOR OR RECEIVES, TAX INCENTIVES PURSUANT TO THIS SECTION FOR THREE YEARS AFTER THE ORIGINAL APPLICATION.

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

~~L.~~ S. Any information gathered from motion picture production companies for the purposes of this section shall be considered confidential taxpayer information and shall be disclosed only as provided in section 42-2003, subsection B, paragraph 12, EXCEPT THAT THE DEPARTMENT SHALL PUBLISH THE FOLLOWING INFORMATION IN ITS ANNUAL REPORT:

1. THE NAME OF EACH MOTION PICTURE PRODUCTION COMPANY AND INFRASTRUCTURE APPLICANT AND THE AMOUNT OF INCOME TAX CREDITS PREAPPROVED FOR EACH PRODUCTION AND INFRASTRUCTURE PROJECT.

2. THE AMOUNT OF CREDITS APPROVED WITH RESPECT TO EACH PRODUCTION.

~~M.~~ T. The department of commerce shall:

1. Keep annual records of the information provided on applications for motion picture production tax incentives. These records shall reflect a percentage comparison of the annual amount of monies exempted or credited to qualifying motion picture production companies to the estimated amount of

monies spent on in-state production costs by motion picture production companies.

2. Maintain annual data on growth in Arizona-based motion picture industry companies and motion picture industry employment and wages.

3. Not later than ~~December 1~~ APRIL 30 of each year, prepare and publish a report summarizing the information collected pursuant to this subsection. The department shall make copies of the annual report available to the public on request.

U. SUBJECT TO ANNUAL LEGISLATIVE AUTHORIZATION, THE AMOUNT OF ONE HUNDRED EIGHTY THOUSAND DOLLARS FROM THE DOLLAR AMOUNT OF INCOME TAX CREDITS UNDER SUBSECTION J OF THIS SECTION IS ALLOCATED EACH YEAR TO THE DEPARTMENT OF COMMERCE FOR UP TO TWO FULL-TIME EQUIVALENT POSITIONS DEDICATED SOLELY FOR THE PURPOSES OF THIS SECTION AND SECTION 41-1517.01. IF THE INCOME TAX CREDITS TERMINATE PURSUANT TO SUBSECTION A OF THIS SECTION AND SECTION 41-1517.01, SUBSECTION A, THE AUTHORIZATION UNDER THIS SUBSECTION AND ANY POSITIONS DEDICATED FOR THOSE PURPOSES ALSO TERMINATE.

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

1. "COMMERCIAL ADVERTISEMENT" MEANS AN ADVERTISING MESSAGE DESIGNED FOR DELIVERY THROUGH EITHER:

(a) A MOTION PICTURE FILM OR VIDEO MEDIUM TO ATTRACT THE ATTENTION OF CONSUMERS OR INFLUENCE CONSUMERS' FEELINGS TOWARD A PARTICULAR PRODUCT, SERVICE, EVENT OR CAUSE.

(b) STILL PHOTOGRAPHY THAT IS USED IN NATIONAL OR INTERNATIONAL PRINT MEDIA TO ATTRACT THE ATTENTION OF CONSUMERS OR INFLUENCE CONSUMERS' FEELINGS TOWARD A PARTICULAR PRODUCT, SERVICE EVENT OR CAUSE.

~~1.~~ 2. "Motion picture" means a single medium or multimedia program, including a commercial ~~advertising message~~ ADVERTISEMENT, MUSIC VIDEO OR TELEVISION SERIES, that:

(a) Is created by production activities conducted in whole or in part in this state.

(b) Can be viewed or reproduced.

(c) Is intended for commercial distribution or licensing in the delivery medium used.

MOTION PICTURE DOES NOT INCLUDE ANY PRODUCTION FEATURING ACTUAL NEWS, CURRENT EVENTS, WEATHER, LOCALLY PRODUCED AND LOCALLY BROADCAST TELEVISION PRODUCTIONS, FINANCIAL MARKET REPORTS, CONCERTS, INTERNET BROADCASTS, TALK SHOWS AND INTERVIEWS, GAME SHOWS, SPORTING EVENTS, AWARD OR OTHER GALA EVENTS, A PRODUCTION WHOSE SOLE PURPOSE IS FUNDRAISING, A PRODUCTION USED FOR CORPORATE OR ORGANIZATIONAL TRAINING OR IN-HOUSE CORPORATE ADVERTISING OR OTHER SIMILAR PRODUCTION ACTIVITIES.

~~2.~~ 3. "Motion picture production company" OR "PRODUCTION COMPANY" means any person primarily engaged in the business of producing motion pictures and that has a physical business office and bank account in this state.

~~3.~~ 4. "Motion picture production tax incentives" means the tax deductions for transaction privilege and use taxes listed in section 42-5009, subsection H and the credit against income taxes provided under section 43-1075 or 43-1163.

5. "MUSIC VIDEO" MEANS A FILMED OR VIDEOTAPED RENDITION OF A SONG OR SONGS, PORTRAYING MUSICIANS PERFORMING THE SONG OR OTHER VISUAL IMAGES SET TO THE LYRICS OF THE SONG.

6. "TELEVISION SERIES" MEANS A GROUP OF PRODUCTIONS CREATED OR ADAPTED FOR TELEVISION BROADCAST WITH A COMMON SERIES TITLE, RELATED TO EACH OTHER IN SUBJECT OR THEME, WHICH IS PRODUCED SEASONALLY FOR APPEARING AT SCHEDULED INTERVALS, BUT SUBJECT TO DISCRETIONARY PROGRAMMING AND SCHEDULING DECISIONS, AND WITH OR WITHOUT A PREDETERMINED NUMBER OF EPISODES. TELEVISION SERIES INCLUDES A PILOT PRODUCTION FOR THE PROMOTION OR INTRODUCTION OF A TELEVISION SERIES.

Sec. 2. Title 41, chapter 10, article 1, Arizona Revised Statutes, is amended by adding section 41-1517.01, to read:

41-1517.01. <u>Motion picture infrastructure tax incentives; definitions</u>

A. FROM AND AFTER OCTOBER 31, 2007 THROUGH DECEMBER 31, 2010, THE DEPARTMENT OF COMMERCE SHALL CERTIFY MOTION PICTURE INFRASTRUCTURE PROJECTS IN THIS STATE FOR THE PURPOSE OF TAX CREDITS UNDER SECTION 43-1075.01 OR 43-1163.01. TO QUALIFY FOR CERTIFICATION:

1. A PERSON MUST APPLY TO THE DEPARTMENT. THE APPLICANT MUST BE THE PERSON WHO WILL OWN AND OPERATE THE INFRASTRUCTURE PROJECT AND MAY BE A MOTION PICTURE PRODUCTION COMPANY, AS DEFINED IN SECTION 41-1517. THE APPLICATION MUST INCLUDE:

(a) THE APPLICANT'S NAME AND CONTACT INFORMATION.

(b) A DETAILED DESCRIPTION OF THE PROJECT.

(c) A PRELIMINARY BUDGET.

(d) AN OUTLINE OF HOW THE PROJECT MEETS THE REQUIREMENTS OF THIS SECTION.

(e) THE PROJECTED START AND COMPLETION DATES.

(f) THE NAME AND CONTACT INFORMATION FOR THE PRIME CONTRACTOR, IF KNOWN.

(g) A COPY OF THE CONSTRUCTION CONTRACT, IF AVAILABLE.

(h) AN AFFIRMATION SIGNED BY AN EXECUTIVE REPRESENTING THE APPLICANT THAT:

(i) THE APPLICANT AGREES TO FURNISH RECORDS OF EXPENDITURES ON INFRASTRUCTURE PROJECTS IN THIS STATE TO THE DEPARTMENT OF COMMERCE ON REQUEST.

(ii) ANY ITEMS INCLUDED IN ITS BASE INVESTMENT ARE INTENDED FOR USE BY THE APPLICANT DIRECTLY IN THE INFRASTRUCTURE PROJECT.

2. IF THE APPLICATION IS FOR A SOUNDSTAGE, AFTER THE DATE THE DEPARTMENT OF COMMERCE APPROVES THE APPLICATION UNDER SUBSECTION B OF THIS SECTION, THE APPLICANT MUST SPEND AT LEAST:

1 (a) TWO HUNDRED FIFTY THOUSAND DOLLARS IN THIS STATE DIRECTLY ON
2 PROJECT EXPENSES WITHIN NINETY DAYS.
3 (b) AN ADDITIONAL ONE MILLION DOLLARS IN THIS STATE DIRECTLY ON
4 PROJECT EXPENSES WITHIN TWELVE MONTHS.
5 (c) A TOTAL OF AT LEAST FIVE MILLION DOLLARS IN THIS STATE DIRECTLY ON
6 PROJECT EXPENSES WITHIN THIRTY-SIX MONTHS.
7 3. IF THE APPLICATION IS FOR SUPPORT AND AUGMENTATION FACILITIES,
8 AFTER THE DATE THE DEPARTMENT OF COMMERCE APPROVES THE APPLICATION UNDER
9 SUBSECTION B OF THIS SECTION, THE APPLICANT MUST SPEND AT LEAST:
10 (a) TWO HUNDRED FIFTY THOUSAND DOLLARS IN THIS STATE DIRECTLY ON
11 PROJECT EXPENSES WITHIN NINETY DAYS.
12 (b) A TOTAL OF AT LEAST ONE MILLION DOLLARS IN THIS STATE DIRECTLY ON
13 PROJECT EXPENSES WITHIN THIRTY-SIX MONTHS.
14 B. WITHIN THIRTY DAYS AFTER SUBMISSION, THE DEPARTMENT OF COMMERCE
15 SHALL REVIEW EACH COMPLETE APPLICATION TO DETERMINE WHETHER THE APPLICANT
16 SATISFIES ALL OF THE CRITERIA REQUIRED BY THIS SECTION. THE DEPARTMENT MAY
17 CONDUCT A SITE VISIT AS PART OF THE REVIEW PROCESS. THIS PROCESS SHALL
18 APPROVE AN APPLICANT FOR TAX CREDITS UNDER THIS SECTION BASED ON:
19 1. PRIORITY PLACEMENT FOR CREDITS UNDER THIS SECTION ESTABLISHED BY
20 THE DATE THE APPLICANT FILED ITS INITIAL APPLICATION UNDER SUBSECTION A OF
21 THIS SECTION.
22 2. THE AVAILABILITY OF TAX CREDIT AMOUNTS UNDER THE DOLLAR LIMITS
23 PRESCRIBED BY SUBSECTION C OF THIS SECTION.
24 C. SUBJECT TO THE LIMITS PRESCRIBED IN SECTION 41-1517, SUBSECTION J,
25 THE DEPARTMENT OF COMMERCE SHALL NOT CERTIFY INCOME TAX CREDITS UNDER THIS
26 SECTION, COMPUTED AS FIFTEEN PER CENT OF THE TOTAL BASE INVESTMENT, EXCEEDING
27 A TOTAL OF:
28 1. FIVE MILLION DOLLARS FOR SOUNDSTAGE PROJECTS INITIALLY CERTIFIED IN
29 2008.
30 2. IF NO SOUNDSTAGE PROJECT WAS INITIALLY CERTIFIED IN 2008, FIVE
31 MILLION DOLLARS FOR SOUNDSTAGE PROJECTS INITIALLY CERTIFIED IN 2009.
32 3. IF AT LEAST ONE SOUNDSTAGE PROJECT WAS INITIALLY CERTIFIED IN 2008:
33 (a) FIVE MILLION DOLLARS FOR SOUNDSTAGE PROJECTS INITIALLY CERTIFIED
34 IN 2009.
35 (b) SEVEN MILLION DOLLARS FOR SUPPORT AND AUGMENTATION FACILITIES
36 INITIALLY CERTIFIED IN 2009 THAT ARE ASSOCIATED WITH CERTIFIED SOUNDSTAGE
37 PROJECTS.
38 4. IF NO SOUNDSTAGE PROJECT WAS INITIALLY CERTIFIED IN 2008 OR 2009,
39 FIVE MILLION DOLLARS FOR SOUNDSTAGE PROJECTS INITIALLY CERTIFIED IN 2010.
40 5. IF ONLY ONE SOUNDSTAGE PROJECT WAS INITIALLY CERTIFIED IN 2008 OR
41 2009:
42 (a) FIVE MILLION DOLLARS FOR SOUNDSTAGE PROJECTS INITIALLY CERTIFIED
43 IN 2010.

(b) NINE MILLION DOLLARS FOR SUPPORT AND AUGMENTATION FACILITIES INITIALLY CERTIFIED IN 2010 THAT ARE ASSOCIATED WITH THE CERTIFIED SOUNDSTAGE PROJECT.

6. IF MORE THAN ONE SOUNDSTAGE PROJECT WAS INITIALLY CERTIFIED IN 2008 OR 2009, OR BOTH:

(a) FIVE MILLION DOLLARS FOR SOUNDSTAGE PROJECTS INITIALLY CERTIFIED IN 2010.

(b) NINE MILLION DOLLARS FOR SUPPORT AND AUGMENTATION FACILITIES INITIALLY CERTIFIED IN 2010 THAT ARE ASSOCIATED WITH CERTIFIED SOUNDSTAGE PROJECTS.

7. THREE MILLION DOLLARS FOR A SUPPORT AND AUGMENTATION FACILITIES PROJECT.

D. AFTER OCTOBER 31 OF EACH YEAR, IF THE DEPARTMENT HAS PREAPPROVED THE MAXIMUM DOLLAR AMOUNT OF INCOME TAX CREDITS UNDER SUBSECTION C OF THIS SECTION FOR THE CALENDAR YEAR, THE DEPARTMENT MAY ACCEPT INITIAL APPLICATIONS FOR THE NEXT CALENDAR YEAR. THE PREAPPROVAL OF ANY APPLICATION PURSUANT TO THIS SUBSECTION IS NOT EFFECTIVE BEFORE THE FIRST BUSINESS DAY OF THE FOLLOWING CALENDAR YEAR.

E. PREAPPROVAL BY THE DEPARTMENT OF COMMERCE UNDER SUBSECTION B OF THIS SECTION LAPSES, THE APPLICATION IS VOID AND THE AMOUNT OF THE PREAPPROVED INCENTIVES DOES NOT APPLY AGAINST THE DOLLAR LIMIT PRESCRIBED BY SUBSECTION C OF THIS SECTION IF:

1. WITHIN NINETY DAYS AFTER THE DEPARTMENT PREAPPROVES THE COMPANY, THE COMPANY FAILS TO PROVIDE DOCUMENTATION OF:

(a) ITS EXPENDITURE IN THIS STATE OF THE LESSER OF:

(i) TEN PER CENT OF THE ESTIMATED TOTAL BASE INVESTMENT AMOUNT.

(ii) TWO HUNDRED FIFTY THOUSAND DOLLARS.

(b) A SURETY BOND EQUAL TO THE ESTIMATED TOTAL BASE INVESTMENT AMOUNT FOR WHICH THE COMPANY WAS PREAPPROVED.

2. FOR SOUNDSTAGE PROJECTS, WITHIN ONE YEAR AFTER THE DEPARTMENT PREAPPROVES THE COMPANY, THE COMPANY FAILS TO PROVIDE DOCUMENTATION OF:

(a) TOTAL EXPENDITURE IN THIS STATE OF ONE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS.

(b) A SURETY BOND EQUAL TO THE ESTIMATED TOTAL BASE INVESTMENT AMOUNT FOR WHICH THE COMPANY WAS PREAPPROVED.

F. ON COMPLETION OF THE MOTION PICTURE INFRASTRUCTURE PROJECT, AN APPLICANT THAT HAS BEEN PREAPPROVED FOR INCOME TAX CREDITS MUST APPLY TO THE DEPARTMENT IN WRITING FOR APPROVAL OF THE TOTAL BASE INVESTMENT IN THE PROJECT. IF THE APPLICANT HAS MET THE ELIGIBILITY REQUIREMENTS OF THIS SECTION, THE DEPARTMENT SHALL:

1. APPROVE THE TOTAL BASE INVESTMENT AMOUNT, BUT THE CALCULATED INCOME TAX CREDIT SHALL NOT EXCEED THE PREAPPROVED AMOUNT UNDER THIS SECTION.

2. NOTIFY THE DEPARTMENT OF REVENUE THAT THE APPLICANT MAY CLAIM THE INCOME TAX CREDITS PURSUANT TO SECTION 43-1075.01 OR 43-1163.01 IN THE AMOUNT DETERMINED UNDER PARAGRAPH 1 OF THIS SUBSECTION.

G. THE COMPANY AND ALL PERSONS SIGNING THE APPLICATION FOR PREAPPROVAL MAY BE DISQUALIFIED FROM RECEIVING FUTURE TAX CREDITS PURSUANT TO THIS SECTION IF, WITHIN EIGHTEEN MONTHS AFTER THE DATE OF POSTAPPROVAL UNDER SUBSECTION F OF THIS SECTION, THE APPLICANT FAILS TO SUBMIT A REPORT TO THE DEPARTMENT THAT INCLUDES:

1. A LIST OF ACTIVITIES AND PRODUCTIONS CONDUCTED AT THE PROJECT IN THE TWELVE MONTHS FOLLOWING POSTAPPROVAL.

2. THE AMOUNT OF ANY ADDITIONAL CAPITAL INVESTMENT.

3. ANY CHANGES TO OR IMPROVEMENTS MADE TO THE PROJECT SINCE THE DATE OF POSTAPPROVAL.

H. WITHIN SIXTY MONTHS AFTER POSTAPPROVAL UNDER SUBSECTION F OF THIS SECTION, IF THE DEPARTMENT OF COMMERCE DETERMINES THAT A PERSON THAT RECEIVED A TAX CREDIT PURSUANT TO THIS SECTION FAILED TO COMPLY WITH ANY OF THE REQUIREMENTS PRESCRIBED BY THIS SECTION, THE DEPARTMENT SHALL TERMINATE, ADJUST OR RECAPTURE ALL OR PART OF THE TAX CREDIT. THE DEPARTMENT OF COMMERCE SHALL NOTIFY THE DEPARTMENT OF REVENUE OF THE CONDITIONS OF NONCOMPLIANCE. THE DEPARTMENT OF REVENUE MAY ALSO TERMINATE THE APPROVAL OF THE CREDIT IF IT OBTAINS INFORMATION INDICATING A FAILURE TO QUALIFY AND COMPLY. THE DEPARTMENT OF REVENUE MAY REQUIRE THE PERSON TO:

1. FILE APPROPRIATE AMENDED TAX RETURNS REFLECTING THE RECAPTURE OF THE AMOUNT OF THE TAX CREDIT ACTUALLY APPLIED TO REDUCE STATE INCOME TAX LIABILITY.

2. PAY A PENALTY OF FOUR AND ONE-HALF PER CENT OF THE AMOUNT OF THE APPLIED CREDIT PER MONTH ELAPSING FROM THE DATE THE PENALTY IS ASSESSED UNTIL IT IS PAID, EXCEPT THAT THE TOTAL PENALTY SHALL NOT EXCEED TWENTY-FIVE PER CENT OF THE FULL AMOUNT OF THE CREDIT.

I. THE DEPARTMENT OF COMMERCE, WITH THE COOPERATION OF THE DEPARTMENT OF REVENUE, SHALL ADOPT RULES AND PUBLISH AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY TO EFFECTUATE THE PURPOSES OF THIS SECTION.

J. ANY INFORMATION GATHERED FROM APPLICANTS FOR THE PURPOSES OF THIS SECTION IS CONSIDERED TO BE CONFIDENTIAL TAXPAYER INFORMATION AND SHALL BE DISCLOSED ONLY AS PROVIDED IN SECTION 41-1517, SUBSECTION S AND SECTION 42-2003, SUBSECTION B, PARAGRAPH 12.

K. FOR THE PURPOSES OF THIS SECTION:

1. "BASE INVESTMENT" MEANS THE BUDGET FOR THE INFRASTRUCTURE PROJECT.

2. "MOTION PICTURE" HAS THE SAME MEANING AS DEFINED IN SECTION 41-1517.

3. "MOTION PICTURE INFRASTRUCTURE PROJECT", "INFRASTRUCTURE PROJECT" AND "PROJECT":

(a) MEANS SOUNDSTAGES AND SUPPORT AND AUGMENTATION FACILITIES THAT ARE CONSTRUCTED IN THIS STATE AND PRIMARILY USED FOR MOTION PICTURE PRODUCTION.

(b) DOES NOT INCLUDE MOTION PICTURE THEATERS AND OTHER COMMERCIAL EXHIBITION FACILITIES.

4. "SOUNDSTAGE" MEANS A PERMANENT FACILITY IN THIS STATE OF ONE OR MORE SETS OR STAGES USED PRIMARILY FOR STAGING AND FILMING MOTION PICTURES

AND ANY LAND, PERMANENT BUILDINGS OR CAPITAL EQUIPMENT THAT IS IN OR ADJACENT TO, AND IS NECESSARY FOR THE OPERATION OF, A SOUNDSTAGE.

5. "SUPPORT AND AUGMENTATION FACILITIES" MEANS PERMANENT FACILITIES IN THIS STATE THAT ARE USED TO COMPLEMENT MOTION PICTURE PRODUCTION NEEDS AND COMPLEMENT THE MOTION PICTURE PRODUCTION.

6. "SURETY BOND" MEANS AN EXECUTED WRITTEN CONTRACT, ISSUED BY AN INSURANCE COMPANY WITH AN INSURANCE INDUSTRY RATING OF B+ OR BETTER BY A.M. BEST COMPANY GUARANTYING TO THE FINANCIERS OF THE PROJECT THAT IT WILL BE COMPLETED ACCORDING TO THE TERMS OF THE PREAPPROVED APPLICATION SUBMITTED BY THE PRODUCTION COMPANY IN ITS APPLICATION.

Sec. 3. Section 42-2003, Arizona Revised Statutes, is amended to read:

42-2003. Authorized disclosure of confidential information

A. Confidential information relating to:

1. A taxpayer may be disclosed to the taxpayer, its successor in interest or a designee of the taxpayer who is authorized in writing by the taxpayer. A principal corporate officer of a parent corporation may execute a written authorization for a controlled subsidiary.

2. A corporate taxpayer may be disclosed to any principal officer, any person designated by a principal officer or any person designated in a resolution by the corporate board of directors or other similar governing body.

3. A partnership may be disclosed to any partner of the partnership. This exception does not include disclosure of confidential information of a particular partner unless otherwise authorized.

4. An estate may be disclosed to the personal representative of the estate and to any heir, next of kin or beneficiary under the will of the decedent if the department finds that the heir, next of kin or beneficiary has a material interest which will be affected by the confidential information.

5. A trust may be disclosed to the trustee or trustees, jointly or separately, and to the grantor or any beneficiary of the trust if the department finds that the grantor or beneficiary has a material interest which will be affected by the confidential information.

6. Any taxpayer may be disclosed if the taxpayer has waived any rights to confidentiality either in writing or on the record in any administrative or judicial proceeding.

7. The name and taxpayer identification numbers of persons issued direct payment permits may be publicly disclosed.

B. Confidential information may be disclosed to:

1. Any employee of the department whose official duties involve tax administration.

2. The office of the attorney general solely for its use in preparation for, or in an investigation which may result in, any proceeding involving tax administration before the department or any other agency or board of this state, or before any grand jury or any state or federal court.

3. The department of liquor licenses and control for its use in determining whether a spirituous liquor licensee has paid all transaction privilege taxes and affiliated excise taxes incurred as a result of the sale of spirituous liquor, as defined in section 4-101, at the licensed establishment and imposed on the licensed establishments by this state and its political subdivisions.

4. Other state tax officials whose official duties require the disclosure for proper tax administration purposes if the information is sought in connection with an investigation or any other proceeding conducted by the official. Any disclosure is limited to information of a taxpayer who is being investigated or who is a party to a proceeding conducted by the official.

5. The following agencies, officials and organizations, if they grant substantially similar privileges to the department for the type of information being sought, pursuant to statute and a written agreement between the department and the foreign country, agency, state, Indian tribe or organization:

(a) The United States internal revenue service, alcohol and tobacco tax and trade bureau of the United States treasury, United States bureau of alcohol, tobacco, firearms and explosives of the United States department of justice, United States drug enforcement agency and federal bureau of investigation.

(b) A state tax official of another state.

(c) An organization of states, federation of tax administrators or multistate tax commission that operates an information exchange for tax administration purposes.

(d) An agency, official or organization of a foreign country with responsibilities that are comparable to those listed in subdivision (a), (b) or (c) of this paragraph.

(e) An agency, official or organization of an Indian tribal government with responsibilities comparable to the responsibilities of the agencies, officials or organizations identified in subdivision (a), (b) or (c) of this paragraph.

6. The auditor general, in connection with any audit of the department subject to the restrictions in section 42-2002, subsection D.

7. Any person to the extent necessary for effective tax administration in connection with:

(a) The processing, storage, transmission, destruction and reproduction of the information.

(b) The programming, maintenance, repair, testing and procurement of equipment for purposes of tax administration.

8. The office of administrative hearings relating to taxes administered by the department pursuant to section 42-1101, but the department shall not disclose any confidential information:

(a) Regarding income tax, withholding tax or estate tax.

(b) On any tax issue relating to information associated with the reporting of income tax, withholding tax or estate tax.

9. The United States treasury inspector general for tax administration for the purpose of reporting a violation of internal revenue code section 7213A (26 United States Code section 7213A), unauthorized inspection of returns or return information.

10. The financial management service of the United States treasury department for use in the treasury offset program.

11. The United States treasury department or its authorized agent for use in the state income tax levy program and in the electronic federal tax payment system.

12. The department of commerce for its use in ~~both~~:

(a) Qualifying motion picture production companies for the tax incentives provided for motion picture production under chapter 5 of this title and sections 43-1075 and 43-1163.

(b) Fulfilling its annual reporting responsibility pursuant to section 41-1517, subsection ~~L~~ T.

(c) QUALIFYING APPLICANTS FOR THE MOTION PICTURE INFRASTRUCTURE PROJECT TAX CREDITS UNDER SECTIONS 43-1075.01 AND 43-1163.01.

C. Confidential information may be disclosed in any state or federal judicial or administrative proceeding pertaining to tax administration pursuant to the following conditions:

1. One or more of the following circumstances must apply:

(a) The taxpayer is a party to the proceeding.

(b) The proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of the taxpayer's civil liability, with respect to any tax imposed under this title or title 43.

(c) The treatment of an item reflected on the taxpayer's return is directly related to the resolution of an issue in the proceeding.

(d) Return information directly relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer and directly affects the resolution of an issue in the proceeding.

2. Confidential information may not be disclosed under this subsection if the disclosure is prohibited by section 42-2002, subsection C or D.

D. Identity information may be disclosed for purposes of notifying persons entitled to tax refunds if the department is unable to locate the persons after reasonable effort.

E. The department, upon the request of any person, shall provide the names and addresses of bingo licensees as defined in section 5-401, verify whether or not a person has a privilege license and number, a distributor's license and number or a withholding license and number or disclose the information to be posted on the department's web site or otherwise publicly

accessible pursuant to ~~sections~~ SECTION 42-1124, subsection F and SECTION 42-3201, subsection A.

F. A department employee, in connection with the official duties relating to any audit, collection activity or civil or criminal investigation, may disclose return information to the extent that disclosure is necessary to obtain information which is not otherwise reasonably available. These official duties include the correct determination of and liability for tax, the amount to be collected or the enforcement of other state tax revenue laws.

G. If an organization is exempt from this state's income tax as provided in section 43-1201 for any taxable year, the name and address of the organization and the application filed by the organization upon which the department made its determination for exemption together with any papers submitted in support of the application and any letter or document issued by the department concerning the application are open to public inspection.

H. Confidential information relating to transaction privilege tax, use tax, severance tax, jet fuel excise and use tax and rental occupancy tax may be disclosed to any county, city or town tax official if the information relates to a taxpayer who is or may be taxable by the county, city or town. Any taxpayer information released by the department to the county, city or town:

1. May only be used for internal purposes.

2. May not be disclosed to the public in any manner that does not comply with confidentiality standards established by the department. The county, city or town shall agree in writing with the department that any release of confidential information that violates the confidentiality standards adopted by the department will result in the immediate suspension of any rights of the county, city or town to receive taxpayer information under this subsection.

I. The department may disclose statistical information gathered from confidential information if it does not disclose confidential information attributable to any one taxpayer. In order to comply with the requirements of section 42-5029, subsection A, paragraph 3, the department may disclose to the state treasurer statistical information gathered from confidential information, even if it discloses confidential information attributable to a taxpayer.

J. The department may disclose the aggregate amounts of any tax credit, tax deduction or tax exemption enacted after January 1, 1994. Information subject to disclosure under this subsection shall not be disclosed if a taxpayer demonstrates to the department that such information would give an unfair advantage to competitors.

K. Except as provided in section 42-2002, subsection C, confidential information, described in section 42-2001, paragraph 2, subdivision (a), item (iii), may be disclosed to law enforcement agencies for law enforcement purposes.

L. The department may provide transaction privilege tax license information to property tax officials in a county for the purpose of identification and verification of the tax status of commercial property.

M. The department may provide transaction privilege tax, luxury tax, use tax, property tax and severance tax information to the ombudsman-citizens aide pursuant to title 41, chapter 8, article 5.

N. Except as provided in section 42-2002, subsection D, a court may order the department to disclose confidential information pertaining to a party to an action. An order shall be made only upon a showing of good cause and that the party seeking the information has made demand upon the taxpayer for the information.

O. This section does not prohibit the disclosure by the department of any information or documents submitted to the department by a bingo licensee. Before disclosing the information the department shall obtain the name and address of the person requesting the information.

P. If the department is required or permitted to disclose confidential information, it may charge the person or agency requesting the information for the reasonable cost of its services.

Q. Except as provided in section 42-2002, subsection D, the department of revenue shall release confidential information as requested by the department of economic security pursuant to section 42-1122 or 46-291. Information disclosed under this subsection is limited to the same type of information that the United States internal revenue service is authorized to disclose under section 6103(l)(6) of the internal revenue code.

R. Except as provided in section 42-2002, subsection D, the department of revenue shall release confidential information as requested by the courts and clerks of the court pursuant to section 42-1122.

S. To comply with the requirements of section 42-5031, the department may disclose to the state treasurer, to the county stadium district board of directors and to any city or town tax official that is part of the county stadium district confidential information attributable to a taxpayer's business activity conducted in the county stadium district.

T. The department shall release confidential information as requested by the attorney general for purposes of determining compliance with and enforcing section 44-7101, the master settlement agreement referred to therein and subsequent agreements to which the state is a party that amend or implement the master settlement agreement. Information disclosed under this subsection is limited to luxury tax information relating to tobacco manufacturers, distributors, wholesalers and retailers and information collected by the department pursuant to section 44-7101(2)(j).

U. For proceedings before the department, the office of administrative hearings, the board of tax appeals or any state or federal court involving penalties that were assessed against a return preparer or electronic return preparer pursuant to section 42-1103.02 or 42-1125.01, confidential information may be disclosed only before the judge or administrative law

judge adjudicating the proceeding, the parties to the proceeding and the parties' representatives in the proceeding prior to its introduction into evidence in the proceeding. The confidential information may be introduced as evidence in the proceeding only if the taxpayer's name, the names of any dependents listed on the return, all social security numbers, the taxpayer's address, the taxpayer's signature and any attachments containing any of the foregoing information are redacted and if either:

1. The treatment of an item reflected on such return is or may be related to the resolution of an issue in the proceeding.

2. Such return or return information relates or may relate to a transactional relationship between a person who is a party to the proceeding and the taxpayer which directly affects the resolution of an issue in the proceeding.

V. The department may disclose to the attorney general confidential information received under section 44-7111 and requested by the attorney general for purposes of determining compliance with and enforcing section 44-7111. The department and attorney general shall share with each other the information received under section 44-7111, and may share the information with other federal, state or local agencies only for the purposes of enforcement of section 44-7101, section 44-7111 or corresponding laws of other states.

Sec. 4. Section 43-222, Arizona Revised Statutes, as amended by Laws 2007, chapter 7, section 1, is amended to read:

43-222. Income tax credit review schedule

Each year the joint legislative income tax credit review committee shall review the following income tax credits:

1. In 2007, sections 43-1077, 43-1078, 43-1079, 43-1080, 43-1165, 43-1166, 43-1167 and 43-1169.

2. In 2008, sections 43-1074.01, 43-1081, 43-1168, 43-1170 and 43-1178.

3. In 2009, sections 43-1076, 43-1081.01, 43-1084, 43-1162 and 43-1170.01.

4. In 2010, sections 43-1075, 43-1075.01, 43-1079.01, 43-1087, 43-1088, 43-1090.01, 43-1163, 43-1163.01, 43-1167.01, 43-1175 and 43-1182.

5. In 2011, sections 43-1074.02, 43-1083, 43-1085, 43-1164 and 43-1183.

6. In 2012, sections 43-1073, 43-1089, 43-1089.01, 43-1089.02, 43-1090, 43-1176 and 43-1181.

Sec. 5. Section 43-1021, Arizona Revised Statutes, is amended to read:

43-1021. Additions to Arizona gross income

In computing Arizona adjusted gross income, the following amounts shall be added to Arizona gross income:

1. A beneficiary's share of the fiduciary adjustment to the extent that the amount determined by section 43-1333 increases the beneficiary's Arizona gross income.

2. An amount equal to the "ordinary income portion" of a lump sum distribution that was excluded from federal adjusted gross income pursuant to section 402(d) of the internal revenue code.

3. The amount of interest income received on obligations of any state, territory or possession of the United States, or any political subdivision thereof, located outside the state of Arizona, reduced, for tax years beginning from and after December 31, 1996, by the amount of any interest on indebtedness and other related expenses that were incurred or continued to purchase or carry those obligations and that are not otherwise deducted or subtracted in arriving at Arizona gross income.

4. Annuity income received during the taxable year to the extent that the sum of the proceeds received from such annuity in all taxable years prior to and including the current taxable year exceeds the total consideration and premiums paid by the taxpayer. This paragraph applies only to those annuities with respect to which the first payment was received prior to December 31, 1978.

5. The excess of a partner's share of partnership taxable income required to be included under chapter 14, article 2 of this title over the income required to be reported under section 702(a)(8) of the internal revenue code.

6. The excess of a partner's share of partnership losses determined pursuant to section 702(a)(8) of the internal revenue code over the losses allowable under chapter 14, article 2 of this title.

7. The amount by which the adjusted basis of property described in this paragraph and computed pursuant to the internal revenue code exceeds the adjusted basis of such property computed pursuant to this title and the income tax act of 1954, as amended. This paragraph shall apply to all property which is held for the production of income and which is sold or otherwise disposed of during the taxable year, except depreciable property used in a trade or business.

8. The amount of depreciation or amortization of costs of any capital investment that is deducted pursuant to section 167 or 179 of the internal revenue code by a qualified defense contractor with respect to which an election is made to amortize pursuant to section 43-1024.

9. The amount of gain from the sale or other disposition of a capital investment which a qualified defense contractor has elected to amortize pursuant to section 43-1024.

10. Amounts withdrawn from the Arizona state retirement system, the corrections officer retirement plan, the public safety personnel retirement system, the elected officials' retirement plan or a county or city retirement plan by an employee upon termination of employment before retirement to the extent they were deducted in arriving at Arizona taxable income in any year.

11. That portion of the net operating loss included in federal adjusted gross income which has already been taken as a net operating loss for Arizona

purposes or which is separately taken as a subtraction under the special net operating loss transition rule.

12. Any nonitemized amount deducted pursuant to section 170 of the internal revenue code representing contributions to an educational institution which denies admission, enrollment or board and room accommodations on the basis of race, color or ethnic background except those institutions primarily established for the education of American Indians.

13. The amount paid as taxes on property in this state with respect to which a credit is claimed under section 43-1078.

14. Amounts withdrawn from a medical savings account by the individual during the taxable year computed pursuant to section 220(f) of the internal revenue code and not included in federal adjusted gross income.

15. Any amount of agricultural water conservation expenses that were deducted pursuant to the internal revenue code for which a credit is claimed under section 43-1084.

16. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under section 43-1080 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

17. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under section 43-1080 and which is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1080.

18. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under either section 43-1081 or 43-1081.01 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

19. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under section 43-1074.02, 43-1081 or 43-1081.01 and which is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1074.02, 43-1081 or 43-1081.01, as applicable.

20. The deduction referred to in section 1341(a)(4) of the internal revenue code for restoration of a substantial amount held under a claim of right.

21. The amount by which a net operating loss carryover or capital loss carryover allowable pursuant to section 1341(b)(5) of the internal revenue code exceeds the net operating loss carryover or capital loss carryover allowable pursuant to section 43-1029, subsection F.

22. Any amount deducted pursuant to section 170 of the internal revenue code representing contributions to a school tuition organization or a public school for which a credit is claimed under section 43-1089 or 43-1089.01.

23. Any amount deducted in computing Arizona gross income as expenses for installing solar stub outs or electric vehicle recharge outlets in this state with respect to which a credit is claimed pursuant to section 43-1090.

24. Any wage expenses deducted pursuant to the internal revenue code for which a credit is claimed under section 43-1087 and representing net increases in qualified employment positions for employment of temporary assistance for needy families recipients.

25. Any amount deducted for conveying ownership or development rights of property to an agricultural preservation district under section 48-5702 for which a credit is claimed under section 43-1081.02.

26. The amount of any depreciation allowance allowed pursuant to section 167(a) of the internal revenue code to the extent not previously added.

27. With respect to property for which an expense deduction was taken pursuant to section 179 of the internal revenue code, the amount in excess of twenty-five thousand dollars.

28. The amount of any deductions that are claimed in computing federal adjusted gross income representing expenses for which a credit is claimed under EITHER section 43-1075 OR 43-1075.01 OR BOTH.

29. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under section 43-1090.01 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

30. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under section 43-1090.01 and which is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1090.01.

Sec. 6. Section 43-1075, Arizona Revised Statutes, is amended to read:

43-1075. Credit for motion picture production costs; definitions

A. Beginning from and after December 31, 2005 through December 31, 2010, a credit is allowed against the taxes imposed by this title for motion picture production costs paid by a motion picture production company in this state that are directly attributable to the production of one or more motion pictures in this state. The amount of the credit is equal to a percentage of the amount of motion picture production costs paid in this state as follows:

| Production costs | Percentage credit |
|---|---|
| $250,000 - $1,000,000 | ~~10%~~ 20% |
| ~~$1,000,001 - $3,000,000~~ | ~~15%~~ |
| More than ~~$3,000,000~~ $1,000,000 | ~~20%~~ 30% |

B. The department shall not allow in any year tax credits that exceed the aggregate amount prescribed in section 41-1517.

C. The department shall not allow a credit under this section to a taxpayer who has a delinquent tax balance owing to the department under this title or title 42.

D. To qualify for a credit under this section, the motion picture production company must:

1. Employ residents of this state in production as follows:

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

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

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

2. Include in the production credits for each commercial motion picture, other than a commercial advertisement OR MUSIC VIDEO, an acknowledgement that the production was filmed in Arizona.

3. Receive preapproval and postapproval from the department of commerce pursuant to section 41-1517.

E. BEGINNING WITH TAX CREDITS ALLOCATED FOR 2006 PURSUANT TO SECTION 41-1517, SUBSECTION J, A MOTION PICTURE PRODUCTION COMPANY, AT ITS EXPENSE, MAY VOLUNTARILY ENTER INTO A LIMITED MANAGED AUDIT AGREEMENT PURSUANT TO TITLE 42, CHAPTER 2, ARTICLE 7 THAT INCLUDES AN AUDIT OF ITS PRODUCTION COSTS AND OTHER REQUIREMENTS PRESCRIBED BY SECTION 41-1517 AND BY THIS SECTION TO CONFIRM THE AMOUNT OF ANY CREDIT UNDER THIS SECTION. THE REQUEST TO ENTER INTO THE AUDIT MUST BE MADE AFTER THE MOTION PICTURE PRODUCTION COMPANY RECEIVES POSTCERTIFICATION FOR THE CREDIT PURSUANT TO SECTION 41-1517, SUBSECTION O. THE AUDIT MUST BE CONDUCTED BY THE TAXPAYER'S AUTHORIZED REPRESENTATIVE, AS DEFINED BY SECTION 42-2301, WHO IS AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT LICENSED IN THIS STATE. THE CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT IS AFFILIATED WITH SHALL NOT REGULARLY PERFORM SERVICES FOR THE MOTION PICTURE PRODUCTION COMPANY OR ITS AFFILIATES. IF THE DIRECTOR ACCEPTS THE FINDINGS OF THE AUDIT AND ISSUES A NOTICE OF DETERMINATION PURSUANT TO SECTION 42-2303 AND THE TAXPAYER TIMELY FILES ITS INCOME TAX RETURN WITH THE APPROPRIATE CREDIT CLAIM FORMS, THE CREDIT AMOUNT ACCEPTED IS NOT SUBJECT TO RECAPTURE, DISALLOWANCE, REDUCTION OR DENIAL WITH RESPECT TO EITHER THE MOTION PICTURE PRODUCTION COMPANY OR ANY SUBSEQUENT TRANSFEREE OF THE CREDIT, AND SUBSECTION H, PARAGRAPH 4 OF THIS SECTION DOES NOT APPLY. THE DIRECTOR'S NOTICE OF DETERMINATION SHALL INCLUDE A WRITTEN CERTIFICATE TO THE TAXPAYER STATING THE AMOUNT OF THE CREDIT AND THAT THE CREDIT IS NOT SUBJECT TO RECAPTURE FROM A TRANSFEREE. THIS SUBSECTION DOES NOT PROHIBIT THE RECAPTURE OF A CREDIT FROM A MOTION PICTURE PRODUCTION COMPANY IF THE COMPANY FAILED TO DISCLOSE MATERIAL INFORMATION DURING THE AUDIT OR FALSIFIED ITS BOOKS OR RECORDS OR OTHERWISE ENGAGED IN AN ACTION THAT PREVENTED AN ACCURATE AUDIT.

~~E.~~ F. Co-owners of a motion picture production company, including partners in a partnership, members of a limited liability company and shareholders of an S corporation as defined in section 1361 of the internal revenue code, may allocate the credit allowed under this section among the co-owners on any basis without regard to their proportional ownership interest. The total of the credits allowed all such owners of the motion picture production company may not exceed the amount that would have been allowed for a sole owner of the company.

~~F.~~ G. If the allowable tax credit for a taxpayer exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry the amount of the claim not used to offset the taxes under this title forward for not more than five consecutive taxable years' income tax liability.

~~G.~~ H. All or part of any unclaimed amount of credit under this section may be sold or otherwise transferred under the following conditions:

1. A single sale or transfer may involve one or more transferees, and a transferee may in turn resell or transfer the credit subject to the same conditions of this subsection.

2. Both the transferor and transferee must submit a written notice of the transfer to the department within thirty days after the sale or transfer. The transferee's notice shall include a processing fee equal to one per cent of the transferee's tax credit balance or two hundred dollars, whichever is less. The notice shall include:

(a) The name of the motion picture production company.

(b) The date of the transfer.

(c) The amount of the transfer.

(d) The transferor's tax credit balance before the transfer and the remaining balance after the transfer.

(e) All tax identification numbers for both transferor and transferee.

(f) Any other information required by rule.

3. A sale or transfer of the credit does not extend the time in which the credit can be used. ~~The carryforward period of time under subsection F of this section for a credit that is sold or transferred begins on the date the credit was originally earned.~~

4. EXCEPT AS PROVIDED BY SUBSECTION E OF THIS SECTION, if a transferor was not qualified or was disqualified from using the credit at the time of the transfer, the department shall either disallow the credit claimed by a transferee or recapture the credit from the transferee through any authorized collection method. The transferee's recourse is against the transferor.

5. In the case of any failure to comply with this subsection, the department shall disallow the tax credit until the taxpayer is in full compliance.

~~H.~~ I. The department shall maintain annual data on the total amount of monies credited pursuant to this section, and shall provide those data to the department of commerce on request.

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

K. A TAXPAYER WHO CLAIMS A CREDIT FOR MOTION PICTURE COSTS UNDER THIS SECTION SHALL NOT CLAIM A CREDIT UNDER SECTION 43-1075.01 FOR THE SAME COSTS.

~~J.~~ L. The credit allowed by this section is in lieu of any allowance for state tax purposes of a deduction of those expenses allowed by the internal revenue code.

~~K.~~ M. For the purposes of this section, "COMMERCIAL ADVERTISEMENT", "motion picture", ~~and~~ "motion picture production company" AND "MUSIC VIDEO" have the same meanings prescribed in section 41-1517."

Sec. 7. Title 43, chapter 10, article 5, Arizona Revised Statutes, is amended by adding section 43-1075.01, to read:

43-1075.01. <u>Credit for motion picture infrastructure projects; definition</u>

A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR INVESTMENTS IN MOTION PICTURE INFRASTRUCTURE PROJECTS IN THIS STATE AS PROVIDED BY SECTION 41-1517.01. THE AMOUNT OF THE CREDIT IS FIFTEEN PER CENT OF THE TOTAL BASE INVESTMENT IN THE PROJECT DURING THE TAXABLE YEAR AS APPROVED AND REPORTED BY THE DEPARTMENT OF COMMERCE PURSUANT TO SECTION 41-1517.01, SUBSECTION F. THE TAXPAYER MAY APPLY THE CREDIT AGAINST INCOME TAXES FOR THE TAXABLE YEAR IN WHICH THE MOTION PICTURE INFRASTRUCTURE PROJECT IS COMPLETED AS PROVIDED BY SECTION 41-1517.01, SUBSECTION F.

B. THE DEPARTMENT SHALL NOT ALLOW:

1. TAX CREDITS FOR ANY TAXABLE YEAR UNDER THIS SECTION AND SECTION 43-1163.01 THAT WOULD VIOLATE THE AGGREGATE LIMITS PRESCRIBED BY SECTION 41-1517.01, SUBSECTION C.

2. A TAX CREDIT UNDER THIS SECTION TO A TAXPAYER WHO HAS A DELINQUENT TAX BALANCE OWING TO THE DEPARTMENT UNDER THIS TITLE OR TITLE 42.

C. AN APPLICANT, AT ITS EXPENSE, MAY VOLUNTARILY ENTER INTO A LIMITED MANAGED AUDIT AGREEMENT PURSUANT TO TITLE 42, CHAPTER 2, ARTICLE 7 THAT INCLUDES AN AUDIT OF ITS BASE INVESTMENT AND OTHER REQUIREMENTS PRESCRIBED BY SECTION 41-1517.01 AND BY THIS SECTION TO CONFIRM THE AMOUNT OF ANY CREDIT UNDER THIS SECTION. THE REQUEST TO ENTER INTO THE AUDIT MUST BE MADE AFTER THE APPLICANT RECEIVES POSTCERTIFICATION FOR THE CREDIT PURSUANT TO SECTION 41-1517, SUBSECTION O. THE AUDIT MUST BE CONDUCTED BY THE APPLICANT'S AUTHORIZED REPRESENTATIVE, AS DEFINED IN SECTION 42-2301, WHO IS AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT LICENSED IN THIS STATE. THE CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT IS AFFILIATED WITH SHALL NOT REGULARLY PERFORM SERVICES FOR THE TAXPAYER OR ITS AFFILIATES. IF THE DIRECTOR ACCEPTS THE FINDINGS OF THE AUDIT AND ISSUES A NOTICE OF DETERMINATION PURSUANT TO SECTION 42-2303 AND THE TAXPAYER TIMELY

FILES ITS INCOME TAX RETURN WITH THE APPROPRIATE CREDIT CLAIM FORMS, THE CREDIT AMOUNT ACCEPTED IS NOT SUBJECT TO RECAPTURE, DISALLOWANCE, REDUCTION OR DENIAL WITH RESPECT TO EITHER THE TAXPAYER OR ANY SUBSEQUENT TRANSFEREE OF THE CREDIT, AND SUBSECTION F, PARAGRAPH 4 OF THIS SECTION DOES NOT APPLY. THE DIRECTOR'S NOTICE OF DETERMINATION SHALL INCLUDE A WRITTEN CERTIFICATE TO THE TAXPAYER STATING THE AMOUNT OF THE CREDIT AND THAT THE CREDIT IS NOT SUBJECT TO RECAPTURE FROM A TRANSFEREE. THIS SUBSECTION DOES NOT PREVENT THE RECAPTURE OF A CREDIT IF THE TAXPAYER FAILED TO DISCLOSE MATERIAL INFORMATION DURING THE AUDIT OR FALSIFIED ITS BOOKS OR RECORDS OR OTHERWISE ENGAGED IN AN ACTION THAT PREVENTED AN ACCURATE AUDIT.

D. CO-OWNERS OF A BUSINESS, INCLUDING PARTNERS IN A PARTNERSHIP, MEMBERS OF A LIMITED LIABILITY COMPANY AND SHAREHOLDERS OF AN S CORPORATION AS DEFINED IN SECTION 1361 OF THE INTERNAL REVENUE CODE, MAY ALLOCATE THE CREDIT ALLOWED UNDER THIS SECTION AMONG THE CO-OWNERS ON ANY BASIS WITHOUT REGARD TO THEIR PROPORTIONAL OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH OWNERS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN ALLOWED FOR A SOLE OWNER OF THE COMPANY.

E. IF THE ALLOWABLE TAX CREDIT FOR A TAXPAYER EXCEEDS THE TAXES OTHERWISE DUE UNDER THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS TITLE, THE TAXPAYER MAY CARRY THE AMOUNT OF THE CLAIM NOT USED TO OFFSET THE TAXES UNDER THIS TITLE FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE YEARS' INCOME TAX LIABILITY.

F. ALL OR PART OF ANY UNCLAIMED AMOUNT OF CREDIT UNDER THIS SECTION MAY BE SOLD OR OTHERWISE TRANSFERRED UNDER THE FOLLOWING CONDITIONS:

1. A SINGLE SALE OR TRANSFER MAY INVOLVE ONE OR MORE TRANSFEREES, AND A TRANSFEREE MAY IN TURN RESELL OR TRANSFER THE CREDIT SUBJECT TO THE SAME CONDITIONS OF THIS SUBSECTION.

2. BOTH THE TRANSFEROR AND TRANSFEREE MUST SUBMIT A WRITTEN NOTICE OF THE TRANSFER TO THE DEPARTMENT WITHIN THIRTY DAYS AFTER THE SALE OR TRANSFER. THE TRANSFEREE'S NOTICE SHALL INCLUDE A PROCESSING FEE EQUAL TO ONE PER CENT OF THE TRANSFEREE'S TAX CREDIT BALANCE OR TWO HUNDRED DOLLARS, WHICHEVER IS LESS. THE NOTICE SHALL INCLUDE:

(a) THE NAME OF THE TAXPAYER.

(b) THE DATE OF THE TRANSFER.

(c) THE AMOUNT OF THE TRANSFER.

(d) THE TRANSFEROR'S TAX CREDIT BALANCE BEFORE THE TRANSFER AND THE REMAINING BALANCE AFTER THE TRANSFER.

(e) ALL TAX IDENTIFICATION NUMBERS FOR BOTH TRANSFEROR AND TRANSFEREE.

(f) ANY OTHER INFORMATION REQUIRED BY RULE.

3. A SALE OR TRANSFER OF THE CREDIT DOES NOT EXTEND THE TIME IN WHICH THE CREDIT CAN BE USED. THE CARRYFORWARD PERIOD OF TIME UNDER SUBSECTION E OF THIS SECTION FOR A CREDIT THAT IS SOLD OR TRANSFERRED BEGINS ON THE DATE THE CREDIT WAS ORIGINALLY EARNED.

4. EXCEPT AS PROVIDED BY SUBSECTION C OF THIS SECTION, IF A TRANSFEROR WAS NOT QUALIFIED OR WAS DISQUALIFIED FROM USING THE CREDIT AT THE TIME OF

THE TRANSFER, THE DEPARTMENT SHALL EITHER DISALLOW THE CREDIT CLAIMED BY A TRANSFEREE OR RECAPTURE THE CREDIT FROM THE TRANSFEREE THROUGH ANY AUTHORIZED COLLECTION METHOD. THE TRANSFEREE'S RECOURSE IS AGAINST THE TRANSFEROR.

5. IN THE CASE OF ANY FAILURE TO COMPLY WITH THIS SUBSECTION, THE DEPARTMENT SHALL DISALLOW THE TAX CREDIT UNTIL THE TAXPAYER IS IN FULL COMPLIANCE.

G. THE DEPARTMENT SHALL MAINTAIN ANNUAL DATA ON THE TOTAL AMOUNT OF MONIES CREDITED PURSUANT TO THIS SECTION, AND SHALL PROVIDE THAT DATA TO THE DEPARTMENT OF COMMERCE ON REQUEST.

H. THE DEPARTMENT OF REVENUE, WITH THE COOPERATION OF THE DEPARTMENT OF COMMERCE, SHALL ADOPT RULES AND PUBLISH AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY TO EFFECTUATE THE PURPOSES OF THIS SECTION.

I. A TAXPAYER WHO CLAIMS A CREDIT FOR MOTION PICTURE INFRASTRUCTURE PROJECTS UNDER THIS SECTION SHALL NOT CLAIM A CREDIT UNDER SECTION 43-1075 FOR THE SAME COSTS.

J. THE CREDIT ALLOWED BY THIS SECTION IS IN LIEU OF ANY ALLOWANCE FOR STATE TAX PURPOSES OF A DEDUCTION OF THOSE EXPENSES ALLOWED BY THE INTERNAL REVENUE CODE.

K. FOR THE PURPOSES OF THIS SECTION, "MOTION PICTURE INFRASTRUCTURE PROJECT" HAS THE SAME MEANING AS DEFINED IN SECTION 41-1517.01.

Sec. 8. Section 43-1121, Arizona Revised Statutes, is amended to read:

43-1121. Additions to Arizona gross income; corporations

In computing Arizona taxable income for a corporation, the following amounts shall be added to Arizona gross income:

1. The amounts computed pursuant to section 43-1021, paragraphs 3 through 9, 12, 26 and 27.

2. The amount of dividend income received from corporations and allowed as a deduction pursuant to sections 243, 244 and 245 of the internal revenue code.

3. Taxes which are based on income paid to states, local governments or foreign governments and which were deducted in computing federal taxable income.

4. Expenses and interest relating to tax-exempt income on indebtedness incurred or continued to purchase or carry obligations the interest on which is wholly exempt from the tax imposed by this title. Financial institutions, as defined in section 6-101, shall be governed by section 43-961, paragraph 2.

5. Commissions, rentals and other amounts paid or accrued to a domestic international sales corporation controlled by the payor corporation if the domestic international sales corporation is not required to report its taxable income to this state because its income is not derived from or attributable to sources within this state. If the domestic international sales corporation is subject to article 4 of this chapter, the department shall prescribe by rule the method of determining the portion of the commissions, rentals and other amounts which are paid or accrued to the

1 controlled domestic international sales corporation and which shall be
2 deducted by the payor. "Control" for purposes of this paragraph means direct
3 or indirect ownership or control of fifty per cent or more of the voting
4 stock of the domestic international sales corporation by the payor
5 corporation.
6 6. Federal income tax refunds received during the taxable year to the
7 extent they were deducted in arriving at Arizona taxable income in a previous
8 year.
9 7. The amount of net operating loss taken pursuant to section 172 of
10 the internal revenue code.
11 8. The amount of exploration expenses determined pursuant to section
12 617 of the internal revenue code to the extent that they exceed seventy-five
13 thousand dollars and to the extent that the election is made to defer those
14 expenses not in excess of seventy-five thousand dollars.
15 9. Amortization of costs incurred to install pollution control devices
16 and deducted pursuant to the internal revenue code or the amount of deduction
17 for depreciation taken pursuant to the internal revenue code on pollution
18 control devices for which an election is made pursuant to section 43-1129.
19 10. The amount of depreciation or amortization of costs of child care
20 facilities deducted pursuant to section 167 or 188 of the internal revenue
21 code for which an election is made to amortize pursuant to section 43-1130.
22 11. Arizona state income tax refunds received, to the extent the amount
23 of the refunds is not already included in Arizona gross income, if a tax
24 benefit was derived by deduction of this amount in a prior year.
25 12. The amount paid as taxes on property in this state by a qualified
26 defense contractor with respect to which a credit is claimed under section
27 43-1166.
28 13. The loss of an insurance company that is exempt under section
29 43-1201 to the extent that it is included in computing Arizona gross income
30 on a consolidated return pursuant to section 43-947.
31 14. The amount by which the depreciation or amortization computed under
32 the internal revenue code with respect to property for which a credit was
33 taken under section 43-1169 exceeds the amount of depreciation or
34 amortization computed pursuant to the internal revenue code on the Arizona
35 adjusted basis of the property.
36 15. The amount by which the adjusted basis computed under the internal
37 revenue code with respect to property for which a credit was claimed under
38 section 43-1169 and which is sold or otherwise disposed of during the taxable
39 year exceeds the adjusted basis of the property computed under section
40 43-1169.
41 16. The amount by which the depreciation or amortization computed under
42 the internal revenue code with respect to property for which a credit was
43 taken under either section 43-1170 or 43-1170.01 exceeds the amount of
44 depreciation or amortization computed pursuant to the internal revenue code
45 on the Arizona adjusted basis of the property.

17. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under either section 43-1170 or 43-1170.01 and which is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1170 or 43-1170.01, as applicable.

18. The deduction referred to in section 1341(a)(4) of the internal revenue code for restoration of a substantial amount held under a claim of right.

19. The amount by which a capital loss carryover allowable pursuant to section 1341(b)(5) of the internal revenue code exceeds the capital loss carryover allowable pursuant to section 43-1130.01, subsection F.

20. Any amount deducted in computing Arizona taxable income as expenses for installing solar stub outs or electric vehicle recharge outlets in this state with respect to which a credit is claimed pursuant to section 43-1176.

21. Any wage expenses deducted pursuant to the internal revenue code for which a credit is claimed under section 43-1175 and representing net increases in qualified employment positions for employment of temporary assistance for needy families recipients.

22. Any amount of expenses that were deducted pursuant to the internal revenue code and for which a credit is claimed under section 43-1178.

23. Any amount deducted for conveying ownership or development rights of property to an agricultural preservation district under section 48-5702 for which a credit is claimed under section 43-1180.

24. The amount of any deduction that is claimed in computing Arizona gross income and that represents a donation of a school site for which a credit is claimed under section 43-1181.

25. The amount of any deductions that are claimed in computing federal taxable income representing expenses for which a credit is claimed under EITHER section 43-1163 OR 43-1163.01 OR BOTH.

26. Any amount deducted in computing Arizona taxable income as expenses for installing water conservation system plumbing stub outs in this state with respect to which a credit is claimed pursuant to section 43-1182.

27. Any amount deducted pursuant to section 170 of the internal revenue code representing contributions to a school tuition organization for which a credit is claimed under section 43-1183.

Sec. 9. Section 43-1163, Arizona Revised Statutes, is amended to read:

43-1163. <u>Credit for motion picture production costs; definitions</u>

A. Beginning from and after December 31, 2005 through December 31, 2010, a credit is allowed against the taxes imposed by this title for motion picture production costs paid by a motion picture production company in this state that are directly attributable to the production of one or more motion pictures in this state. The amount of the credit is equal to a percentage of the amount of motion picture production costs paid in this state as follows:

| Production costs | Percentage credit |
|---|---|
| $250,000 - $1,000,000 | ~~10%~~ 20% |
| ~~$1,000,001 - $3,000,000~~ | ~~15%~~ |
| More than ~~$3,000,000~~ $1,000,000 | ~~20%~~ 30% |

B. The department shall not allow in any year tax credits that exceed the aggregate amount prescribed in section 41-1517.

C. The department shall not allow a credit under this section to a taxpayer ~~who~~ THAT has a delinquent tax balance owing to the department under this title or title 42.

D. To qualify for a credit under this section, the motion picture production company must:

1. Employ residents of this state in production as follows:

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

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

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

2. Include in the production credits for each commercial motion picture, other than a commercial advertisement OR MUSIC VIDEO, an acknowledgement that the production was filmed in Arizona.

3. Receive preapproval and postapproval from the department of commerce pursuant to section 41-1517.

E. BEGINNING WITH TAX CREDITS ALLOCATED FOR 2006 PURSUANT TO SECTION 41-1517, SUBSECTION J, A MOTION PICTURE PRODUCTION COMPANY, AT ITS EXPENSE, MAY VOLUNTARILY ENTER INTO A LIMITED MANAGED AUDIT AGREEMENT PURSUANT TO TITLE 42, CHAPTER 2, ARTICLE 7 THAT INCLUDES AN AUDIT OF ITS PRODUCTION COSTS AND OTHER REQUIREMENTS PRESCRIBED BY SECTION 41-1517 AND BY THIS SECTION TO CONFIRM THE AMOUNT OF ANY CREDIT UNDER THIS SECTION. THE REQUEST TO ENTER INTO THE AUDIT MUST BE MADE AFTER THE MOTION PICTURE PRODUCTION COMPANY RECEIVES POSTCERTIFICATION FOR THE CREDIT PURSUANT TO SECTION 41-1517, SUBSECTION O. THE AUDIT MUST BE CONDUCTED BY THE TAXPAYER'S AUTHORIZED REPRESENTATIVE, AS DEFINED BY SECTION 42-2301, WHO IS AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT LICENSED IN THIS STATE. THE CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT IS AFFILIATED WITH SHALL NOT REGULARLY PERFORM SERVICES FOR THE MOTION PICTURE PRODUCTION COMPANY OR ITS AFFILIATES. IF THE DIRECTOR ACCEPTS THE FINDINGS OF THE AUDIT AND ISSUES A NOTICE OF DETERMINATION PURSUANT TO SECTION 42-2303 AND THE TAXPAYER TIMELY FILES ITS INCOME TAX RETURN WITH THE APPROPRIATE CREDIT CLAIM FORMS, THE CREDIT AMOUNT ACCEPTED IS NOT SUBJECT TO RECAPTURE, DISALLOWANCE, REDUCTION OR DENIAL WITH RESPECT TO EITHER THE MOTION PICTURE PRODUCTION COMPANY OR ANY SUBSEQUENT TRANSFEREE OF THE CREDIT, AND SUBSECTION H, PARAGRAPH 4 OF THIS SECTION DOES NOT APPLY. THE DIRECTOR'S NOTICE OF DETERMINATION SHALL INCLUDE A WRITTEN CERTIFICATE TO THE TAXPAYER STATING THE AMOUNT OF THE CREDIT AND THAT THE CREDIT IS NOT SUBJECT TO RECAPTURE FROM A

TRANSFEREE. THIS SUBSECTION DOES NOT PROHIBIT THE RECAPTURE OF A CREDIT FROM A MOTION PICTURE PRODUCTION COMPANY IF THE COMPANY FAILED TO DISCLOSE MATERIAL INFORMATION DURING THE AUDIT OR FALSIFIED ITS BOOKS OR RECORDS OR OTHERWISE ENGAGED IN AN ACTION THAT PREVENTED AN ACCURATE AUDIT.

~~E.~~ F. Co-owners of a motion picture production company, including corporate partners in a partnership and members of a limited liability company, may allocate the credit allowed under this section among the co-owners on any basis without regard to their proportional ownership interest. The total of the credits allowed all such owners of the motion picture production company may not exceed the amount that would have been allowed for a sole owner of the company.

~~F.~~ G. If the allowable tax credit for a taxpayer exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry the amount of the claim not used to offset the taxes under this title forward for not more than five consecutive taxable years' income tax liability.

~~G.~~ H. All or part of any unclaimed amount of credit under this section may be sold or otherwise transferred under the following conditions:

1. A single sale or transfer may involve one or more transferees, and a transferee may in turn resell or transfer the credit subject to the same conditions of this subsection.

2. Both the transferor and transferee must submit a written notice of the transfer to the department within thirty days after the sale or transfer. The transferee's notice shall include a processing fee equal to one per cent of the transferee's tax credit balance or two hundred dollars, whichever is less. The notice shall include:

(a) The name of the motion picture production company.

(b) The date of the transfer.

(c) The amount of the transfer.

(d) The transferor's tax credit balance before the transfer and the remaining balance after the transfer.

(e) All tax identification numbers for both transferor and transferee.

(f) Any other information required by rule.

3. A sale or transfer of the credit does not extend the time in which the credit can be used. ~~The carryforward period of time under subsection F of this section for a credit that is sold or transferred begins on the date the credit was originally earned.~~

4. EXCEPT AS PROVIDED BY SUBSECTION E OF THIS SECTION, if a transferor was not qualified or was disqualified from using the credit at the time of the transfer, the department shall either disallow the credit claimed by a transferee or recapture the credit from the transferee through any authorized collection method. The transferee's recourse is against the transferor.

5. In the case of any failure to comply with this subsection, the department shall disallow the tax credit until the taxpayer is in full compliance.

~~H.~~ I. The department shall maintain annual data on the total amount of monies credited pursuant to this section, and shall provide those data to the department of commerce on request.

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

K. A TAXPAYER THAT CLAIMS A CREDIT FOR MOTION PICTURE COSTS UNDER THIS SECTION SHALL NOT CLAIM A CREDIT UNDER SECTION 43-1163.01 FOR THE SAME COSTS.

~~J.~~ L. The credit allowed by this section is in lieu of any allowance for state tax purposes of a deduction of those expenses allowed by the internal revenue code.

~~K.~~ M. For the purposes of this section, "COMMERCIAL ADVERTISEMENT", "motion picture", ~~and~~ "motion picture production company" AND "MUSIC VIDEO" have the same meanings prescribed in section 41-1517.

Sec. 10. Title 43, chapter 11, article 6, Arizona Revised Statutes, is amended by adding section 43-1163.01, to read:

43-1163.01. Credit for motion picture infrastructure projects; definition

A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR INVESTMENTS IN MOTION PICTURE INFRASTRUCTURE PROJECTS IN THIS STATE AS PROVIDED BY SECTION 41-1517.01. THE AMOUNT OF THE CREDIT IS FIFTEEN PER CENT OF THE TOTAL BASE INVESTMENT IN THE PROJECT DURING THE TAXABLE YEAR AS APPROVED AND REPORTED BY THE DEPARTMENT OF COMMERCE PURSUANT TO SECTION 41-1517.01, SUBSECTION F. THE TAXPAYER MAY APPLY THE CREDIT AGAINST INCOME TAXES FOR THE TAXABLE YEAR IN WHICH THE MOTION PICTURE INFRASTRUCTURE PROJECT IS COMPLETED AS PROVIDED BY SECTION 41-1517.01, SUBSECTION F.

B. THE DEPARTMENT SHALL NOT ALLOW:

1. TAX CREDITS FOR ANY TAXABLE YEAR UNDER THIS SECTION AND SECTION 43-1075.01 THAT WOULD VIOLATE THE AGGREGATE LIMITS PRESCRIBED BY SECTION 41-1517.01, SUBSECTION C.

2. A TAX CREDIT UNDER THIS SECTION TO A TAXPAYER THAT HAS A DELINQUENT TAX BALANCE OWING TO THE DEPARTMENT UNDER THIS TITLE OR TITLE 42.

C. AN APPLICANT, AT ITS EXPENSE, MAY VOLUNTARILY ENTER INTO A LIMITED MANAGED AUDIT AGREEMENT PURSUANT TO TITLE 42, CHAPTER 2, ARTICLE 7 THAT INCLUDES AN AUDIT OF ITS BASE INVESTMENT AND OTHER REQUIREMENTS PRESCRIBED BY SECTION 41-1517.01 AND BY THIS SECTION TO CONFIRM THE AMOUNT OF ANY CREDIT UNDER THIS SECTION. THE REQUEST TO ENTER INTO THE AUDIT MUST BE MADE AFTER THE APPLICANT RECEIVES POSTCERTIFICATION FOR THE CREDIT PURSUANT TO SECTION 41-1517, SUBSECTION O. THE AUDIT MUST BE CONDUCTED BY THE APPLICANT'S AUTHORIZED REPRESENTATIVE, AS DEFINED BY SECTION 42-2301, WHO IS AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT LICENSED IN THIS STATE. THE CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT IS AFFILIATED WITH SHALL NOT REGULARLY PERFORM SERVICES FOR THE TAXPAYER OR ITS AFFILIATES. IF THE DIRECTOR ACCEPTS THE FINDINGS OF THE AUDIT AND ISSUES A NOTICE OF DETERMINATION PURSUANT TO SECTION 42-2303 AND THE TAXPAYER TIMELY

FILES ITS INCOME TAX RETURN WITH THE APPROPRIATE CREDIT CLAIM FORMS, THE CREDIT AMOUNT ACCEPTED IS NOT SUBJECT TO RECAPTURE, DISALLOWANCE, REDUCTION OR DENIAL WITH RESPECT TO EITHER THE TAXPAYER OR ANY SUBSEQUENT TRANSFEREE OF THE CREDIT, AND SUBSECTION F, PARAGRAPH 4 OF THIS SECTION DOES NOT APPLY. THE DIRECTOR'S NOTICE OF DETERMINATION SHALL INCLUDE A WRITTEN CERTIFICATE TO THE TAXPAYER STATING THE AMOUNT OF THE CREDIT AND THAT THE CREDIT IS NOT SUBJECT TO RECAPTURE FROM A TRANSFEREE. THIS SUBSECTION DOES NOT PREVENT THE RECAPTURE OF A CREDIT IF THE TAXPAYER FAILED TO DISCLOSE MATERIAL INFORMATION DURING THE AUDIT OR FALSIFIED ITS BOOKS OR RECORDS OR OTHERWISE ENGAGED IN AN ACTION THAT PREVENTED AN ACCURATE AUDIT.

D. CO-OWNERS OF A BUSINESS, INCLUDING CORPORATE PARTNERS IN A PARTNERSHIP AND MEMBERS OF A LIMITED LIABILITY COMPANY, MAY ALLOCATE THE CREDIT ALLOWED UNDER THIS SECTION AMONG THE CO-OWNERS ON ANY BASIS WITHOUT REGARD TO THEIR PROPORTIONAL OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH OWNERS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN ALLOWED FOR A SOLE OWNER OF THE COMPANY.

E. IF THE ALLOWABLE TAX CREDIT FOR A TAXPAYER EXCEEDS THE TAXES OTHERWISE DUE UNDER THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS TITLE, THE TAXPAYER MAY CARRY THE AMOUNT OF THE CLAIM NOT USED TO OFFSET THE TAXES UNDER THIS TITLE FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE YEARS' INCOME TAX LIABILITY.

F. ALL OR PART OF ANY UNCLAIMED AMOUNT OF CREDIT UNDER THIS SECTION MAY BE SOLD OR OTHERWISE TRANSFERRED UNDER THE FOLLOWING CONDITIONS:

1. A SINGLE SALE OR TRANSFER MAY INVOLVE ONE OR MORE TRANSFEREES, AND A TRANSFEREE MAY IN TURN RESELL OR TRANSFER THE CREDIT SUBJECT TO THE SAME CONDITIONS OF THIS SUBSECTION.

2. BOTH THE TRANSFEROR AND TRANSFEREE MUST SUBMIT A WRITTEN NOTICE OF THE TRANSFER TO THE DEPARTMENT WITHIN THIRTY DAYS AFTER THE SALE OR TRANSFER. THE TRANSFEREE'S NOTICE SHALL INCLUDE A PROCESSING FEE EQUAL TO ONE PER CENT OF THE TRANSFEREE'S TAX CREDIT BALANCE OR TWO HUNDRED DOLLARS, WHICHEVER IS LESS. THE NOTICE SHALL INCLUDE:

(a) THE NAME OF THE TAXPAYER.

(b) THE DATE OF THE TRANSFER.

(c) THE AMOUNT OF THE TRANSFER.

(d) THE TRANSFEROR'S TAX CREDIT BALANCE BEFORE THE TRANSFER AND THE REMAINING BALANCE AFTER THE TRANSFER.

(e) ALL TAX IDENTIFICATION NUMBERS FOR BOTH TRANSFEROR AND TRANSFEREE.

(f) ANY OTHER INFORMATION REQUIRED BY RULE.

3. A SALE OR TRANSFER OF THE CREDIT DOES NOT EXTEND THE TIME IN WHICH THE CREDIT CAN BE USED. THE CARRYFORWARD PERIOD OF TIME UNDER SUBSECTION E OF THIS SECTION FOR A CREDIT THAT IS SOLD OR TRANSFERRED BEGINS ON THE DATE THE CREDIT WAS ORIGINALLY EARNED.

4. EXCEPT AS PROVIDED BY SUBSECTION C OF THIS SECTION, IF A TRANSFEROR WAS NOT QUALIFIED OR WAS DISQUALIFIED FROM USING THE CREDIT AT THE TIME OF THE TRANSFER, THE DEPARTMENT SHALL EITHER DISALLOW THE CREDIT CLAIMED BY A

TRANSFEREE OR RECAPTURE THE CREDIT FROM THE TRANSFEREE THROUGH ANY AUTHORIZED COLLECTION METHOD. THE TRANSFEREE'S RECOURSE IS AGAINST THE TRANSFEROR.

5. IN THE CASE OF ANY FAILURE TO COMPLY WITH THIS SUBSECTION, THE DEPARTMENT SHALL DISALLOW THE TAX CREDIT UNTIL THE TAXPAYER IS IN FULL COMPLIANCE.

G. THE DEPARTMENT SHALL MAINTAIN ANNUAL DATA ON THE TOTAL AMOUNT OF MONIES CREDITED PURSUANT TO THIS SECTION, AND SHALL PROVIDE THAT DATA TO THE DEPARTMENT OF COMMERCE ON REQUEST.

H. THE DEPARTMENT OF REVENUE, WITH THE COOPERATION OF THE DEPARTMENT OF COMMERCE, SHALL ADOPT RULES AND PUBLISH AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY TO EFFECTUATE THE PURPOSES OF THIS SECTION.

I. A TAXPAYER THAT CLAIMS A CREDIT FOR MOTION PICTURE INFRASTRUCTURE PROJECTS UNDER THIS SECTION SHALL NOT CLAIM A CREDIT UNDER SECTION 43-1163 FOR THE SAME COSTS.

J. THE CREDIT ALLOWED BY THIS SECTION IS IN LIEU OF ANY ALLOWANCE FOR STATE TAX PURPOSES OF A DEDUCTION OF THOSE EXPENSES ALLOWED BY THE INTERNAL REVENUE CODE.

K. FOR THE PURPOSES OF THIS SECTION, "MOTION PICTURE INFRASTRUCTURE PROJECT" HAS THE SAME MEANING AS DEFINED IN SECTION 41-1517.01.

Sec. 11. Purpose

Pursuant to section 43-223, Arizona Revised Statutes, the purpose of sections 43-1075.01 and 43-1163.01, Arizona Revised Statutes, as added by this act, is to encourage taxpayers to invest in motion picture infrastructure projects to support the development of the motion picture industry in this state.

Sec. 12. Authorization for funding employment positions

Pursuant to section 41-1517, subsection U, Arizona Revised Statutes, as amended by this act, the department of commerce is authorized to allocate the sum of $180,000 of the dollar amount of income tax credits in fiscal year 2007-2008 for up to two full-time equivalent positions dedicated solely for the purposes of section 41-1517, Arizona Revised Statutes, as amended by this act, and section 41-1517.01, Arizona Revised Statutes, as added by this act.

APPROVED BY THE GOVERNOR MAY 24, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 24, 2007.

Passed the House February 19, 2007

by the following vote: 52 Ayes,

3 Nays, 5 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate May 15, 2007

by the following vote: 21 Ayes,

8 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

Secretary to the Governor

Approved this _____day of

at _____o'clock _____M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

Secretary of State

H.B. 2322

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 21, 2007,

by the following vote: 51 Ayes,

6 Nays, 3 Not Voting

Speaker of the House

Pro Tempore

Thomas L. Moore

Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

21st day of May, 2007,

at 2:12 o'clock P. M.

Jennifer Ybarra

Secretary to the Governor

Approved this 24 day of

May, 2007,

at 2 45 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 24 day of May, 2007,

at 4:20 o'clock P. M.

Janice K. Brewer

Secretary of State

H.B. 2322