Senate Engrossed House Bill

FILED
KEN BENNETT
SECRETARY OF STATE

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Fiftieth Legislature
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CHAPTER 343

HOUSE BILL 2815

AN ACT

AMENDING SECTION 20-224.03, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2012, CHAPTER 3, SECTION 3; AMENDING SECTION 41-1511, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1512; AMENDING SECTION 41-1525, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2012, CHAPTER 3, SECTION 14; AMENDING SECTION 42-2003, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2012, CHAPTER 170, SECTION 39; REPEALING SECTION 42-2003, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2012, CHAPTER 3, SECTION 19; AMENDING SECTIONS 42-11127, 43-222 AND 43-1022, ARIZONA REVISED STATUTES; AMENDING SECTION 43-1074, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2012, CHAPTER 3, SECTION 45; AMENDING SECTION 43-1083.01, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1083.03; AMENDING SECTIONS 43-1122 AND 43-1123, ARIZONA REVISED STATUTES; AMENDING SECTION 43-1161, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2012, CHAPTER 3, SECTION 52; AMENDING SECTION 43-1164.01, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1164.04; AMENDING LAWS 2009, CHAPTER 96, SECTION 17; RELATING TO BUSINESS INCENTIVES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 20-224.03, Arizona Revised Statutes, as amended by Laws 2012, chapter 3, section 3, is amended to read:

20-224.03. Premium tax credit for new employment

A. FOR TAXABLE YEARS BEGINNING from and after June 30, 2011 THROUGH DECEMBER 31, 2019, a credit is allowed against the premium tax liability imposed pursuant to section 20-224, 20-837, 20-1010, 20-1060 or 20-1097.07 for net increases in full-time employees residing in this state and hired in qualified employment positions in this state as computed and certified by the Arizona commerce authority pursuant to section 41-1525. A tax credit is not allowed against the portion of the tax payable to the fire fighters' relief and pension fund pursuant to section 20-224 or the portion of the tax payable to the public safety personnel retirement system pursuant to section 20-224.01.

B. Subject to subsection ~~E~~ F of this section, the amount of the tax credit is equal to:

1. Three thousand dollars for each full-time employee hired in a qualified employment position in the first year or partial year of employment~~, but not more than four hundred employees in any taxable year~~. Employees hired in the last ninety days of the taxable year are excluded for that taxable year and are considered to be new employees in the following taxable year.

2. Three thousand dollars for each full-time employee in a qualified employment position for the full taxable year in the second year of continuous employment.

3. Three thousand dollars for each full-time employee in a qualified employment position for the full taxable year in the third year of continuous employment.

C. THE CAPITAL INVESTMENT AND THE NEW QUALIFIED EMPLOYMENT POSITIONS REQUIREMENTS OF SECTION 41-1525, SUBSECTION B MUST BE ACCOMPLISHED WITHIN TWELVE MONTHS AFTER THE START OF THE REQUIRED CAPITAL INVESTMENT. NO CREDIT MAY BE CLAIMED UNTIL BOTH REQUIREMENTS ARE MET. A BUSINESS THAT MEETS THE REQUIREMENTS OF SECTION 41-1525, SUBSECTION B FOR A LOCATION IS ELIGIBLE TO CLAIM FIRST YEAR CREDITS FOR THREE YEARS BEGINNING WITH THE TAXABLE YEAR IN WHICH THOSE REQUIREMENTS ARE COMPLETED. EMPLOYEES HIRED AT THE LOCATION BEFORE THE BEGINNING OF THE TAXABLE YEAR BUT DURING THE TWELVE-MONTH PERIOD ALLOWED IN THIS SUBSECTION ARE CONSIDERED TO BE NEW EMPLOYEES FOR THE TAXABLE YEAR IN WHICH ALL OF THOSE REQUIREMENTS ARE COMPLETED. THE EMPLOYEES THAT ARE CONSIDERED TO BE NEW EMPLOYEES FOR THE TAXABLE YEAR UNDER THIS SUBSECTION SHALL NOT BE INCLUDED IN THE AVERAGE NUMBER OF FULL-TIME EMPLOYEES DURING THE IMMEDIATELY PRECEDING TAXABLE YEAR UNTIL THE TAXABLE YEAR IN WHICH ALL OF THE REQUIREMENTS OF SECTION 41-1525, SUBSECTION B ARE COMPLETED. AN EMPLOYEE WORKING AT A TEMPORARY WORK SITE IN THIS STATE WHILE THE DESIGNATED LOCATION IS UNDER CONSTRUCTION IS CONSIDERED TO BE WORKING AT THE DESIGNATED LOCATION IF ALL OF THE FOLLOWING OCCUR:

1. THE EMPLOYEE IS HIRED AFTER THE START OF THE REQUIRED INVESTMENT AT THE DESIGNATED LOCATION.

2. THE EMPLOYEE IS HIRED TO WORK AT THE DESIGNATED LOCATION AFTER IT IS COMPLETED.

3. THE PAYROLL FOR THE EMPLOYEES DESTINED FOR THE DESIGNATED LOCATION IS SEGREGATED FROM OTHER EMPLOYEES.

4. THE EMPLOYEE IS MOVED TO THE DESIGNATED LOCATION WITHIN THIRTY DAYS AFTER ITS COMPLETION.

~~C.~~ D. To qualify for a credit under this section, the insurer and the employment positions must meet the requirements prescribed by section 41-1525.

~~D.~~ E. A credit is allowed for employment in the second and third year only for qualified employment positions for which a credit was claimed and allowed in the first year.

~~E.~~ F. The net increase in the number of qualified employment positions is the lesser of the total number of filled qualified employment positions created at the ~~business location~~ DESIGNATED LOCATION OR LOCATIONS during the taxable year or the difference between the average number of full-time employees in this state in the current taxable year and the average number of full-time employees in this state during the immediately preceding taxable year. The net increase in the number of qualified employment positions computed under this subsection may not exceed ~~either four hundred qualified employment positions per taxpayer each year or~~ the difference between the average number of full-time employees in this state in the current taxable year and the average number of full-time employees in this state during the immediately preceding taxable year.

~~F.~~ G. A taxpayer who claims a credit under section 20-224.04 shall not claim a credit under this section with respect to the same employment positions.

~~G.~~ H. If the allowable tax credit exceeds the state premium tax liability, the amount of the claim not used as an offset against the state premium tax liability may be carried forward as a tax credit against subsequent years' state premium tax liability for a period not exceeding five taxable years.

~~H.~~ I. If the business is sold or changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim first year credits only for the qualified employment positions that it created and filled with an eligible employee after the purchase or reorganization was complete. If a person purchases a taxpayer that had qualified for first or second year credits or if an insurance business changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim the second or third year credits if it meets other eligibility requirements of this section. Credits for which a taxpayer qualified before the changes described in this subsection are terminated and lost at the time the changes are implemented.

~~I.~~ J. An insurer that claims a tax credit against state premium tax liability is not required to pay any additional retaliatory tax imposed pursuant to section 20-230 as a result of claiming that tax credit.

~~J.~~ K. A failure to timely report and certify to the Arizona commerce authority the information prescribed by section 41-1525, subsection ~~D~~ E and in the manner prescribed by section 41-1525, subsection ~~E~~ F disqualifies the insurer from the credit under this section. The department of insurance shall require written evidence of the timely report to the Arizona commerce authority.

~~K.~~ L. A tax credit under this section is subject to recovery for a violation described in section 41-1525, subsection ~~G~~ H.

~~L.~~ M. The department may adopt rules necessary for the administration of this section.

Sec. 2. Section 41-1511, Arizona Revised Statutes, is amended to read:

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

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

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

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

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

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

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

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

(a) A schedule of qualifying investments.

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

6. A nonrefundable processing fee in an amount determined by the authority.

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

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

(a) Agrees to furnish records of expenditures for qualifying investments to the authority on request.

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

(c) Agrees to furnish to the authority information regarding the amount of tax benefits claimed each year.

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

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

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

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

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

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

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

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

2. The fixed capital assets shall be classified as class six for the purposes of property taxation pursuant to section 42-12006, paragraph 8 if the qualifying investment amounts to at least twenty-five million dollars, if the applicant pays at least eighty per cent of the health insurance costs or membership costs for all net new employees and if at least fifty-one per cent of the net new full-time employment positions at the qualifying renewable energy operation pay a wage that equals:

(a) At least one hundred twenty-five, but less than two hundred, per cent of the median annual wage in this state, as determined by the most

recent annual Arizona commerce authority occupational wage and employment estimates, the property may be classified as class six for ten tax years.

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

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

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

1. Renewable energy operations in separate locations.

2. Separate expansions of a renewable energy operation.

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

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

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

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

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

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

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

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

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

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

H. The authority shall establish a process for qualifying and preapproving applicants for the tax incentives. The authority shall not preapprove an applicant as qualifying for tax incentives under this section after December 31, ~~2014~~ 2019. Preapproval is based on:

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

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

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

J. The authority shall not preapprove income tax credits ~~exceeding~~ UNDER THIS SECTION AND SECTION 41-1512 THAT COMBINED WOULD EXCEED seventy million dollars in any calendar year, except as provided by this subsection and subsection K of this section. THE AUTHORITY SHALL NOT PREAPPROVE INCOME TAX CREDITS UNDER THIS SECTION FOR ANY ONE TAXPAYER IN EXCESS OF THIRTY MILLION DOLLARS IN ANY CALENDAR YEAR. A preapproved amount applies against the dollar limit for the year in which the application was submitted regardless of whether the initial preapproval period extends into the following year or years. If, at the end of any year, an unused balance occurs under the dollar limit prescribed by this subsection:

1. The balance shall be allocated to ~~renewable energy~~ businesses that successfully appeal the denial of approval under this section OR SECTION 41-1512. Any amount of income tax credits due to successful appeals that are not paid from an unused balance at the end of any year shall be paid against the dollar limit in the following year.

2. Any remaining unused balance ACCRUING THROUGH DECEMBER 31, 2011 shall be reallocated for the purposes of this section AND SECTION 41-1512 in the following year.

3. ANY REMAINING UNUSED BALANCE ACCRUING IN 2012 AND THEREAFTER LAPSES AND SHALL NOT BE REALLOCATED IN THE FOLLOWING YEAR.

K. The authority shall reallocate the amount of income tax credits that are voluntarily relinquished under subsection L of this section, that lapse under subsection M of this section or that lapse under subsection P of this section. The reallocation shall be to other ~~renewable energy~~ businesses that applied UNDER THIS SECTION OR SECTION 41-1512 in the original credit year based on priority placement. Once reallocated, the amount of the credit applies against the dollar limit of the original credit year regardless of the year in which the reallocation occurs.

L. A taxpayer may voluntarily relinquish unused credit amounts.

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

investment will be made exceeds twelve months, documentation of additional expenditures as required in this subsection for each twelve month period.

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

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

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

1 section 43-1083.01 or 43-1164.01 that exceeds the amount of the postapproval
2 for the project under this subsection. For the purposes of this subsection,
3 "begins operations" means:
4 1. A headquarters facility opens for public business.
5 2. A manufacturing facility begins producing commercial quantities of
6 usable products.
7 Q. The authority may rescind the business' postapproval if the
8 business no longer meets the terms and conditions required for qualifying for
9 the tax incentives. The authority may give special consideration, or allow
10 temporary exemption from recapture of tax benefits, in the case of
11 extraordinary hardship due to factors beyond the control of the qualifying
12 business.
13 R. If the authority rescinds an applicant's preapproval or
14 postapproval under subsection Q of this section, it shall notify the
15 department of revenue and the county assessor of the action and the
16 conditions of noncompliance. If the department of revenue obtains
17 information indicating a possible failure to qualify and comply, it shall
18 provide that information to the authority. The department of revenue may
19 require the business to file appropriate amended tax returns reflecting any
20 recapture of income tax credits under section 43-1083.01 or 43-1164.01.
21 S. Preapproval and postapproval of a business for the purposes of tax
22 incentives under this section do not constitute or imply compliance with any
23 other provision of law or any regulatory rule, order, procedure, permit or
24 other measure required by law. To maintain qualification for tax incentives
25 under this section, a business must separately comply with all environmental,
26 employment and other regulatory measures.
27 T. For five years after postapproval for tax incentives under this
28 section, in any action involving the liquidation of the business assets or
29 relocation out of state, this state claims the position of a secured creditor
30 of the business in the amount of income tax credits and property tax
31 incentives the business received pursuant to section 42-12006, 43-1083.01 or
32 43-1164.01.
33 U. Any information gathered from a renewable energy business for the
34 purposes of this section is considered to be confidential taxpayer
35 information and shall be disclosed only as provided in section 42-2003,
36 subsection B, paragraph 12, except that the authority shall publish the
37 following information in its annual report:
38 1. The name of each renewable energy business and the amount of income
39 tax credits preapproved for each qualifying investment.
40 2. The amount of credits postapproved with respect to each qualifying
41 investment.
42 V. The authority shall:
43 1. Keep annual records of the information provided on applications for
44 renewable energy businesses. These records shall reflect a percentage
45 comparison of the annual amount of monies exempted or credited to qualifying

renewable energy businesses to the estimated amount of monies spent in this state in the form of qualifying investments.

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

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

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

X. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

Sec. 3. Title 41, chapter 10, article 1, Arizona Revised Statutes, is amended by adding section 41-1512, to read:

41-1512. Qualified facility income tax credits; qualification; definitions

A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2012, INCOME TAX CREDITS ARE ALLOWED FOR EXPANDING OR LOCATING A QUALIFIED FACILITY IN THIS STATE PURSUANT TO SECTIONS 43-1083.03 AND 43-1164.04. ONLY CAPITAL INVESTMENTS IN A QUALIFIED FACILITY THAT ARE MADE ON OR AFTER JULY 1, 2012 ARE INCLUDED IN THE COMPUTATION OF THE CREDIT.

B. TO BE ELIGIBLE FOR THE INCOME TAX CREDITS, A TAXPAYER MUST APPLY TO THE AUTHORITY, ON A FORM PRESCRIBED BY THE AUTHORITY, FOR PREAPPROVAL OF THE BUSINESS AS QUALIFYING FOR THE CREDITS. THE APPLICATION MUST INCLUDE:

1. THE APPLICANT'S NAME, ADDRESS, TELEPHONE NUMBER AND FEDERAL TAXPAYER IDENTIFICATION NUMBER OR NUMBERS.

2. THE NAME, ADDRESS, TELEPHONE NUMBER AND E-MAIL ADDRESS OF A CONTACT PERSON FOR THE APPLICANT.

3. THE ADDRESS OF THE SITE WHERE THE QUALIFIED FACILITY WILL BE LOCATED.

4. A DETAILED DESCRIPTION OF THE QUALIFIED FACILITY AND FIXED CAPITAL ASSETS.

5. AN ESTIMATE OF THE CAPITAL INVESTMENT AND NUMBER OF EMPLOYMENT POSITIONS AT THE QUALIFIED FACILITY, INCLUDING:

(a) A SCHEDULE OF QUALIFYING INVESTMENTS.

(b) A LIST OF FULL-TIME EMPLOYMENT POSITIONS, THE ESTIMATED NUMBER OF EMPLOYEES TO BE HIRED FOR THE POSITIONS EACH YEAR DURING THE FIRST FIVE YEARS OF OPERATION AND THE ANNUAL WAGES FOR EACH POSITION, CALCULATED WITHOUT EMPLOYEE-RELATED BENEFITS.

6. A NONREFUNDABLE PROCESSING FEE IN AN AMOUNT DETERMINED BY THE AUTHORITY.

7. OTHER INFORMATION AS REQUIRED BY THE AUTHORITY TO DETERMINE ELIGIBILITY FOR THE INCOME TAX CREDITS AND THE AMOUNT OF INCOME TAX CREDITS, AS PRESCRIBED BY THIS SECTION.

8. AN AFFIRMATION, SIGNED BY AN AUTHORIZED EXECUTIVE REPRESENTING THE BUSINESS, THAT THE APPLICANT:

1 (a) AGREES TO FURNISH RECORDS OF EXPENDITURES FOR QUALIFYING
2 INVESTMENTS TO THE AUTHORITY ON REQUEST.
3 (b) WILL CONTINUE IN BUSINESS AT THE QUALIFIED FACILITY FOR FIVE FULL
4 CALENDAR YEARS AFTER POSTAPPROVAL FOR THE CREDIT, OTHER THAN FOR REASONS
5 BEYOND THE CONTROL OF THE APPLICANT.
6 (c) AGREES TO FURNISH TO THE AUTHORITY INFORMATION REGARDING THE
7 AMOUNT OF INCOME TAX CREDITS CLAIMED EACH YEAR.
8 (d) AUTHORIZES THE DEPARTMENT OF REVENUE TO PROVIDE TAX INFORMATION TO
9 THE AUTHORITY PURSUANT TO SECTION 42-2003 FOR THE PURPOSE OF DETERMINING ANY
10 INCONSISTENCY IN INFORMATION FURNISHED BY THE APPLICANT.
11 (e) AGREES TO ALLOW SITE VISITS AND AUDITS TO VERIFY THE APPLICANT'S
12 CONTINUING QUALIFICATION AND THE ACCURACY OF INFORMATION SUBMITTED TO THE
13 AUTHORITY.
14 (f) CONSENTS TO THE ADJUSTMENT OR RECAPTURE OF ANY AMOUNT OF INCOME
15 TAX CREDIT DUE TO NONCOMPLIANCE WITH THIS SECTION.
16 9. LETTERS OF GOOD STANDING FROM THE DEPARTMENT OF REVENUE STATING
17 THAT THE APPLICANT IS NOT DELINQUENT IN THE PAYMENT OF TAXES.
18 C. THE APPLICANT MAY QUALIFY FOR THE INCOME TAX CREDITS PURSUANT TO
19 SECTION 43-1083.03 OR 43-1164.04, AS APPLICABLE, IF:
20 1. THE APPLICANT MAKES NEW CAPITAL INVESTMENT IN THIS STATE AFTER JUNE
21 30, 2012 IN A TAXABLE YEAR BEGINNING FROM AND AFTER DECEMBER 31, 2012 IN A
22 QUALIFIED FACILITY.
23 2. AT LEAST FIFTY-ONE PER CENT OF THE NET NEW FULL-TIME EMPLOYMENT
24 POSITIONS AT THE QUALIFIED FACILITY PAY A WAGE THAT EQUALS OR EXCEEDS ONE
25 HUNDRED TWENTY-FIVE PER CENT OF THE MEDIAN ANNUAL WAGE IN THIS STATE, AS
26 DETERMINED BY THE MOST RECENT ANNUAL ARIZONA COMMERCE AUTHORITY OCCUPATIONAL
27 WAGE AND EMPLOYMENT ESTIMATES.
28 3. ALL NET NEW FULL-TIME EMPLOYMENT POSITIONS INCLUDE HEALTH INSURANCE
29 COVERAGE FOR THE EMPLOYEES FOR WHICH THE APPLICANT PAYS AT LEAST EIGHTY PER
30 CENT OF THE PREMIUM OR MEMBERSHIP COST.
31 D. FINAL ELIGIBILITY FOR AN INCOME TAX CREDIT IS SUBJECT TO ANY
32 ADDITIONAL REQUIREMENTS PRESCRIBED BY SECTION 43-1083.03 OR 43-1164.04, AS
33 APPLICABLE.
34 E. AN APPLICANT MAY SEPARATELY APPLY AND QUALIFY WITH RESPECT TO
35 INVESTMENTS FOR SEPARATE EXPANSIONS OF A QUALIFIED FACILITY.
36 F. THE AMOUNT OF THE INCOME TAX CREDIT TO BE PREAPPROVED BY THE
37 AUTHORITY TO A QUALIFYING APPLICANT IS TEN PER CENT OF THE LESSER OF:
38 1. THE AMOUNT THE APPLICANT HAS PROJECTED IN TOTAL QUALIFYING
39 INVESTMENT IN THE QUALIFIED FACILITY.
40 2. TWO HUNDRED THOUSAND DOLLARS FOR EACH NET NEW FULL-TIME EMPLOYMENT
41 POSITION PROJECTED BY THE APPLICANT AT A QUALIFIED FACILITY.
42 G. BEGINNING WITH INCOME TAX CREDITS ALLOCATED FOR 2013, AN APPROVED
43 CREDIT:
44 1. MUST BE CLAIMED ON A TIMELY FILED ORIGINAL INCOME TAX RETURN,
45 INCLUDING EXTENSIONS.

2. MUST BE CLAIMED IN FIVE EQUAL INSTALLMENTS AS PROVIDED BY SECTION 43-1083.03 OR 43-1164.04.

H. THE AUTHORITY SHALL ESTABLISH A PROCESS FOR QUALIFYING AND PREAPPROVING APPLICANTS FOR THE INCOME TAX CREDITS. THE AUTHORITY SHALL NOT PREAPPROVE APPLICANTS AS QUALIFYING FOR CREDITS UNDER THIS SECTION AFTER DECEMBER 31, 2019. PREAPPROVAL IS BASED ON:

1. PRIORITY PLACEMENT ESTABLISHED BY THE DATE THAT THE APPLICANT FILES ITS INITIAL APPLICATION WITH THE AUTHORITY.

2. THE AVAILABILITY OF INCOME TAX CREDIT CAPACITY UNDER THE DOLLAR LIMIT PRESCRIBED BY SECTION 41-1511, SUBSECTION J.

I. WITHIN THIRTY DAYS AFTER RECEIVING A COMPLETE AND CORRECT APPLICATION, THE AUTHORITY SHALL REVIEW THE APPLICATION TO DETERMINE WHETHER THE APPLICANT SATISFIES ALL OF THE CRITERIA PRESCRIBED BY THIS SECTION AND EITHER PREAPPROVE THE PROJECT AS QUALIFYING FOR THE PURPOSES OF AN INCOME TAX CREDIT OR PROVIDE REASONS FOR ITS DENIAL. THE AUTHORITY SHALL SEND COPIES OF EACH PREAPPROVAL TO THE DEPARTMENT OF REVENUE.

J. THE AUTHORITY SHALL NOT PREAPPROVE INCOME TAX CREDITS UNDER THIS SECTION AND SECTION 41-1511 THAT COMBINED WOULD EXCEED THE LIMITS PRESCRIBED BY SECTION 41-1511, SUBSECTION J. A PREAPPROVED AMOUNT APPLIES AGAINST THE DOLLAR LIMIT FOR THE YEAR IN WHICH THE APPLICATION WAS SUBMITTED REGARDLESS OF WHETHER THE INITIAL PREAPPROVAL PERIOD EXTENDS INTO THE FOLLOWING YEAR OR YEARS. A BUSINESS SHALL NOT BE PREAPPROVED FOR CREDITS UNDER BOTH THIS SECTION AND SECTION 41-1511 FOR THE SAME CAPITAL INVESTMENT. THE AUTHORITY SHALL NOT PREAPPROVE INCOME TAX CREDITS UNDER THIS SECTION FOR ANY TAXPAYER IN EXCESS OF THIRTY MILLION DOLLARS IN ANY CALENDAR YEAR.

K. THE AUTHORITY SHALL REALLOCATE THE AMOUNT OF INCOME TAX CREDITS THAT ARE VOLUNTARILY RELINQUISHED UNDER SUBSECTION L OF THIS SECTION, THAT LAPSE UNDER SUBSECTION M OF THIS SECTION OR THAT LAPSE UNDER SUBSECTION P OF THIS SECTION. THE REALLOCATION SHALL BE TO OTHER BUSINESSES THAT APPLIED UNDER THIS SECTION OR SECTION 41-1511 IN THE ORIGINAL CREDIT YEAR BASED ON PRIORITY PLACEMENT. ONCE REALLOCATED, THE AMOUNT OF THE CREDIT APPLIES AGAINST THE DOLLAR LIMIT OF THE ORIGINAL CREDIT YEAR REGARDLESS OF THE YEAR IN WHICH THE REALLOCATION OCCURS.

L. A TAXPAYER MAY VOLUNTARILY RELINQUISH UNUSED CREDIT AMOUNTS IN WRITING TO THE AUTHORITY.

M. PREAPPROVAL UNDER THIS SECTION LAPSES, THE APPLICATION IS VOID AND THE AMOUNT OF THE PREAPPROVED INCOME TAX CREDITS DOES NOT APPLY AGAINST THE DOLLAR LIMIT PRESCRIBED BY SECTION 41-1511, SUBSECTION J IF, WITHIN TWELVE MONTHS AFTER PREAPPROVAL, THE BUSINESS FAILS TO PROVIDE TO THE AUTHORITY DOCUMENTATION OF ITS EXPENDITURE OF TWO HUNDRED FIFTY THOUSAND DOLLARS IN QUALIFYING INVESTMENT OR, IF THE PERIOD OVER WHICH THE QUALIFYING INVESTMENT WILL BE MADE EXCEEDS TWELVE MONTHS, DOCUMENTATION OF ADDITIONAL EXPENDITURES AS REQUIRED IN THIS SUBSECTION FOR EACH TWELVE-MONTH PERIOD.

N. AFTER OCTOBER 31 OF EACH YEAR, IF THE AUTHORITY HAS PREAPPROVED THE MAXIMUM CALENDAR YEAR INCOME TAX CREDIT AMOUNT PURSUANT TO SECTION 41-1511,

SUBSECTION J, THE AUTHORITY MAY ACCEPT INITIAL APPLICATIONS FOR THE NEXT CALENDAR YEAR, BUT THE PREAPPROVAL OF ANY APPLICATION PURSUANT TO THIS SUBSECTION SHALL NOT BE EFFECTIVE BEFORE THE FIRST BUSINESS DAY OF THE FOLLOWING CALENDAR YEAR.

O. BEFORE AN APPLICANT APPLIES FOR POSTAPPROVAL UNDER SUBSECTION P OF THIS SECTION, THE APPLICANT MUST ENTER INTO A WRITTEN MANAGED REVIEW AGREEMENT WITH THE CHIEF EXECUTIVE OFFICER OF THE AUTHORITY THAT ESTABLISHES THE REQUIREMENTS OF A MANAGED REVIEW TO BE CONDUCTED UNDER THIS SUBSECTION AT THE APPLICANT'S EXPENSE. THE MANAGED REVIEW MUST BE CONDUCTED BY A CERTIFIED PUBLIC ACCOUNTANT WHO IS SELECTED BY THE APPLICANT, WHO IS LICENSED IN THIS STATE AND WHO IS APPROVED BY THE CHIEF EXECUTIVE OFFICER. THE CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT IS AFFILIATED WITH SHALL NOT REGULARLY PERFORM SERVICES FOR THE APPLICANT OR ITS AFFILIATES. THE MANAGED REVIEW SHALL INCLUDE AN ANALYSIS OF THE APPLICANT'S INVOICES, CHECKS, ACCOUNTING RECORDS AND OTHER DOCUMENTS AND INFORMATION TO VERIFY ITS BASE INVESTMENT AND OTHER REQUIREMENTS PRESCRIBED BY SECTION 43-1083.03 OR 43-1164.04 TO CONFIRM THE AMOUNT OF CREDIT. THE CERTIFIED PUBLIC ACCOUNTANT SHALL FURNISH WRITTEN FINDINGS OF THE MANAGED REVIEW TO THE CHIEF EXECUTIVE OFFICER. THE CHIEF EXECUTIVE OFFICER SHALL REVIEW THE FINDINGS AND MAY EXAMINE RECORDS AND PERFORM OTHER REVIEWS THAT THE CHIEF EXECUTIVE OFFICER CONSIDERS NECESSARY TO VERIFY THAT THE MANAGED REVIEW SUBSTANTIALLY CONFORMS TO THE TERMS OF THE MANAGED REVIEW AGREEMENT. THE CHIEF EXECUTIVE OFFICER SHALL ACCEPT OR REJECT THE FINDINGS OF THE MANAGED REVIEW. IF THE CHIEF EXECUTIVE OFFICER REJECTS ALL OR PART OF THE MANAGED REVIEW, THE CHIEF EXECUTIVE OFFICER SHALL PROVIDE WRITTEN REASONS FOR THE REJECTION.

P. WHEN THE QUALIFIED FACILITY BEGINS OPERATIONS, A BUSINESS THAT WAS PREAPPROVED FOR INCOME TAX CREDITS UNDER THIS SECTION SHALL APPLY TO THE AUTHORITY IN WRITING FOR POSTAPPROVAL OF THE CREDITS AND SUBMIT DOCUMENTATION CERTIFYING THE TOTAL AMOUNT AND DATES OF THE QUALIFYING INVESTMENTS AND IDENTIFYING THE FIXED CAPITAL ASSETS ASSOCIATED WITH THE QUALIFIED FACILITY INCURRED AFTER JUNE 30, 2012 THROUGH THE DATE OF APPLICATION FOR POSTAPPROVAL. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2011, THE AUTHORITY SHALL PROVIDE POSTAPPROVAL TO A BUSINESS THAT HAS MET THE ELIGIBILITY REQUIREMENTS OF THIS SECTION AND SHALL NOTIFY THE DEPARTMENT OF REVENUE THAT THE BUSINESS MAY CLAIM AN INCOME TAX CREDIT PURSUANT TO SECTION 43-1083.03 OR 43-1164.04. IF THE AMOUNT OF QUALIFYING INVESTMENT ACTUALLY SPENT IS LESS THAN THE AMOUNT PREAPPROVED FOR INCOME TAX CREDITS, THE PREAPPROVED AMOUNT NOT INCURRED LAPSES AND DOES NOT APPLY AGAINST THE DOLLAR LIMIT PRESCRIBED BY SECTION 41-1511, SUBSECTION J FOR THAT YEAR. THE DEPARTMENT OF REVENUE SHALL NOT ALLOW AN INCOME TAX CREDIT UNDER SECTION 43-1083.03 OR 43-1164.04 THAT EXCEEDS THE AMOUNT OF THE POSTAPPROVAL FOR THE PROJECT UNDER THIS SUBSECTION. FOR THE PURPOSES OF THIS SUBSECTION, "BEGINS OPERATIONS" MEANS THE QUALIFIED FACILITY OPENS FOR PUBLIC BUSINESS.

1 Q. THE AUTHORITY MAY RESCIND AN APPLICANT'S POSTAPPROVAL IF THE
2 BUSINESS NO LONGER MEETS THE TERMS AND CONDITIONS REQUIRED FOR QUALIFYING FOR
3 THE CREDIT. THE AUTHORITY MAY GIVE SPECIAL CONSIDERATION, OR ALLOW TEMPORARY
4 EXEMPTION FROM RECAPTURE OF THE CREDIT, IN THE CASE OF EXTRAORDINARY HARDSHIP
5 DUE TO FACTORS BEYOND THE CONTROL OF THE QUALIFYING BUSINESS.
6 R. IF THE AUTHORITY RESCINDS AN APPLICANT'S PREAPPROVAL OR
7 POSTAPPROVAL UNDER SUBSECTION Q OF THIS SECTION, IT SHALL NOTIFY THE
8 DEPARTMENT OF REVENUE OF THE ACTION AND THE CONDITIONS OF NONCOMPLIANCE. IF
9 THE DEPARTMENT OF REVENUE OBTAINS INFORMATION INDICATING A POSSIBLE FAILURE
10 TO QUALIFY AND COMPLY, IT SHALL PROVIDE THAT INFORMATION TO THE AUTHORITY.
11 THE DEPARTMENT OF REVENUE MAY REQUIRE THE BUSINESS TO FILE APPROPRIATE
12 AMENDED TAX RETURNS REFLECTING ANY RECAPTURE OF THE CREDIT UNDER SECTION
13 43-1083.03 OR 43-1164.04.
14 S. PREAPPROVAL AND POSTAPPROVAL OF AN APPLICANT FOR THE PURPOSES OF
15 INCOME TAX CREDITS UNDER THIS SECTION DO NOT CONSTITUTE OR IMPLY COMPLIANCE
16 WITH ANY OTHER PROVISION OF LAW OR ANY REGULATORY RULE, ORDER, PROCEDURE,
17 PERMIT OR OTHER MEASURE REQUIRED BY LAW. TO MAINTAIN QUALIFICATION FOR A
18 CREDIT UNDER THIS SECTION, A BUSINESS MUST SEPARATELY COMPLY WITH ALL
19 ENVIRONMENTAL, EMPLOYMENT AND OTHER REGULATORY MEASURES.
20 T. FOR FIVE YEARS AFTER POSTAPPROVAL OF AN INCOME TAX CREDIT UNDER
21 THIS SECTION, IN ANY ACTION INVOLVING THE LIQUIDATION OF THE BUSINESS ASSETS
22 OR RELOCATION OUT OF STATE, THIS STATE CLAIMS THE POSITION OF A SECURED
23 CREDITOR OF THE BUSINESS IN THE AMOUNT OF THE CREDIT THE BUSINESS RECEIVED
24 PURSUANT TO SECTION 43-1083.03 OR 43-1164.04. THE TRANSFER OF PART OR ALL OF
25 A COMPANY'S ASSETS THAT ARE THEN LEASED BACK BY THE COMPANY IS NOT CONSIDERED
26 A LIQUIDATION UNDER THIS SECTION.
27 U. ANY INFORMATION GATHERED FROM A BUSINESS FOR THE PURPOSES OF THIS
28 SECTION IS CONSIDERED TO BE CONFIDENTIAL TAXPAYER INFORMATION AND SHALL BE
29 DISCLOSED ONLY AS PROVIDED IN SECTION 42-2003, SUBSECTION B, PARAGRAPH 12,
30 EXCEPT THAT THE AUTHORITY SHALL PUBLISH THE FOLLOWING INFORMATION IN ITS
31 ANNUAL REPORT:
32 1. THE NAME OF EACH BUSINESS AND THE AMOUNT OF INCOME TAX CREDITS
33 PREAPPROVED FOR EACH QUALIFYING INVESTMENT.
34 2. THE AMOUNT OF INCOME TAX CREDITS POSTAPPROVED WITH RESPECT TO EACH
35 QUALIFYING INVESTMENT.
36 V. THE AUTHORITY SHALL:
37 1. KEEP ANNUAL RECORDS OF THE INFORMATION PROVIDED ON APPLICATIONS FOR
38 QUALIFIED FACILITIES. THESE RECORDS SHALL REFLECT A PERCENTAGE COMPARISON OF
39 THE ANNUAL AMOUNT OF MONIES CREDITED TO QUALIFIED FACILITIES TO THE ESTIMATED
40 AMOUNT OF MONIES SPENT IN THIS STATE IN THE FORM OF QUALIFYING INVESTMENTS.
41 2. MAINTAIN ANNUAL DATA ON GROWTH IN THIS STATE OF QUALIFIED
42 FACILITIES AND RELATED EMPLOYMENT AND WAGES.
43 3. NOT LATER THAN APRIL 30 FOLLOWING EACH CALENDAR YEAR, PREPARE AND
44 PUBLISH A REPORT SUMMARIZING THE INFORMATION COLLECTED PURSUANT TO THIS

SUBSECTION. THE AUTHORITY SHALL MAKE COPIES OF THE ANNUAL REPORT AVAILABLE TO THE PUBLIC ON REQUEST.

W. THE AUTHORITY SHALL ADOPT RULES AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY FOR THE PURPOSES OF THIS SECTION. THE AUTHORITY AND THE DEPARTMENT OF REVENUE SHALL COLLABORATE IN ADOPTING RULES AS NECESSARY TO AVOID DUPLICATION AND INCONSISTENCIES WHILE ACCOMPLISHING THE INTENT AND PURPOSES OF THIS SECTION.

X. FOR THE PURPOSES OF THIS SECTION:

1. "CAPITAL INVESTMENT" MEANS AN EXPENDITURE TO ACQUIRE, LEASE OR IMPROVE PROPERTY THAT IS USED IN OPERATING A BUSINESS, INCLUDING LAND, BUILDINGS, MACHINERY, EQUIPMENT AND FIXTURES.

2. "FACILITY" MEANS A SINGLE PARCEL OR CONTIGUOUS PARCELS OF OWNED OR LEASED LAND IN THIS STATE, THE STRUCTURES AND PERSONAL PROPERTY CONTAINED ON THE LAND OR ANY PART OF THE STRUCTURES OCCUPIED BY THE OWNER. PARCELS THAT ARE SEPARATED ONLY BY A PUBLIC THOROUGHFARE OR RIGHT-OF-WAY ARE CONSIDERED TO BE CONTIGUOUS.

3. "HEADQUARTERS" MEANS A PRINCIPAL CENTRAL ADMINISTRATIVE OFFICE WHERE PRIMARY HEADQUARTERS RELATED FUNCTIONS AND SERVICES ARE PERFORMED, INCLUDING FINANCIAL, PERSONNEL, ADMINISTRATIVE, LEGAL, PLANNING AND SIMILAR BUSINESS FUNCTIONS.

4. "MANUFACTURING" MEANS FABRICATING, PRODUCING OR MANUFACTURING RAW OR PREPARED MATERIALS INTO USABLE PRODUCTS, IMPARTING NEW FORMS, QUALITIES, PROPERTIES AND COMBINATIONS. MANUFACTURING DOES NOT INCLUDE GENERATING ELECTRICITY.

5. "QUALIFIED FACILITY" MEANS A FACILITY IN THIS STATE THAT DEVOTES AT LEAST EIGHTY PER CENT OF THE PROPERTY AND PAYROLL AT THE FACILITY TO ONE OR MORE OF THE FOLLOWING:

(a) QUALIFIED MANUFACTURING.

(b) QUALIFIED HEADQUARTERS.

(c) QUALIFIED RESEARCH.

6. "QUALIFIED HEADQUARTERS" MEANS A GLOBAL, NATIONAL OR REGIONAL HEADQUARTERS FOR A TAXPAYER THAT IS INVOLVED IN MANUFACTURING AND THAT DERIVES AT LEAST SIXTY-FIVE PER CENT OF ITS REVENUE FROM OUT-OF-STATE SALES.

7. "QUALIFIED MANUFACTURING" MEANS MANUFACTURING TANGIBLE PRODUCTS IN THIS STATE IF AT LEAST SIXTY-FIVE PER CENT OF THE PRODUCT WILL BE SOLD OUT-OF-STATE.

8. "QUALIFIED RESEARCH" HAS THE SAME MEANING PRESCRIBED BY SECTION 41(d) OF THE INTERNAL REVENUE CODE, AS DEFINED BY SECTION 43-105, EXCEPT THAT THE RESEARCH MUST BE CONDUCTED BY A TAXPAYER INVOLVED IN MANUFACTURING THAT DERIVES AT LEAST SIXTY-FIVE PER CENT OF ITS REVENUE FROM OUT-OF-STATE SALES.

9. "QUALIFYING INVESTMENT" MEANS INVESTMENT IN LAND, BUILDINGS, MACHINERY, EQUIPMENT AND FIXTURES FOR EXPANSION OF AN EXISTING QUALIFIED FACILITY OR ESTABLISHMENT OF A NEW QUALIFIED FACILITY IN THIS STATE AFTER JUNE 30, 2012 FOR A TAXABLE YEAR BEGINNING FROM AND AFTER DECEMBER 31, 2011. QUALIFYING INVESTMENT DOES NOT INCLUDE RELOCATING AN EXISTING QUALIFIED

FACILITY IN THIS STATE TO ANOTHER LOCATION IN THIS STATE WITHOUT ADDITIONAL CAPITAL INVESTMENT OF AT LEAST TWO HUNDRED FIFTY THOUSAND DOLLARS.

Sec. 4. Section 41-1525, Arizona Revised Statutes, as amended by Laws 2012, chapter 3, section 14, is amended to read:

41-1525. Arizona quality jobs incentives; tax credits for new employment; qualifications; definitions

A. The owner of a business located in this state before July 2017 is eligible for income tax credits under section 43-1074 or 43-1161 or an insurance premium tax credit under section 20-224.03 for net increases in full-time employees residing in this state and hired in qualified employment positions in this state.

B. To qualify under this section, and subject to preapproval by the authority, the business must meet either of the following requirements ~~in the taxable year~~ for each location of the business ~~for which~~ BEFORE it claims a first year tax credit FOR THE LOCATION:

1. Invest at least five million dollars of capital investment and create at least twenty-five new qualified employment positions at a location within the exterior boundaries of a city or town that has a population of fifty thousand persons or more and that is located in a county that has a population of eight hundred thousand persons or more.

2. Invest at least one million dollars of capital investment and create at least five qualified employment positions in any other location.

C. THE CAPITAL INVESTMENT AND THE NEW QUALIFIED EMPLOYMENT POSITIONS REQUIREMENTS OF SUBSECTION B OF THIS SECTION MUST BE ACCOMPLISHED WITHIN TWELVE MONTHS AFTER THE START OF THE REQUIRED CAPITAL INVESTMENT. NO CREDIT MAY BE CLAIMED UNTIL BOTH REQUIREMENTS ARE MET. A BUSINESS THAT MEETS THE REQUIREMENTS OF SUBSECTION B OF THIS SECTION FOR A LOCATION IS ELIGIBLE TO CLAIM FIRST YEAR CREDITS FOR THREE YEARS BEGINNING WITH THE TAXABLE YEAR IN WHICH THOSE REQUIREMENTS ARE COMPLETED. EMPLOYEES HIRED AT THE LOCATION BEFORE THE BEGINNING OF THE TAXABLE YEAR BUT DURING THE TWELVE-MONTH PERIOD ALLOWED IN THIS SUBSECTION ARE CONSIDERED TO BE NEW EMPLOYEES FOR THE TAXABLE YEAR IN WHICH ALL OF THOSE REQUIREMENTS ARE COMPLETED. THE EMPLOYEES THAT ARE CONSIDERED TO BE NEW EMPLOYEES FOR THE TAXABLE YEAR UNDER THIS SUBSECTION SHALL NOT BE INCLUDED IN THE AVERAGE NUMBER OF FULL-TIME EMPLOYEES DURING THE IMMEDIATELY PRECEDING TAXABLE YEAR UNTIL THE TAXABLE YEAR IN WHICH ALL OF THE REQUIREMENTS OF SUBSECTION B OF THIS SECTION ARE COMPLETED. AN EMPLOYEE WORKING AT A TEMPORARY WORK SITE IN THIS STATE WHILE THE DESIGNATED LOCATION IS UNDER CONSTRUCTION IS CONSIDERED TO BE WORKING AT THE DESIGNATED LOCATION IF ALL OF THE FOLLOWING OCCUR:

1. THE EMPLOYEE IS HIRED AFTER THE START OF THE REQUIRED INVESTMENT AT THE DESIGNATED LOCATION.

2. THE EMPLOYEE IS HIRED TO WORK AT THE DESIGNATED LOCATION AFTER IT IS COMPLETED.

3. THE PAYROLL FOR THE EMPLOYEES DESTINED FOR THE DESIGNATED LOCATION IS SEGREGATED FROM OTHER EMPLOYEES.

4. THE EMPLOYEE IS MOVED TO THE DESIGNATED LOCATION WITHIN THIRTY DAYS AFTER ITS COMPLETION.

~~C.~~ D. No more than ~~four hundred new jobs per employer qualify for first year credits each year, and no more than~~ ten thousand new jobs for all employers qualify for first year credits each year.

~~D.~~ E. To claim a tax credit, the business must:

1. OBTAIN PREAPPROVAL FROM THE AUTHORITY AT A TIME, ON A FORM AND IN A MANNER PRESCRIBED BY THE AUTHORITY. PREAPPROVAL SHALL COVER ALL FIRST YEAR CREDITS INTENDED TO BE CLAIMED FOR THE DESIGNATED LOCATION AND ALL SECOND AND THIRD YEAR CREDITS ASSOCIATED WITH THOSE FIRST YEAR CREDITS.

~~1.~~ 2. Certify to the department of revenue or the department of insurance, as applicable, on or before the due date of the tax return, including any extensions for the year for which the credit is claimed, in a form prescribed by the department, including electronic media, information that the department may require, including the ownership interests of co-owners of the business if the business is a partnership, limited liability company or an S corporation, and the following information for each employee in the DESIGNATED location:

(a) The date of initial employment.

(b) The number of hours worked during the year.

(c) Whether the position was full-time.

(d) The employee's annual compensation.

(e) The total cost of health insurance for the employee and the cost paid by the employer.

(f) Other information required by the department.

~~2.~~ 3. Report and certify to the authority the following information, and provide supporting documentation, on a form and in a manner approved by the authority, and as specified in subsection ~~E~~ F of this section, for each year in which the taxpayer earned and claimed or used credits or is carrying forward amounts from previously earned and claimed credits:

(a) The business name and mailing address and any other contact information requested by the authority.

(b) The physical address of the business location OR LOCATIONS AND THE NUMBER OF EMPLOYEES QUALIFIED FOR THE CREDIT AT EACH LOCATION.

(c) The average hourly wage and the total amount of compensation paid to employees qualified for the credit and for all employees.

(d) The total number of qualified employment positions and the amount of income tax or premium tax credits qualified for in the taxable year.

(e) The estimated amount of tax credits to be used in the taxable year to offset tax liability.

(f) The estimated amount of tax credits to be available for carryforward in the taxable year and the year in which the credits expire.

(g) The number of jobs and the amount of credits earned and claimed on the prior year's tax return.

(h) The amount of credits used to offset tax liabilities on the prior year's tax return.

(i) The amount of credits available for carryforward as reported on the prior year's tax return and the year the credits expire.

(j) Capital investment made during the taxable year and the preceding taxable year.

(k) Other information necessary for the management and reporting of the incentives under this section.

~~3.~~ 4. For any year in which the taxpayer is claiming first year credits, report and certify the following additional information and provide supporting documentation to the authority on a form and in a manner approved by the authority, and as specified in subsection ~~E~~ F of this section:

(a) That the net increase in the number of qualified employment positions for which credit is sought is the least of:

(i) The total number of filled qualified employment positions created at the ~~business~~ DESIGNATED location OR LOCATIONS during the taxable year.

(ii) The difference between the average number of full-time employees in this state in the current taxable year and the average number of full-time employees in this state during the immediately preceding taxable year.

~~(iii) Four hundred qualified employment positions per taxpayer each year.~~

(b) That all employees filling a qualified employment position were employed for at least ninety days during the first taxable year. Employees hired in the last ninety days of the taxable year are excluded for that taxable year and are considered to be new employees in the following taxable year~~, but qualified employment positions are considered to be created for the purposes of subsection B of this section in the taxable year the employee is actually hired~~.

(c) That none of the employees filling qualified employment positions were employed by the taxpayer during the twelve months before the current date of hire except for those relocating to this state.

(d) That all employees for whom second and third year credits are claimed are in qualified employment positions for which first year credits were allowed and claimed by the taxpayer on the original first and second year tax returns.

(e) That all employees for whom credits are taken performed their job duties primarily at the designated locations of the business.

~~E.~~ F. To qualify for first year credits, the report and certification prescribed by subsection ~~D~~ E, paragraphs ~~2 and~~ 3 AND 4 of this section must be filed with the authority by the earlier of six months after the end of the taxable year in which the qualified employment positions were created or by the date the tax return is filed for the taxable year in which the qualified employment positions were created. To qualify for second year credits, the report and certification prescribed by subsection ~~D~~ E, paragraph ~~2~~ 3 of this section must be filed with the authority by the earlier of six months

after the end of the taxable year or the date the tax return is filed for the taxable year in which the second year credits are allowable. To qualify for third year credits, the report and certification prescribed by subsection ~~D~~ E, paragraph ~~2~~ 3 of this section must be filed with the authority by the earlier of six months after the end of the taxable year or the date the tax return is filed for the taxable year in which the third year credits are allowable.

~~F.~~ G. Any information submitted to the authority under subsection ~~D~~ E, paragraph ~~2~~ 3, subdivisions (e) through (j) of this section is exempt from title 39, chapter 1, article 2 and considered to be confidential and is not subject to disclosure except:

1. To the extent that the person or organization that provided the information consents to the disclosure.

2. To the department of revenue for use in tax administration.

~~G.~~ H. Documents filed with the authority, the department of insurance and the department of revenue under subsection ~~D~~ E of this section shall contain either a sworn statement or certification, signed by an officer of the company under penalty of perjury, that the information contained is true and correct according to the best belief and knowledge of the person submitting the information after a reasonable investigation of the facts. If the document contains information that is materially false, the taxpayer is ineligible for the tax credits described under subsection A of this section and is subject to recovery of the amount of tax credits allowed in preceding taxable years based on the false information, plus penalties and interest.

~~H.~~ I. The authority may make site visits to a taxpayer's facilities if it is necessary to further document or clarify reported information. The taxpayer must freely provide the access.

~~I.~~ J. The authority by rule ~~may~~ SHALL prescribe preapproval requirements and additional reporting requirements for taxpayers who claim tax credits pursuant to this section.

~~J.~~ K. On or before September 30 of each year, the authority shall transmit a report to the governor, the president of the senate, the speaker of the house of representatives and the chairpersons of the senate finance committee and the house of representatives ways and means committee and provide a copy of the report to the secretary of state. The report shall include the following information:

1. The business names, locations, number of employees and amount of compensation paid to employees qualifying for income tax credits as reported to the authority.

2. The amount of capital investment, made during the preceding fiscal year and cumulatively.

3. The total amount of income tax credits allowed for the preceding taxable year and the number of qualified employment positions for which credits were claimed pursuant to sections 43-1074 and 43-1161.

~~K.~~ L. For the purposes of this section:

1. "Capital investment" means an expenditure to acquire, lease or improve property that is used in operating a business, including:

(a) Land, buildings, machinery and fixtures.

(b) FOR TAXABLE YEARS BEGINNING FROM AND AFTER JUNE 30, 2011, EQUIPMENT.

2. "DESIGNATED LOCATION" MEANS THE LOCATION AT WHICH THE REQUIRED CAPITAL INVESTMENT IS MADE UNDER SUBSECTION B OF THIS SECTION.

~~2.~~ 3. "Location" means a single parcel or contiguous parcels of owned or leased land in this state, the structures and personal property contained on the land or any part of the structures occupied by the owner. Parcels that are separated only by a public thoroughfare or right-of-way are considered to be contiguous but parcels that are in locations respectively described by subsection B, paragraphs 1 and 2 of this section are not considered to be contiguous.

~~3.~~ 4. "Qualified employment position" means employment that meets the following requirements:

(a) The position consists of at least one thousand seven hundred fifty hours per year of full-time permanent employment.

(b) The job duties are performed primarily at the location or locations of the business in this state.

(c) The employment provides health insurance coverage for the employee for which the employer pays at least sixty-five per cent of the premium or membership cost. If the business is self-insured, the employer pays at least sixty-five per cent of a predetermined fixed cost per employee for an insurance program that is payable whether or not the employee has filed claims.

(d) The employer pays compensation at least equal to the median wage by county as computed annually by the authority.

Sec. 5. Section 42-2003, Arizona Revised Statutes, as amended by Laws 2012, chapter 170, section 39, is amended to read:

42-2003. <u>Authorized disclosure of confidential information</u>

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~~ THAT 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~~ THAT may result in, any proceeding involving tax administration before the department or any other agency or board of this state, or before any grand jury or any state or federal court.

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

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

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

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

(b) A state tax official of another state.

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

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

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

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

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

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

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

(c) The collection of the taxpayer's civil liability.

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

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

(b) On any tax issue relating to information associated with the reporting of income tax~~,~~ OR 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 Arizona commerce authority for its use in:

(a) Qualifying renewable energy operations for the tax incentives under sections 42-12006, 43-1083.01 and 43-1164.01.

(b) QUALIFYING BUSINESSES WITH A QUALIFIED FACILITY FOR INCOME TAX CREDITS UNDER SECTIONS 43-1083.03 AND 43-1164.04.

~~(b)~~ (c) Fulfilling its annual reporting responsibility pursuant to section 41-1511, subsections U and V AND SECTION 41-1512, SUBSECTIONS U AND V.

13. A prosecutor for purposes of section 32-1164, subsection C.

14. The state fire marshal for use in determining compliance with and enforcing title 41, chapter 16, article 3.1.

15. The department of transportation for its use in administering taxes and surcharges prescribed by title 28.

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

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

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

(b) The proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of the 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~~ ON 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 website or otherwise publicly accessible pursuant to 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~~ THAT 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~~ ON 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~~ ANY OTHER TAX COLLECTED BY THE DEPARTMENT ON BEHALF OF THE COUNTY 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. The department may disclose statistical information gathered from confidential information, even if it discloses confidential information attributable to a taxpayer, to:

1. The state treasurer in order to comply with the requirements of section 42-5029, subsection A, paragraph 3.

2. The joint legislative income tax credit review committee and the joint legislative budget committee staff in order to comply with the requirements of section 43-221.

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

K. Except as provided in section 42-2002, subsection C, confidential information, described in section 42-2001, paragraph ~~2~~ 1, subdivision (a), item ~~(iii)~~ (ii), may be disclosed to law enforcement agencies for law enforcement purposes.

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

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

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

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

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

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

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

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

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

U. For proceedings before the department, the office of administrative hearings, the board of tax appeals or any state or federal court involving penalties that were assessed against a return preparer, an electronic return preparer or a payroll service company pursuant to section 42-1103.02, 42-1125.01 or 43-419, confidential information may be disclosed only before the judge or administrative law judge adjudicating the proceeding, the parties to the proceeding and the parties' representatives in the proceeding prior to its introduction into evidence in the proceeding. The confidential information may be introduced as evidence in the proceeding only if the taxpayer's name, the names of any dependents listed on the return, all social security numbers, the taxpayer's address, the taxpayer's signature and any attachments containing any of the foregoing information are redacted and if either:

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

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

3. The method of payment of the taxpayer's withholding tax liability or the method of filing the taxpayer's withholding tax return is an issue for the period.

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

W. The department may provide the name and address of qualifying hospitals and qualifying health care organizations, as defined in section 42-5001, to a business classified and reporting transaction privilege tax under the utilities classification.

Sec. 6. Repeal

Section 42-2003, Arizona Revised Statutes, as amended by Laws 2012, chapter 3, section 19, is repealed.

Sec. 7. Section 42-11127, Arizona Revised Statutes, is amended to read:

42-11127. Exempt personal property

A. Pursuant to article IX, section 2, subsection (6), Constitution of Arizona, personal property that is class two property pursuant to section 42-12002, paragraph 2, subdivision (a) or (b) that is used for agricultural purposes or personal property that is class one property pursuant to section 42-12001 that is used in a trade or business as described in section 42-12001, paragraphs 8 through 11 or 13 is exempt from taxation up to a maximum amount of fifty thousand dollars of full cash value for each taxpayer.

~~B. On or before December 31 of each year through 2010, the department shall increase the maximum amount of the exemption for the following tax year through 2011 based on the average annual percentage increase, if any, in the GDP price deflator in the two most recent complete state fiscal years. For the purposes of this subsection, "GDP price deflator" means the average of the four implicit price deflators for the gross domestic product reported by the United States department of commerce or its successor for the four quarters of the state fiscal year.~~

~~C.~~ B. On or before December 31 of each year ~~beginning in 2011~~, the department shall increase the maximum amount of the exemption for the following tax year ~~beginning in 2012~~ based on the ~~average annual~~ percentage increase, if any, in the employment cost index FOR TOTAL COMPENSATION FOR PRIVATE INDUSTRY WORKERS in the two most recent complete state fiscal years. For the purposes of this subsection, "employment cost index" means the average of the ~~four~~ employment cost indices reported by the bureau of labor

statistics of the United States department of labor or its successor for the ~~four~~ EIGHT quarters of the TWO MOST RECENT state fiscal ~~year~~ YEARS.

Sec. 8. Section 43-222, Arizona Revised Statutes, is amended to read:

43-222. Income tax credit review schedule

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

1. For years ending in 0 and 5, 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.

2. For years ending in 1 and 6, sections 43-1074.02, 43-1083, 43-1083.02, 43-1085.01, 43-1164.02, 43-1164.03 and 43-1183.

3. For years ending in 2 and 7, sections 43-1073, 43-1079, 43-1080, 43-1085, 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1090, 43-1164, 43-1167, 43-1169, 43-1176 and 43-1181.

4. For years ending in 3 and 8, sections 43-1074.01, 43-1081, 43-1168, 43-1170 and 43-1178.

5. For years ending in 4 and 9, sections 43-1076, 43-1081.01, 43-1083.01, 43-1084, 43-1162, 43-1164.01, 43-1170.01 and 43-1184 AND, BEGINNING IN 2019, SECTIONS 43-1082.01 AND 43-1171.

Sec. 9. Section 43-1022, Arizona Revised Statutes, is amended to read:

43-1022. Subtractions from Arizona gross income

In computing Arizona adjusted gross income, the following amounts shall be subtracted from Arizona gross income:

1. The amount of exemptions allowed by section 43-1023.

2. Benefits, annuities and pensions in an amount totaling not more than two thousand five hundred dollars received from one or more of the following:

(a) The United States government service retirement and disability fund, retired or retainer pay of the uniformed services of the United States, the United States foreign service retirement and disability system and any other retirement system or plan established by federal law.

(b) The Arizona state retirement system, the corrections officer retirement plan, the public safety personnel retirement system, the elected officials' retirement plan, an optional retirement program established by the Arizona board of regents under section 15-1628, an optional retirement program established by a community college district board under section 15-1451 or a retirement plan established for employees of a county, city or town in this state.

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

4. The amount of any distributions from an individual retirement account as provided for in section 408 of the internal revenue code or from a qualified retirement plan of a self-employed individual as provided for in section 401 of the internal revenue code to the extent that total adjustments

made pursuant to this paragraph in all tax years do not exceed the total of all contributions made by the taxpayer to such plans ~~prior to~~ BEFORE December 31, 1975, which were included in computing Arizona taxable income.

5. The amount of income on an installment receivable ~~which~~ THAT is recognized pursuant to the internal revenue code and ~~which~~ THAT has already been recognized on the death of the taxpayer for purposes of this title for tax years ending before January 1, 1990.

6. Interest income received on obligations of the United States, less any interest on indebtedness, or other related expenses, and deducted in arriving at Arizona gross income, which were incurred or continued to purchase or carry such obligations.

7. The amount of any income tax refunds ~~which~~ THAT were received from states other than Arizona and ~~which~~ THAT were included as income in computing federal adjusted gross income.

8. Annuity income included in federal adjusted gross income pursuant to section 72 of the internal revenue code if the first payment with respect to such annuity was received ~~prior to~~ BEFORE December 31, 1978.

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

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

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

12. The amount allowed by section 43-1024 for amortization, by a qualified defense contractor certified by the Arizona commerce authority under section 41-1508, of a capital investment for private commercial activities.

13. The amount of gain included in federal adjusted gross income on the sale or other disposition of a capital investment that a qualified defense contractor has elected to amortize pursuant to section 43-1024.

14. The amount allowed by section 43-1025 for contributions during the taxable year of agricultural crops to charitable organizations.

15. The portion of any wages or salaries paid or incurred by the taxpayer for the taxable year that is equal to the amount of the federal work opportunity credit, the empowerment zone employment credit, the credit for employer paid social security taxes on employee cash tips and the Indian employment credit that the taxpayer received under sections 45A, 45B, 51(a) and 1396 of the internal revenue code.

16. The amount of prizes or winnings less than five thousand dollars in a single taxable year from any of the state lotteries established and operated pursuant to title 5, chapter 5, article 1, except that all such winnings before March 22, 1983, including periodic distributions from such winnings made after March 22, 1983, may be subtracted.

17. The amount of exploration expenses that is determined pursuant to section 617 of the internal revenue code, that has been deferred in a taxable year ending before January 1, 1990 and for which a subtraction has not previously been made. The subtraction shall be made on a ratable basis as the units of produced ores or minerals discovered or explored as a result of this exploration are sold.

18. The amount included in federal adjusted gross income pursuant to section 86 of the internal revenue code, relating to taxation of social security and railroad retirement benefits.

19. To the extent not already excluded from Arizona gross income under the internal revenue code, compensation received for active service as a member of the reserves, the national guard or the armed forces of the United States, including compensation for service in a combat zone as determined under section 112 of the internal revenue code.

20. The amount of unreimbursed medical and hospital costs, adoption counseling, legal and agency fees and other nonrecurring costs of adoption not to exceed three thousand dollars. In the case of a husband and wife who file separate returns, the subtraction may be taken by either taxpayer or may be divided between them, but the total subtractions allowed both husband and wife shall not exceed three thousand dollars. The subtraction under this paragraph may be taken for the costs that are described in this paragraph and that are incurred in prior years, but the subtraction may be taken only in the year during which the final adoption order is granted.

21. The amount authorized by section 43-1027 for the taxable year relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.

22. With respect to a medical savings account established pursuant to section 43-1028:

(a) An eligible individual may subtract:

(i) The amount of contributions made by the individual's employer during the taxable year to the individual's medical savings account pursuant to section 43-1028 to the extent that the employer contributions are included in the individual's federal adjusted gross income.

(ii) The amount deposited by the individual in the account during the taxable year to the extent that the individual's contributions are included in the individual's federal adjusted gross income.

(b) The individual's employer may subtract the amount of contributions made by the employer to a medical savings account established on the individual's behalf to the extent that the contributions are not deductible under the internal revenue code.

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

24. Any amount of qualified educational expenses that is distributed from a qualified state tuition program determined pursuant to section 529 of the internal revenue code and that is included in income in computing federal adjusted gross income.

25. Any item of income resulting from an installment sale that has been properly subjected to income tax in another state in a previous taxable year and that is included in Arizona gross income in the current taxable year.

26. The amount authorized by section 43-1030 relating to holocaust survivors.

27. The amount authorized by section 43-1031 for constructing an energy efficient residence.

28. FOR PROPERTY PLACED IN SERVICE:

(a) IN TAXABLE YEARS ENDING THROUGH DECEMBER 31, 2012, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year computed as if the election described in section 168(k)(2)(D)(iii) of the internal revenue code had been made for each applicable class of property in the year the property was placed in service.

(b) IN TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2012 THROUGH DECEMBER 31, 2013, AN AMOUNT DETERMINED IN THE YEAR THE ASSET WAS PLACED IN SERVICE BASED ON THE CALCULATION IN SUBDIVISION (a) OF THIS PARAGRAPH. IN THE FIRST TAXABLE YEAR BEGINNING FROM AND AFTER DECEMBER 31, 2013, THE AMOUNT NECESSARY TO MAKE THE DEPRECIATION CLAIMED TO DATE FOR THE PURPOSES OF THIS TITLE THE SAME AS IT WOULD HAVE BEEN IF SUBDIVISION (c) OF THIS PARAGRAPH HAD APPLIED FOR THE ENTIRE TIME THE ASSET WAS IN SERVICE. SUBDIVISION (c) OF THIS PARAGRAPH APPLIES FOR THE REMAINDER OF THE ASSET'S LIFE.

(c) IN TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2013, AN AMOUNT EQUAL TO THE DEPRECIATION ALLOWABLE PURSUANT TO SECTION 167(a) OF THE INTERNAL REVENUE CODE FOR THE TAXABLE YEAR AS COMPUTED AS IF THE ADDITIONAL ALLOWANCE FOR DEPRECIATION HAD BEEN TEN PER CENT OF THE AMOUNT ALLOWED PURSUANT TO SECTION 168(k) OF THE INTERNAL REVENUE CODE.

29. With respect to property that is sold or otherwise disposed of during the taxable year by a taxpayer that complied with section 43-1021, paragraph 26 with respect to that property, the amount of depreciation that has been allowed pursuant to section 167(a) of the internal revenue code to the extent that the amount has not already reduced Arizona taxable income in the current or prior taxable years.

30. With respect to property for which an adjustment was made under section 43-1021, paragraph 27, an amount equal to one-fifth of the amount of the adjustment pursuant to section 43-1021, paragraph 27 in the year in which

1 the amount was adjusted under section 43-1021, paragraph 27 and in each of
2 the following four years.
3 31. For taxable years beginning from and after December 31, 2007
4 through December 31, 2012, the amount contributed during the taxable year to
5 college savings plans established pursuant to section 529 of the internal
6 revenue code to the extent that the contributions were not deducted in
7 computing federal adjusted gross income. The amount subtracted shall not
8 exceed:
9 (a) Seven hundred fifty dollars for a single individual or a head of
10 household.
11 (b) One thousand five hundred dollars for a married couple filing a
12 joint return. In the case of a husband and wife who file separate returns,
13 the subtraction may be taken by either taxpayer or may be divided between
14 them, but the total subtractions allowed both husband and wife shall not
15 exceed one thousand five hundred dollars.
16 32. To the extent not already excluded from Arizona gross income under
17 the internal revenue code, the amount authorized by section 43-1032 for
18 displaced pupils choice grants.
19 33. The amount of any original issue discount that was deferred and not
20 allowed to be deducted in computing federal adjusted gross income or federal
21 taxable income in the current taxable year pursuant to section 108(i) of the
22 internal revenue code as added by section 1231 of the American recovery and
23 reinvestment act of 2009 (P.L. 111-5).
24 34. The amount of previously deferred discharge of indebtedness income
25 that is included in the computation of federal adjusted gross income or
26 federal taxable income in the current taxable year pursuant to section 108(i)
27 of the internal revenue code as added by section 1231 of the American
28 recovery and reinvestment act of 2009 (P.L. 111-5), to the extent that the
29 amount was previously added to Arizona gross income pursuant to section
30 43-1021, paragraph 33.
31 35. The portion of the net operating loss carryforward that would have
32 been allowed as a deduction in the current year pursuant to section 172 of
33 the internal revenue code if the election described in section 172(b)(1)(H)
34 of the internal revenue code had not been made in the year of the loss that
35 exceeds the actual net operating loss carryforward that was deducted in
36 arriving at federal adjusted gross income. This subtraction only applies to
37 taxpayers who made an election under section 172(b)(1)(H) of the internal
38 revenue code as amended by section 1211 of the American recovery and
39 reinvestment act of 2009 (P.L. 111-5) or as amended by section 13 of the
40 worker, homeownership, and business assistance act of 2009 (P.L. 111-92).
41 36. For taxable years beginning from and after December 31, 2013, the
42 amount of any net capital gain included in federal adjusted gross income for
43 the taxable year derived from investment in a qualified small business as
44 determined by the Arizona commerce authority pursuant to section 41-1518.

37. AN AMOUNT OF ANY NET LONG-TERM CAPITAL GAIN INCLUDED IN FEDERAL ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR THAT IS DERIVED FROM AN INVESTMENT IN AN ASSET ACQUIRED AFTER DECEMBER 31, 2011, AS FOLLOWS:

(a) FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2012 THROUGH DECEMBER 31, 2013, TEN PER CENT OF THE NET LONG-TERM CAPITAL GAIN INCLUDED IN FEDERAL ADJUSTED GROSS INCOME.

(b) FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2013 THROUGH DECEMBER 31, 2014, TWENTY PER CENT OF THE NET LONG-TERM CAPITAL GAIN INCLUDED IN FEDERAL ADJUSTED GROSS INCOME.

(c) FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2014, TWENTY-FIVE PER CENT OF THE NET LONG-TERM CAPITAL GAIN INCLUDED IN FEDERAL ADJUSTED GROSS INCOME.

Sec. 10. Section 43-1074, Arizona Revised Statutes, as amended by Laws 2012, chapter 3, section 45, is amended to read:

43-1074. Credit for new employment

A. For taxable years beginning from and after June 30, 2011, a credit is allowed against the taxes imposed by this title for net increases in full-time employees residing in this state and hired in qualified employment positions in this state as computed and certified by the Arizona commerce authority pursuant to section 41-1525.

B. Subject to subsection ~~E~~ F of this section, the amount of the credit is equal to:

1. Three thousand dollars for each full-time employee hired in a qualified employment position in the first year or partial year of employment~~, but not more than four hundred employees in any taxable year~~. Employees hired in the last ninety days of the taxable year are excluded for that taxable year and are considered to be new employees in the following taxable year.

2. Three thousand dollars for each full-time employee in a qualified employment position for the full taxable year in the second year of continuous employment.

3. Three thousand dollars for each full-time employee in a qualified employment position for the full taxable year in the third year of continuous employment.

C. THE CAPITAL INVESTMENT AND THE NEW QUALIFIED EMPLOYMENT POSITIONS REQUIREMENTS OF SECTION 41-1525, SUBSECTION B MUST BE ACCOMPLISHED WITHIN TWELVE MONTHS AFTER THE START OF THE REQUIRED CAPITAL INVESTMENT. NO CREDIT MAY BE CLAIMED UNTIL BOTH REQUIREMENTS ARE MET. A BUSINESS THAT MEETS THE REQUIREMENTS OF SECTION 41-1525, SUBSECTION B FOR A LOCATION IS ELIGIBLE TO CLAIM FIRST YEAR CREDITS FOR THREE YEARS BEGINNING WITH THE TAXABLE YEAR IN WHICH THOSE REQUIREMENTS ARE COMPLETED. EMPLOYEES HIRED AT THE LOCATION BEFORE THE BEGINNING OF THE TAXABLE YEAR BUT DURING THE TWELVE-MONTH PERIOD ALLOWED IN THIS SUBSECTION ARE CONSIDERED TO BE NEW EMPLOYEES FOR THE TAXABLE YEAR IN WHICH ALL OF THOSE REQUIREMENTS ARE COMPLETED. THE EMPLOYEES THAT ARE CONSIDERED TO BE NEW EMPLOYEES FOR THE TAXABLE YEAR UNDER THIS SUBSECTION

SHALL NOT BE INCLUDED IN THE AVERAGE NUMBER OF FULL-TIME EMPLOYEES DURING THE IMMEDIATELY PRECEDING TAXABLE YEAR UNTIL THE TAXABLE YEAR IN WHICH ALL OF THE REQUIREMENTS OF SECTION 41-1525, SUBSECTION B ARE COMPLETED. AN EMPLOYEE WORKING AT A TEMPORARY WORK SITE IN THIS STATE WHILE THE DESIGNATED LOCATION IS UNDER CONSTRUCTION IS CONSIDERED TO BE WORKING AT THE DESIGNATED LOCATION IF ALL OF THE FOLLOWING OCCUR:

1. THE EMPLOYEE IS HIRED AFTER THE START OF THE REQUIRED INVESTMENT AT THE DESIGNATED LOCATION.

2. THE EMPLOYEE IS HIRED TO WORK AT THE DESIGNATED LOCATION AFTER IT IS COMPLETED.

3. THE PAYROLL FOR THE EMPLOYEES DESTINED FOR THE DESIGNATED LOCATION IS SEGREGATED FROM OTHER EMPLOYEES.

4. THE EMPLOYEE IS MOVED TO THE DESIGNATED LOCATION WITHIN THIRTY DAYS AFTER ITS COMPLETION.

~~C.~~ D. To qualify for a credit under this section, the taxpayer and the employment positions must meet the requirements prescribed by section 41-1525.

~~D.~~ E. A credit is allowed for employment in the second and third year only for qualified employment positions for which a credit was claimed and allowed in the first year.

~~E.~~ F. The net increase in the number of qualified employment positions is the lesser of the total number of filled qualified employment positions created at the ~~business~~ DESIGNATED location OR LOCATIONS during the taxable year or the difference between the average number of full-time employees in this state in the current taxable year and the average number of full-time employees in this state during the immediately preceding taxable year. The net increase in the number of qualified employment positions computed under this subsection may not exceed ~~either four hundred qualified employment positions per taxpayer each year or~~ the difference between the average number of full-time employees in this state in the current taxable year and the average number of full-time employees in this state during the immediately preceding taxable year.

~~F.~~ G. A taxpayer who claims a credit under section 43-1077, 43-1079 or 43-1083.01 shall not claim a credit under this section with respect to the same employment positions.

~~G.~~ H. If the allowable tax credit exceeds the income taxes otherwise due on the claimant's income, or if there are no state income taxes due on the claimant's income, the amount of the claim not used as an offset against the income taxes may be carried forward as a tax credit against subsequent years' income tax liability for a period not exceeding five taxable years.

~~H.~~ I. Co-owners of a business, including partners in a partnership and shareholders of an S corporation, as defined in section 1361 of the internal revenue code, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the

credits allowed all such owners of the business may not exceed the amount that would have been allowed for a sole owner of the business.

~~I.~~ J. If the business is sold or changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim first year credits only for the qualified employment positions that it created and filled with an eligible employee after the purchase or reorganization was complete. If a person purchases a taxpayer that had qualified for first or second year credits or changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim the second or third year credits if it meets other eligibility requirements of this section. Credits for which a taxpayer qualified before the changes described in this subsection are terminated and lost at the time the changes are implemented.

~~J.~~ K. A failure to timely report and certify to the Arizona commerce authority the information prescribed by section 41-1525, subsection ~~D~~ E, and in the manner prescribed by section 41-1525, subsection ~~E~~ F disqualifies the taxpayer from the credit under this section. The department shall require written evidence of the timely report to the Arizona commerce authority.

~~K.~~ L. A tax credit under this section is subject to recovery for a violation described in section 41-1525, subsection ~~G~~ H.

Sec. 11. Section 43-1083.01, Arizona Revised Statutes, is amended to read:

43-1083.01. <u>Credit for renewable energy industry</u>

A. For taxable years beginning from and after December 31, 2009 through December 31, ~~2014~~ 2019, a credit is allowed against the taxes imposed by this title for qualified investment and employment in expanding or locating qualified renewable energy operations in this state. To qualify for the credit, the taxpayer must invest in renewable energy manufacturing, or in new regional, national or global renewable energy business headquarters, in this state and produce new full-time employment positions where the job duties are performed at the location of the qualifying investment. The taxpayer must meet the employee compensation and employee health benefit requirements prescribed by section 41-1511.

B. The amount of the credit is computed as follows:

1. Ten per cent of the taxpayer's total capital investment in projects meeting the following minimum employment requirements:

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

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

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

1 (a) Five hundred thousand dollars for each one and one-half new
2 full-time employment positions in new renewable energy manufacturing
3 operations.
4 (b) Two hundred thousand dollars for each new full-time employment
5 position at a new renewable energy business headquarters.
6 (c) The amount of credit under this paragraph shall not exceed ten per
7 cent of the amount of the taxpayer's total capital investment.
8 3. The amount of the credit shall not exceed the postapproval amount
9 determined by the Arizona commerce authority under section 41-1511,
10 subsection P.
11 4. The credit amount computed under paragraph 1 or 2 of this
12 subsection is apportioned, and the taxpayer shall claim the credit in five
13 equal annual installments in each of five consecutive taxable years.
14 C. To claim the credit the taxpayer must:
15 1. Conduct a business that qualifies under section 41-1511.
16 2. Receive preapproval and postapproval from the Arizona commerce
17 authority pursuant to section 41-1511.
18 3. Submit a copy of a current and valid certification of qualification
19 issued to the taxpayer by the Arizona commerce authority.
20 D. To be counted for the purposes of the credit, an employee must have
21 been employed at the qualifying facility for at least ninety days during the
22 taxable year in a permanent full-time employment position of at least one
23 thousand seven hundred fifty hours per year. An employee who is hired during
24 the last ninety days of the taxable year shall be considered a new employee
25 during the next taxable year. To be counted for the purposes of the credit
26 during the first taxable year of employment, the employee must not have been
27 previously employed by the taxpayer within twelve months before the current
28 date of hire. The terms of employment must comply in all cases with the
29 requirements of section 41-1511 and certification by the Arizona commerce
30 authority.
31 E. Co-owners of a business, including partners in a partnership,
32 members of a limited liability company and shareholders of an S corporation,
33 as defined in section 1361 of the internal revenue code, may each claim only
34 the pro rata share of the credit allowed under this section based on the
35 ownership interest. The total of the credits allowed all owners of the
36 business may not exceed the amount that would have been allowed for a sole
37 owner of the business.
38 F. If the allowable tax credit for a taxable year exceeds the income
39 taxes otherwise due on the claimant's income, or if there are no state income
40 taxes due on the claimant's income, the amount of the claim not used as an
41 offset against income taxes shall be paid to the taxpayer in the same manner
42 as a refund under section 42-1118. Refunds made pursuant to this subsection
43 are subject to setoff under section 42-1122. If the department determines
44 that a refund is incorrect or invalid, the excess refund may be treated as a
45 tax deficiency pursuant to section 42-1108.

G. Except as provided by subsection H of this section, if, within five taxable years after first receiving a credit pursuant to this section, the certification of qualification of a business is terminated or revoked under section 41-1511, other than for reasons beyond the control of the business as determined by the Arizona commerce authority, the taxpayer is disqualified from credits under this section in subsequent taxable years. On a determination that the taxpayer has committed fraud or relocated outside of this state within five taxable years of first receiving a credit pursuant to this section, the credits allowed the taxpayer in all taxable years pursuant to this section are subject to recapture pursuant to this subsection. This subsection applies only in the case of the termination or revocation of a certification of qualification under section 41-1511. This subsection does not apply if, in any taxable year, a taxpayer otherwise does not qualify for or fails to claim the credit under this section. The recapture of credits is computed by increasing the amount of taxes imposed in the year following the year of termination or revocation by the full amount of all credits previously allowed under this section.

H. A taxpayer who claims a credit under section 43-1074, 43-1077 or 43-1079 may not claim a credit under this section with respect to the same full-time employment positions.

I. The department of revenue shall adopt rules and prescribe forms and procedures as necessary for the purposes of this section. The department of revenue and the Arizona commerce authority shall collaborate in adopting rules as necessary to avoid duplication and contradictory requirements while accomplishing the intent and purposes of this section.

J. For the purposes of this section, renewable energy operations are limited to manufacturers of, and headquarters for, systems and components that are used or useful in manufacturing renewable energy equipment for the generation, storage, testing and research and development, transmission or distribution of electricity from renewable resources, including specialized crates necessary to package the renewable energy equipment manufactured at the facility.

Sec. 12. Title 43, chapter 10, article 5, Arizona Revised Statutes, is amended by adding section 43-1083.03, to read:

43-1083.03. <u>Credit for qualified facilities</u>

A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2011 THROUGH DECEMBER 31, 2019, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR QUALIFYING INVESTMENT AND EMPLOYMENT IN EXPANDING OR LOCATING A QUALIFIED FACILITY IN THIS STATE. TO QUALIFY FOR THE CREDIT, AFTER JUNE 30, 2012 THE TAXPAYER MUST INVEST IN A NEW QUALIFIED FACILITY OR EXPAND AN EXISTING QUALIFIED FACILITY IN THIS STATE AND PRODUCE NEW FULL-TIME EMPLOYMENT POSITIONS WHERE THE JOB DUTIES ARE PERFORMED AT THE LOCATION OF THE QUALIFYING INVESTMENT. THE TAXPAYER MUST MEET THE EMPLOYEE COMPENSATION AND EMPLOYEE HEALTH BENEFIT REQUIREMENTS PRESCRIBED BY SECTION 41-1512.

B. THE AMOUNT OF THE CREDIT IS COMPUTED AS FOLLOWS:

1. TEN PER CENT OF THE LESSER OF:

(a) THE TAXPAYER'S TOTAL CAPITAL INVESTMENT IN THE QUALIFIED FACILITY.

(b) TWO HUNDRED THOUSAND DOLLARS FOR EACH NET NEW FULL-TIME EMPLOYMENT POSITION AT THE QUALIFIED FACILITY.

2. THE AMOUNT OF THE CREDIT SHALL NOT EXCEED THE POSTAPPROVAL AMOUNT DETERMINED BY THE ARIZONA COMMERCE AUTHORITY UNDER SECTION 41-1512, SUBSECTION P.

3. THE CREDIT AMOUNT COMPUTED UNDER PARAGRAPH 1 OF THIS SUBSECTION IS APPORTIONED, AND THE TAXPAYER SHALL CLAIM THE CREDIT IN FIVE EQUAL ANNUAL INSTALLMENTS IN EACH OF FIVE CONSECUTIVE TAXABLE YEARS.

C. TO CLAIM THE CREDIT THE TAXPAYER MUST:

1. CONDUCT A BUSINESS THAT QUALIFIES UNDER SECTION 41-1512.

2. RECEIVE PREAPPROVAL AND POSTAPPROVAL FROM THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1512.

3. SUBMIT TO THE DEPARTMENT A COPY OF A CURRENT AND VALID CERTIFICATION OF QUALIFICATION ISSUED TO THE TAXPAYER BY THE ARIZONA COMMERCE AUTHORITY.

D. TO BE COUNTED FOR THE PURPOSES OF THE CREDIT, AN EMPLOYEE MUST HAVE BEEN EMPLOYED AT THE QUALIFIED FACILITY FOR AT LEAST NINETY DAYS DURING THE TAXABLE YEAR IN A PERMANENT FULL-TIME EMPLOYMENT POSITION OF AT LEAST ONE THOUSAND SEVEN HUNDRED FIFTY HOURS PER YEAR. AN EMPLOYEE WHO IS HIRED DURING THE LAST NINETY DAYS OF THE TAXABLE YEAR SHALL BE CONSIDERED A NEW EMPLOYEE DURING THE NEXT TAXABLE YEAR. TO BE COUNTED FOR THE PURPOSES OF THE CREDIT DURING THE FIRST TAXABLE YEAR OF EMPLOYMENT, THE EMPLOYEE MUST NOT HAVE BEEN PREVIOUSLY EMPLOYED BY THE TAXPAYER WITHIN TWELVE MONTHS BEFORE THE CURRENT DATE OF HIRE. THE TERMS OF EMPLOYMENT MUST COMPLY IN ALL CASES WITH THE REQUIREMENTS OF SECTION 41-1512 AND BE CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY.

E. CO-OWNERS OF A BUSINESS, INCLUDING PARTNERS IN A PARTNERSHIP, MEMBERS OF A LIMITED LIABILITY COMPANY AND SHAREHOLDERS OF AN S CORPORATION, AS DEFINED IN SECTION 1361 OF THE INTERNAL REVENUE CODE, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL OWNERS OF THE BUSINESS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN ALLOWED FOR A SOLE OWNER OF THE BUSINESS.

F. IF THE ALLOWABLE TAX CREDIT FOR A TAXABLE YEAR EXCEEDS THE INCOME TAXES OTHERWISE DUE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO STATE INCOME TAXES DUE ON THE CLAIMANT'S INCOME, THE AMOUNT OF THE CLAIM NOT USED AS AN OFFSET AGAINST INCOME TAXES SHALL BE PAID TO THE TAXPAYER IN THE SAME MANNER AS A REFUND UNDER SECTION 42-1118. REFUNDS MADE PURSUANT TO THIS SUBSECTION ARE SUBJECT TO SETOFF UNDER SECTION 42-1122. IF THE DEPARTMENT DETERMINES THAT A REFUND IS INCORRECT OR INVALID, THE EXCESS REFUND MAY BE TREATED AS A TAX DEFICIENCY PURSUANT TO SECTION 42-1108.

G. EXCEPT AS PROVIDED BY SUBSECTION H OF THIS SECTION, IF, WITHIN FIVE TAXABLE YEARS AFTER FIRST RECEIVING A CREDIT PURSUANT TO THIS SECTION, THE CERTIFICATION OF QUALIFICATION OF A BUSINESS IS TERMINATED OR REVOKED UNDER SECTION 41-1512, OTHER THAN FOR REASONS BEYOND THE CONTROL OF THE BUSINESS AS DETERMINED BY THE ARIZONA COMMERCE AUTHORITY, THE TAXPAYER IS DISQUALIFIED FROM CREDITS UNDER THIS SECTION IN SUBSEQUENT TAXABLE YEARS. ON A DETERMINATION THAT THE TAXPAYER HAS COMMITTED FRAUD OR RELOCATED OUTSIDE OF THIS STATE WITHIN FIVE TAXABLE YEARS AFTER FIRST RECEIVING A CREDIT PURSUANT TO THIS SECTION, THE CREDITS ALLOWED THE TAXPAYER IN ALL TAXABLE YEARS PURSUANT TO THIS SECTION ARE SUBJECT TO RECAPTURE PURSUANT TO THIS SUBSECTION. THIS SUBSECTION APPLIES ONLY IN THE CASE OF THE TERMINATION OR REVOCATION OF A CERTIFICATION OF QUALIFICATION UNDER SECTION 41-1512. THIS SUBSECTION DOES NOT APPLY IF, IN ANY TAXABLE YEAR, A TAXPAYER OTHERWISE DOES NOT QUALIFY FOR OR FAILS TO CLAIM THE CREDIT UNDER THIS SECTION. THE RECAPTURE OF CREDITS IS COMPUTED BY INCREASING THE AMOUNT OF TAXES IMPOSED IN THE YEAR FOLLOWING THE YEAR OF TERMINATION OR REVOCATION BY THE FULL AMOUNT OF ALL CREDITS PREVIOUSLY ALLOWED UNDER THIS SECTION.

H. A TAXPAYER WHO CLAIMS A CREDIT UNDER SECTION 43-1074 OR 43-1079 MAY NOT CLAIM A CREDIT UNDER THIS SECTION WITH RESPECT TO THE SAME FULL-TIME EMPLOYMENT POSITIONS.

I. THE DEPARTMENT OF REVENUE SHALL ADOPT RULES AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY FOR THE PURPOSES OF THIS SECTION. THE DEPARTMENT OF REVENUE AND THE ARIZONA COMMERCE AUTHORITY SHALL COLLABORATE IN ADOPTING RULES AS NECESSARY TO AVOID DUPLICATION AND CONTRADICTORY REQUIREMENTS WHILE ACCOMPLISHING THE INTENT AND PURPOSES OF THIS SECTION.

Sec. 13. Section 43-1122, Arizona Revised Statutes, is amended to read:

43-1122. <u>Subtractions from Arizona gross income; corporations</u>

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

1. The amounts computed pursuant to section 43-1022, paragraphs 8 through 15, ~~28,~~ 29, 30, 33 and 34. For the purposes of this paragraph, "federal adjusted gross income" as used in section 43-1022 means "federal taxable income".

2. The amount of Arizona capital loss carryover as defined in section 43-1124 in an amount not to exceed one thousand dollars.

3. With respect to a financial institution as defined in section 6-101, expenses and interest relating to tax-exempt income disallowed pursuant to section 265 of the internal revenue code.

4. Dividends received from another corporation owned or controlled directly or indirectly by a recipient corporation. For the purposes of this paragraph, "control" means direct or indirect ownership or control of fifty per cent or more of the voting stock of the payor corporation by the recipient corporation. Dividends shall have the meaning provided in section 316 of the internal revenue code. This subtraction shall apply without

1 regard to the provisions of section 43-961, paragraph 2 and article 4 of this
2 chapter. A corporation that has its commercial domicile, as defined in
3 section 43-1131, in this state may subtract the full amount of the dividends.
4 A corporation that does not have its commercial domicile in this state may
5 subtract:
6 (a) For its taxable year beginning in 1990, an amount equal to
7 one-half of the dividends.
8 (b) For taxable years beginning in 1991 and thereafter, the full
9 amount of the dividends.
10 5. Interest income received on obligations of the United States.
11 6. The amount of dividend income from foreign corporations.
12 7. The amount of net operating loss allowed by section 43-1123.
13 8. The amount of any state income tax refunds received which were
14 included as income in computing federal taxable income.
15 9. The amount of expense recapture included in income pursuant to
16 section 617 of the internal revenue code for mine exploration expenses.
17 10. The amount of deferred exploration expenses allowed by section
18 43-1127.
19 11. The amount of exploration expenses related to the exploration of
20 oil, gas or geothermal resources, computed in the same manner and on the same
21 basis as a deduction for mine exploration pursuant to section 617 of the
22 internal revenue code. This computation is subject to the adjustments
23 contained in section 43-1121, paragraph 8 and paragraphs 9 and 10 of this
24 section relating to exploration expenses.
25 12. The amortization of pollution control devices allowed by section
26 43-1129.
27 13. The amount of amortization of the cost of child care facilities
28 pursuant to section 43-1130.
29 14. The amount of income from a domestic international sales
30 corporation required to be included in the income of its shareholders
31 pursuant to section 995 of the internal revenue code.
32 15. The income of an insurance company that is exempt under section
33 43-1201 to the extent that it is included in computing Arizona gross income
34 on a consolidated return pursuant to section 43-947.
35 16. The amount of contributions by the taxpayer during the taxable year
36 to medical savings accounts established on behalf of the taxpayer's employees
37 as provided by section 43-1028, to the extent that the contributions are not
38 deductible under the internal revenue code.
39 17. The amount by which a capital loss carryover allowable pursuant to
40 section 43-1130.01, subsection F exceeds the capital loss carryover allowable
41 pursuant to section 1341(b)(5) of the internal revenue code.
42 18. AN AMOUNT EQUAL TO THE DEPRECIATION ALLOWABLE PURSUANT TO SECTION
43 167(a) OF THE INTERNAL REVENUE CODE FOR THE TAXABLE YEAR COMPUTED AS IF THE
44 ELECTION DESCRIBED IN SECTION 168(k)(2)(D)(iii) OF THE INTERNAL REVENUE CODE

HAD BEEN MADE FOR EACH APPLICABLE CLASS OF PROPERTY IN THE YEAR THE PROPERTY WAS PLACED IN SERVICE.

Sec. 14. Section 43-1123, Arizona Revised Statutes, is amended to read:

43-1123. Net operating loss; definition

A. ~~As used in~~ FOR THE PURPOSES OF this section, "net operating loss" means:

1. In the case of a taxpayer who has a net operating loss for the taxable year within the meaning of section 172(c) of the internal revenue code, the amount of the net operating loss increased by the subtractions specified in section 43-1122, except the ~~deduction~~ SUBTRACTION allowed in section 43-1122, paragraph 7, and reduced by the additions specified in section 43-1121.

2. In the case of a taxpayer not described in paragraph 1 of this subsection, any excess of the subtractions specified in section 43-1122, except the ~~deduction~~ SUBTRACTION allowed in section 43-1122, paragraph 7, over the sum of the Arizona gross income plus the additions specified in section 43-1121.

B. If for any taxable year the taxpayer has a net operating loss: ~~,—~~

1. Such net operating loss shall be a net operating loss carryover for:

(a) Each of the five succeeding taxable years~~, except that~~ FOR NET OPERATING LOSSES ARISING IN TAXABLE PERIODS THROUGH DECEMBER 31, 2011.

(b) EACH OF THE TWENTY SUCCEEDING TAXABLE YEARS FOR NET OPERATING LOSSES ARISING IN TAXABLE PERIODS BEGINNING FROM AND AFTER DECEMBER 31, 2011.

2. The carryover in the case of each such succeeding taxable year, other than the first succeeding taxable year, shall be the excess, if any, of the amount of such net operating loss over the sum of the taxable income for each of the intervening years computed by determining the net operating loss ~~deduction~~ SUBTRACTION for each intervening taxable year, without regard to such net operating loss or to the net operating loss for any succeeding taxable year.

C. The amount of the net operating loss ~~deduction~~ SUBTRACTION shall be the aggregate of the net operating loss carryovers to the taxable year.

Sec. 15. Section 43-1161, Arizona Revised Statutes, as amended by Laws 2012, chapter 3, section 52, is amended to read:

43-1161. Credit for new employment

A. For taxable years beginning from and after June 30, 2011, a credit is allowed against the taxes imposed by this title for net increases in full-time employees residing in this state and hired in qualified employment positions in this state as computed and certified by the Arizona commerce authority pursuant to section 41-1525.

B. Subject to subsection ~~E~~ F of this section, the amount of the credit is equal to:

1. Three thousand dollars for each full-time employee hired in a qualified employment position in the first year or partial year of employment~~, but not more than four hundred employees in any taxable year~~. Employees hired in the last ninety days of the taxable year are excluded for that taxable year and are considered to be new employees in the following taxable year.

2. Three thousand dollars for each full-time employee in a qualified employment position for the full taxable year in the second year of continuous employment.

3. Three thousand dollars for each full-time employee in a qualified employment position for the full taxable year in the third year of continuous employment.

C. THE CAPITAL INVESTMENT AND THE NEW QUALIFIED EMPLOYMENT POSITIONS REQUIREMENTS OF SECTION 41-1525, SUBSECTION B MUST BE ACCOMPLISHED WITHIN TWELVE MONTHS AFTER THE START OF THE REQUIRED CAPITAL INVESTMENT. NO CREDIT MAY BE CLAIMED UNTIL BOTH REQUIREMENTS ARE MET. A BUSINESS THAT MEETS THE REQUIREMENTS OF SECTION 41-1525, SUBSECTION B FOR A LOCATION IS ELIGIBLE TO CLAIM FIRST YEAR CREDITS FOR THREE YEARS BEGINNING WITH THE TAXABLE YEAR IN WHICH THOSE REQUIREMENTS ARE COMPLETED. EMPLOYEES HIRED AT THE LOCATION BEFORE THE BEGINNING OF THE TAXABLE YEAR BUT DURING THE TWELVE-MONTH PERIOD ALLOWED IN THIS SUBSECTION ARE CONSIDERED TO BE NEW EMPLOYEES FOR THE TAXABLE YEAR IN WHICH ALL OF THOSE REQUIREMENTS ARE COMPLETED. THE EMPLOYEES THAT ARE CONSIDERED TO BE NEW EMPLOYEES FOR THE TAXABLE YEAR UNDER THIS SUBSECTION SHALL NOT BE INCLUDED IN THE AVERAGE NUMBER OF FULL-TIME EMPLOYEES DURING THE IMMEDIATELY PRECEDING TAXABLE YEAR UNTIL THE TAXABLE YEAR IN WHICH ALL OF THE REQUIREMENTS OF SECTION 41-1525, SUBSECTION B ARE COMPLETED. AN EMPLOYEE WORKING AT A TEMPORARY WORK SITE IN THIS STATE WHILE THE DESIGNATED LOCATION IS UNDER CONSTRUCTION IS CONSIDERED TO BE WORKING AT THE DESIGNATED LOCATION IF ALL OF THE FOLLOWING OCCUR:

1. THE EMPLOYEE IS HIRED AFTER THE START OF THE REQUIRED INVESTMENT AT THE DESIGNATED LOCATION.

2. THE EMPLOYEE IS HIRED TO WORK AT THE DESIGNATED LOCATION AFTER IT IS COMPLETED.

3. THE PAYROLL FOR THE EMPLOYEES DESTINED FOR THE DESIGNATED LOCATION IS SEGREGATED FROM OTHER EMPLOYEES.

4. THE EMPLOYEE IS MOVED TO THE DESIGNATED LOCATION WITHIN THIRTY DAYS AFTER ITS COMPLETION.

~~C.~~ D. To qualify for a credit under this section, the taxpayer and the employment positions must meet the requirements prescribed by section 41-1525.

~~D.~~ E. A credit is allowed for employment in the second and third year only for qualified employment positions for which a credit was claimed and allowed in the first year.

~~E.~~ F. The net increase in the number of qualified employment positions is the lesser of the total number of filled qualified employment

positions created at the ~~business~~ DESIGNATED location OR LOCATIONS during the taxable year or the difference between the average number of full-time employees in this state in the current taxable year and the average number of full-time employees in this state during the immediately preceding taxable year. The net increase in the number of qualified employment positions computed under this subsection may not exceed ~~either four hundred qualified employment positions per taxpayer each year or~~ the difference between the average number of full-time employees in this state in the current taxable year and the average number of full-time employees in this state during the immediately preceding taxable year.

~~F.~~ G. A taxpayer who claims a credit under section 43-1164.01, 43-1165 or 43-1167 shall not claim a credit under this section with respect to the same employment positions.

~~G.~~ H. If the allowable tax credit exceeds the income taxes otherwise due on the claimant's income, or if there are no state income taxes due on the claimant's income, the amount of the claim not used as an offset against the income taxes may be carried forward as a tax credit against subsequent years' income tax liability for a period not exceeding five taxable years.

~~H.~~ I. Co-owners of a business, including corporate partners in a partnership, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners of the business may not exceed the amount that would have been allowed for a sole owner of the business.

~~I.~~ J. If the business is sold or changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim first year credits only for the qualified employment positions that it created and filled with an eligible employee after the purchase or reorganization was complete. If a person purchases a taxpayer that had qualified for first or second year credits or changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim the second or third year credits if it meets other eligibility requirements of this section. Credits for which a taxpayer qualified before the changes described in this subsection are terminated and lost at the time the changes are implemented.

~~J.~~ K. A failure to timely report and certify to the Arizona commerce authority the information prescribed by section 41-1525, subsection ~~D~~ E, and in the manner prescribed by section 41-1525, subsection ~~E~~ F disqualifies the taxpayer from the credit under this section. The department shall require written evidence of the timely report to the Arizona commerce authority.

~~K.~~ L. A tax credit under this section is subject to recovery for a violation described in section 41-1525, subsection ~~G~~ H.

Sec. 16. Section 43-1164.01, Arizona Revised Statutes, is amended to read:

43-1164.01. <u>Credit for renewable energy industry</u>

A. For taxable years beginning from and after December 31, 2009 through December 31, ~~2014~~ 2019, a credit is allowed against the taxes imposed

by this title for qualified investment and employment in expanding or locating qualified renewable energy operations in this state. To qualify for the credit, the taxpayer must invest in renewable energy manufacturing, or in new regional, national or global renewable energy business headquarters, in this state and produce new full-time employment positions where the job duties are performed at the location of the qualifying investment. The taxpayer must meet the employee compensation and employee health benefit requirements prescribed by section 41-1511.

B. The amount of the credit is computed as follows:

1. Ten per cent of the taxpayer's total capital investment in projects meeting the following minimum employment requirements:

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

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

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

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

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

(c) The amount of credit under this paragraph shall not exceed ten per cent of the amount of the taxpayer's total capital investment.

3. The amount of the credit shall not exceed the postapproval amount determined by the Arizona commerce authority under section 41-1511, subsection P.

4. The credit amount computed under paragraph 1 or 2 of this subsection is apportioned, and the taxpayer shall claim the credit in five equal annual installments in each of five consecutive taxable years.

C. To claim the credit the taxpayer must:

1. Conduct a business that qualifies under section 41-1511.

2. Receive preapproval and postapproval from the Arizona commerce authority pursuant to section 41-1511.

3. Submit a copy of a current and valid certification of qualification issued to the taxpayer by the Arizona commerce authority.

D. To be counted for the purposes of the credit, an employee must have been employed at the qualifying facility for at least ninety days during the taxable year in a permanent full-time employment position of at least one thousand seven hundred fifty hours per year. An employee who is hired during the last ninety days of the taxable year shall be considered a new employee during the next taxable year. To be counted for the purposes of the credit during the first taxable year of employment, the employee must not have been

1 previously employed by the taxpayer within twelve months before the current
2 date of hire. The terms of employment must comply in all cases with the
3 requirements of section 41-1511 and certification by the Arizona commerce
4 authority.
5 E. Co-owners of a business, including corporate partners in a
6 partnership and members of a limited liability company, may each claim only
7 the pro rata share of the credit allowed under this section based on the
8 ownership interest. The total of the credits allowed all owners of the
9 business may not exceed the amount that would have been allowed for a sole
10 owner of the business.
11 F. If the allowable tax credit for a taxable year exceeds the income
12 taxes otherwise due on the claimant's income, or if there are no state income
13 taxes due on the claimant's income, the amount of the claim not used as an
14 offset against income taxes shall be paid to the taxpayer in the same manner
15 as a refund under section 42-1118. Refunds made pursuant to this subsection
16 are subject to setoff under section 42-1122. If the department determines
17 that a refund is incorrect or invalid, the excess refund may be treated as a
18 tax deficiency pursuant to section 42-1108.
19 G. Except as provided by subsection H of this section, if, within five
20 taxable years after first receiving a credit pursuant to this section, the
21 certification of qualification of a business is terminated or revoked under
22 section 41-1511, other than for reasons beyond the control of the business as
23 determined by the Arizona commerce authority, the taxpayer is disqualified
24 from credits under this section in subsequent taxable years. On a
25 determination that the taxpayer has committed fraud or relocated outside of
26 this state within five taxable years of first receiving a credit pursuant to
27 this section, the credits allowed the taxpayer in all taxable years pursuant
28 to this section are subject to recapture pursuant to this subsection. This
29 subsection applies only in the case of the termination or revocation of a
30 certification of qualification under section 41-1511. This subsection does
31 not apply if, in any taxable year, a taxpayer otherwise does not qualify for
32 or fails to claim the credit under this section. The recapture of credits is
33 computed by increasing the amount of taxes imposed in the year following the
34 year of termination or revocation by the full amount of all credits
35 previously allowed under this section.
36 H. A taxpayer who claims a credit under section 43-1161, 43-1165 or
37 43-1167 may not claim a credit under this section with respect to the same
38 full-time employment positions.
39 I. The department of revenue shall adopt rules and prescribe forms and
40 procedures as necessary for the purposes of this section. The department of
41 revenue and the Arizona commerce authority shall collaborate in adopting
42 rules as necessary to avoid duplication and contradictory requirements while
43 accomplishing the intent and purposes of this section.

J. For the purposes of this section, renewable energy operations are limited to manufacturers of, and headquarters for, systems and components that are used or useful in manufacturing renewable energy equipment for the generation, storage, testing and research and development, transmission or distribution of electricity from renewable resources, including specialized crates necessary to package the renewable energy equipment manufactured at the facility.

Sec. 17. Title 43, chapter 11, article 6, Arizona Revised Statutes, is amended by adding section 43-1164.04, to read:

43-1164.04. Credit for qualified facilities

A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2011 THROUGH DECEMBER 31, 2019, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR QUALIFYING INVESTMENT AND EMPLOYMENT IN EXPANDING OR LOCATING A QUALIFIED FACILITY IN THIS STATE. TO QUALIFY FOR THE CREDIT, AFTER JUNE 30, 2012 THE TAXPAYER MUST INVEST IN A NEW QUALIFIED FACILITY OR EXPAND AN EXISTING QUALIFIED FACILITY IN THIS STATE AND PRODUCE NEW FULL-TIME EMPLOYMENT POSITIONS WHERE THE JOB DUTIES ARE PERFORMED AT THE LOCATION OF THE QUALIFYING INVESTMENT. THE TAXPAYER MUST MEET THE EMPLOYEE COMPENSATION AND EMPLOYEE HEALTH BENEFIT REQUIREMENTS PRESCRIBED BY SECTION 41-1512.

B. THE AMOUNT OF THE CREDIT IS COMPUTED AS FOLLOWS:

1. TEN PER CENT OF THE LESSER OF:

(a) THE TAXPAYER'S TOTAL CAPITAL INVESTMENT IN THE QUALIFIED FACILITY.

(b) TWO HUNDRED THOUSAND DOLLARS FOR EACH NET NEW FULL-TIME EMPLOYMENT POSITION AT THE QUALIFIED FACILITY.

2. THE AMOUNT OF THE CREDIT SHALL NOT EXCEED THE POSTAPPROVAL AMOUNT DETERMINED BY THE ARIZONA COMMERCE AUTHORITY UNDER SECTION 41-1512, SUBSECTION P.

3. THE CREDIT AMOUNT COMPUTED UNDER PARAGRAPH 1 OF THIS SUBSECTION IS APPORTIONED, AND THE TAXPAYER SHALL CLAIM THE CREDIT IN FIVE EQUAL ANNUAL INSTALLMENTS IN EACH OF FIVE CONSECUTIVE TAXABLE YEARS.

C. TO CLAIM THE CREDIT THE TAXPAYER MUST:

1. CONDUCT A BUSINESS THAT QUALIFIES UNDER SECTION 41-1512.

2. RECEIVE PREAPPROVAL AND POSTAPPROVAL FROM THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1512.

3. SUBMIT TO THE DEPARTMENT A COPY OF A CURRENT AND VALID CERTIFICATION OF QUALIFICATION ISSUED TO THE TAXPAYER BY THE ARIZONA COMMERCE AUTHORITY.

D. TO BE COUNTED FOR THE PURPOSES OF THE CREDIT, AN EMPLOYEE MUST HAVE BEEN EMPLOYED AT THE QUALIFIED FACILITY FOR AT LEAST NINETY DAYS DURING THE TAXABLE YEAR IN A PERMANENT FULL-TIME EMPLOYMENT POSITION OF AT LEAST ONE THOUSAND SEVEN HUNDRED FIFTY HOURS PER YEAR. AN EMPLOYEE WHO IS HIRED DURING THE LAST NINETY DAYS OF THE TAXABLE YEAR SHALL BE CONSIDERED A NEW EMPLOYEE DURING THE NEXT TAXABLE YEAR. TO BE COUNTED FOR THE PURPOSES OF THE CREDIT DURING THE FIRST TAXABLE YEAR OF EMPLOYMENT, THE EMPLOYEE MUST NOT HAVE BEEN PREVIOUSLY EMPLOYED BY THE TAXPAYER WITHIN TWELVE MONTHS BEFORE THE CURRENT

1 DATE OF HIRE. THE TERMS OF EMPLOYMENT MUST COMPLY IN ALL CASES WITH THE
2 REQUIREMENTS OF SECTION 41-1512 AND BE CERTIFIED BY THE ARIZONA COMMERCE
3 AUTHORITY.
4 E. CO-OWNERS OF A BUSINESS, INCLUDING CORPORATE PARTNERS IN A
5 PARTNERSHIP AND MEMBERS OF A LIMITED LIABILITY COMPANY, MAY EACH CLAIM ONLY
6 THE PRO RATA SHARE OF THE CREDIT ALLOWED UNDER THIS SECTION BASED ON THE
7 OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL OWNERS OF THE
8 BUSINESS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN ALLOWED FOR A SOLE
9 OWNER OF THE BUSINESS.
10 F. IF THE ALLOWABLE TAX CREDIT FOR A TAXABLE YEAR EXCEEDS THE INCOME
11 TAXES OTHERWISE DUE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO STATE INCOME
12 TAXES DUE ON THE CLAIMANT'S INCOME, THE AMOUNT OF THE CLAIM NOT USED AS AN
13 OFFSET AGAINST INCOME TAXES SHALL BE PAID TO THE TAXPAYER IN THE SAME MANNER
14 AS A REFUND UNDER SECTION 42-1118. REFUNDS MADE PURSUANT TO THIS SUBSECTION
15 ARE SUBJECT TO SETOFF UNDER SECTION 42-1122. IF THE DEPARTMENT DETERMINES
16 THAT A REFUND IS INCORRECT OR INVALID, THE EXCESS REFUND MAY BE TREATED AS A
17 TAX DEFICIENCY PURSUANT TO SECTION 42-1108.
18 G. EXCEPT AS PROVIDED BY SUBSECTION H OF THIS SECTION, IF, WITHIN FIVE
19 TAXABLE YEARS AFTER FIRST RECEIVING A CREDIT PURSUANT TO THIS SECTION, THE
20 CERTIFICATION OF QUALIFICATION OF A BUSINESS IS TERMINATED OR REVOKED UNDER
21 SECTION 41-1512, OTHER THAN FOR REASONS BEYOND THE CONTROL OF THE BUSINESS AS
22 DETERMINED BY THE ARIZONA COMMERCE AUTHORITY, THE TAXPAYER IS DISQUALIFIED
23 FROM CREDITS UNDER THIS SECTION IN SUBSEQUENT TAXABLE YEARS. ON A
24 DETERMINATION THAT THE TAXPAYER HAS COMMITTED FRAUD OR RELOCATED OUTSIDE OF
25 THIS STATE WITHIN FIVE TAXABLE YEARS AFTER FIRST RECEIVING A CREDIT PURSUANT
26 TO THIS SECTION, THE CREDITS ALLOWED THE TAXPAYER IN ALL TAXABLE YEARS
27 PURSUANT TO THIS SECTION ARE SUBJECT TO RECAPTURE PURSUANT TO THIS
28 SUBSECTION. THIS SUBSECTION APPLIES ONLY IN THE CASE OF THE TERMINATION OR
29 REVOCATION OF A CERTIFICATION OF QUALIFICATION UNDER SECTION 41-1512. THIS
30 SUBSECTION DOES NOT APPLY IF, IN ANY TAXABLE YEAR, A TAXPAYER OTHERWISE DOES
31 NOT QUALIFY FOR OR FAILS TO CLAIM THE CREDIT UNDER THIS SECTION. THE
32 RECAPTURE OF CREDITS IS COMPUTED BY INCREASING THE AMOUNT OF TAXES IMPOSED IN
33 THE YEAR FOLLOWING THE YEAR OF TERMINATION OR REVOCATION BY THE FULL AMOUNT
34 OF ALL CREDITS PREVIOUSLY ALLOWED UNDER THIS SECTION.
35 H. A TAXPAYER WHO CLAIMS A CREDIT UNDER SECTION 43-1074 OR 43-1079 MAY
36 NOT CLAIM A CREDIT UNDER THIS SECTION WITH RESPECT TO THE SAME FULL-TIME
37 EMPLOYMENT POSITIONS.
38 I. THE DEPARTMENT OF REVENUE SHALL ADOPT RULES AND PRESCRIBE FORMS AND
39 PROCEDURES AS NECESSARY FOR THE PURPOSES OF THIS SECTION. THE DEPARTMENT OF
40 REVENUE AND THE ARIZONA COMMERCE AUTHORITY SHALL COLLABORATE IN ADOPTING
41 RULES AS NECESSARY TO AVOID DUPLICATION AND CONTRADICTORY REQUIREMENTS WHILE
42 ACCOMPLISHING THE INTENT AND PURPOSES OF THIS SECTION.

Sec. 18. Laws 2009, chapter 96, section 17 is amended to read:

Sec. 17. Delayed repeal

Sections 41-1511, 41-1512, 43-1083.01, ~~and~~ 43-1083.03, 43-1164.01 AND 43-1164.04, Arizona Revised Statutes, ~~as added by this act,~~ are repealed from and after December 31, ~~2015~~ 2020.

Sec. 19. Employer-funded job training program study committee; membership; duties; report; delayed repeal

A. The employer-funded job training program study committee is established consisting of the following members:

1. The chief executive officer of the Arizona commerce authority, or the chief executive officer's designee, who shall serve as chairperson of the committee.

2. One member of the Arizona commerce authority board of directors who is appointed by the governor.

3. One public member who is appointed by the governor.

4. One public member representing businesses in this state who is appointed by the speaker of the house of representatives.

5. One public member representing businesses in this state who is appointed by the president of the senate.

6. One president of a community college that is located in a county with a population of at least three million persons who is appointed by the president of the senate.

7. One president of a community college that is located in a county with a population of not more than three million persons who is appointed by the speaker of the house of representatives.

B. The committee shall:

1. Evaluate the existing job training program established by the Arizona commerce authority pursuant to title 41, chapter 10, article 4, Arizona Revised Statutes.

2. Explore mechanisms for using community colleges as effective providers of job training as a component of this state's economic development objectives for relocating and expanding businesses throughout this state.

3. Analyze the appropriate role of private fee based providers of job training as a component of this state's economic development objectives for relocating and expanding businesses throughout this state.

4. Evaluate and consider proposals to target job training at skills required by jobs with wage levels above the median wage level.

C. On or before December 15, 2012, the committee shall submit a report on the committee's activities and findings to the governor, the speaker of the house of representatives and the president of the senate and provide a copy of the report to the secretary of state.

D. This section is repealed from and after December 31, 2012.

Sec. 20. Legislative intent

It is the intent of the legislature that for tax years beginning from and after December 31, 2012 the department of revenue recalculate the exempt

amount of personal property authorized pursuant to section 42-11127, subsection B, Arizona Revised Statutes, as amended by this act, as if the amendment had been continuously in effect since 1997. Section 42-11127, Arizona Revised Statutes, as amended by this act, does not apply to any tax year before tax year 2013.

Sec. 21. Purpose

Pursuant to section 43-223, Arizona Revised Statutes, the income tax credits enacted in sections 43-1083.03 and 43-1164.04, Arizona Revised Statutes, as added by this act, are intended to encourage business investment that will produce high quality employment opportunities for citizens of this state and enhance the position of this state as a center for corporate headquarters, commercial research and manufacturing.

Sec. 22. Effective date; retroactivity; applicability

A. Sections 41-1511, 41-1512, 43-1083.01, 43-1083.03, 43-1164.01 and 43-1164.04, Arizona Revised Statutes, as added or amended by this act, are effective retroactively to from and after June 30, 2012.

B. Except as provided by section 41-1525, subsection L, paragraph 1, subdivision (b), Arizona Revised Statutes, as added by this act, sections 20-224.03, 41-1525, 43-1074 and 43-1161, Arizona Revised Statutes, as amended by this act, and sections 41-1512, 43-1083.03 and 43-1164.04, Arizona Revised Statutes, as added by this act, apply to taxable years beginning from and after December 31, 2012.

APPROVED BY THE GOVERNOR MAY 11, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 14, 2012.

Passed the House March 1, 2012

by the following vote: 39 Ayes,

18 Nays, 2 Not Voting / vacant

Speaker of the House

Chief Clerk of the House

Passed the Senate May 3, 2012

by the following vote: 19 Ayes,

9 Nays, 2 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. 2815

HOUSE CONCURS IN SENATE AMENDMENTS AND FINAL PASSAGE

May 3, 2012,

by the following vote: 39 Ayes,

16 Nays, 5 Not Voting

Speaker of the House

Cheryl Laube
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

3rd day of May, 2012,

at 8:38 o'clock P M.

Secretary to the Governor

Approved this 11th day of

May, 2012.,

at 12:23 o'clock P. M.

Janice K. Brewer
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 14th day of May, 2012,

at 8:30 o'clock a M.

Secretary of State

H.B. 2815