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CHAPTER 114

SENATE BILL 1313

AN ACT

AMENDING SECTIONS 36-2999.54, 41-1507, 41-1510.01, 41-1511, 41-1512, 42-2003, 42-5071, 43-1021, 43-1022, 43-1023, 43-1083.03, 43-1089.02, 43-1121, 43-1122 AND 43-1164.04, ARIZONA REVISED STATUTES; AMENDING LAWS 2011, CHAPTER 287, SECTION 5; RELATING TO TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 36-2999.54, Arizona Revised Statutes, is amended to read:

36-2999.54. Assessments; penalty for failure to pay

A. Each nursing facility shall pay a quality assessment as prescribed pursuant to this article. The administration shall determine the assessment rate prospectively for the applicable fiscal year on a per resident day basis, exclusive of medicare resident days. The administration shall adopt rules for facility reporting of nonmedicare resident days and for payment of the assessment.

~~B. The nursing facility assessment is due quarterly with the initial payment due within forty-five days after the state plan has been approved by the centers for medicare and medicaid services. Subsequent quarterly payments are due not later than forty-five days after the end of the calendar quarter.~~

~~C.~~ B. A nursing facility may increase its charges to other payors to incorporate the assessment but may not establish a separate line-item charge on the bill reflecting the assessment.

~~D.~~ C. If an entity conducts, operates or maintains more than one nursing facility, the entity must pay a quality assessment for each nursing facility separately.

~~E. If a nursing facility does not pay the full amount of the assessment when due, the department of revenue shall impose a civil penalty of five per cent of the amount of the assessment. The department of revenue shall credit subsequent payments first to the unpaid assessment amounts, rather than to penalty or interest amounts, beginning with the most delinquent installment. The department of revenue may waive a penalty for good cause shown.~~

~~F.~~ D. ~~In addition to a civil penalty,~~ The administration may seek any of the following remedies for failure to pay an assessment:

1. Withhold any medical assistance reimbursement payments until the assessment is paid in full.

2. Suspend or revoke the nursing facility's license.

3. Require the nursing facility to pay any delinquent assessment in installments.

Sec. 2. Section 41-1507, Arizona Revised Statutes, is amended to read:

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

A. The authority shall receive applications and evaluate and certify taxpayers who otherwise qualify for income tax credits for increased research activities to further qualify for income tax refunds.

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

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

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

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

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

5. Any other information required by the authority.

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

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

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

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

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

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

Sec 3. Section 41-1510.01, Arizona Revised Statutes, is amended to read:

41-1510.01. <u>Solar energy tax incentives; qualification</u>

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

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

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

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

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

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

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

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

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

D. The authority shall:

1. ESTABLISH A PREAPPROVAL PROCESS FOR THE CERTIFICATION OF APPLICATIONS.

~~1.~~ 2. Review and evaluate each submitted application.

~~2.~~ 3. Determine within thirty days after receiving the application whether the application meets the criteria for the purposes of the commercial solar energy income tax credits.

~~3.~~ 4. Provide its initial certification of a project to the applicant and to the department of revenue. The initial certification shall include a unique identifying number for each certified installation.

E. On the completion of each certified installation:

1. The business must:

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

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

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

3. The authority shall transmit the credit information and certificate number to the department of revenue.

F. The authority shall not certify tax credits under this section in any calendar year that exceed a total of one million dollars. THE TOTAL ALLOWED UNDER THIS SECTION SHALL BE RESERVED FOR THE TAXPAYER BASED ON PREAPPROVAL UNDER SUBSECTION D OF THIS SECTION. THE FINAL CREDIT CERTIFICATE ISSUED UNDER SUBSECTION E OF THIS SECTION SHALL NOT EXCEED THE AMOUNT RESERVED. A TAXPAYER WHOSE TAXABLE YEAR OVERLAPS TWO CALENDAR YEARS MAY REQUEST APPROVAL FROM THE SECOND CALENDAR YEAR'S CAP IF THE FIRST YEAR'S CAP IS EXHAUSTED AND THE APPLICATION UNDER SUBSECTION B OF THIS SECTION IS SUBMITTED BEFORE THE END OF THE TAXPAYER'S TAXABLE YEAR. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS ALLOWING THE TAXPAYER TO CLAIM CREDITS UNDER SECTIONS 43-1085 AND 43-1164 IN ANY TAXABLE YEAR OTHER THAN THE TAXABLE YEAR THE SOLAR ENERGY DEVICE WAS INSTALLED.

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

Sec. 4. 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 ISSUED BEFORE THE PREAPPROVAL IS ISSUED PURSUANT TO SUBSECTION I OF THIS SECTION.

(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 ISSUED BEFORE THE PREAPPROVAL IS ISSUED PURSUANT TO SUBSECTION I OF THIS SECTION, 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 ISSUED BEFORE THE PREAPPROVAL IS ISSUED PURSUANT TO SUBSECTION I OF THIS SECTION, 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 FOR TAXABLE YEARS BEGINNING FROM AND 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 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 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 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 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 section 43-1083.01 or 43-1164.01 that exceeds the amount of the postapproval for the project under this subsection. For the purposes of this subsection, "begins operations" means:

1. A headquarters facility opens for public business.

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

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

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

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

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

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

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

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

V. The authority shall:

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

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

3. Not later than April 30 of each year, prepare and publish a report summarizing the information collected pursuant to this subsection. The 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. 5. Section 41-1512, Arizona Revised Statutes, is amended 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:

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

(b) Will continue in business at the qualified facility for five full calendar years after postapproval for the credit, other than for reasons beyond the control of the applicant.

(c) Agrees to furnish to the authority information regarding the amount of income tax credits 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 due to noncompliance with this section.

9. Letters of good standing from the department of revenue stating that the applicant is not delinquent in the payment of taxes.

C. The applicant may qualify for the income tax credits pursuant to section 43-1083.03 or 43-1164.04, as applicable, if:

1. The applicant makes new capital investment in this state after June 30, 2012 IN A QUALIFIED FACILITY THAT IS COMPLETED in a taxable year beginning from and after December 31, 2012 ~~in a qualified facility~~.

2. At least fifty-one per cent of the net new full-time employment positions at the qualified facility 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 ISSUED BEFORE THE PREAPPROVAL IS ISSUED PURSUANT TO SUBSECTION I OF THIS SECTION.

3. 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.

D. Final eligibility for an income tax credit is subject to any additional requirements prescribed by section 43-1083.03 or 43-1164.04, as applicable.

E. An applicant may separately apply and qualify with respect to investments for separate expansions of a qualified facility.

F. The amount of the income tax credit to be preapproved by the authority to a qualifying applicant is ten per cent of the lesser of:

1. The amount the applicant has projected in total qualifying investment in the qualified facility.

2. Two hundred thousand dollars for each net new full-time employment position projected by the applicant at a qualified facility.

G. Beginning with income tax credits allocated for 2013, an approved 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 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 FOR ANY TAXABLE YEAR BEGINNING FROM AND 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~~ 2012, 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

1 preapproved amount not incurred lapses and does not apply against the dollar
2 limit prescribed by section 41-1511, subsection J for that year. The
3 department of revenue shall not allow an income tax credit under section
4 43-1083.03 or 43-1164.04 that exceeds the amount of the postapproval for the
5 project under this subsection. For the purposes of this subsection, "begins
6 operations" means the qualified facility opens for public business.
7 Q. The authority may rescind an applicant's postapproval if the
8 business no longer meets the terms and conditions required for qualifying for
9 the credit. The authority may give special consideration, or allow temporary
10 exemption from recapture of the credit, in the case of extraordinary hardship
11 due to factors beyond the control of the qualifying business.
12 R. If the authority rescinds an applicant's preapproval or
13 postapproval under subsection Q of this section, it shall notify the
14 department of revenue of the action and the conditions of noncompliance. If
15 the department of revenue obtains information indicating a possible failure
16 to qualify and comply, it shall provide that information to the authority.
17 The department of revenue may require the business to file appropriate
18 amended tax returns reflecting any recapture of the credit under section
19 43-1083.03 or 43-1164.04.
20 S. Preapproval and postapproval of an applicant for the purposes of
21 income tax credits under this section do not constitute or imply compliance
22 with any other provision of law or any regulatory rule, order, procedure,
23 permit or other measure required by law. To maintain qualification for a
24 credit under this section, a business must separately comply with all
25 environmental, employment and other regulatory measures.
26 T. For five years after postapproval of an income tax credit under
27 this section, in any action involving the liquidation of the business assets
28 or relocation out of state, this state claims the position of a secured
29 creditor of the business in the amount of the credit the business received
30 pursuant to section 43-1083.03 or 43-1164.04. The transfer of part or all of
31 a company's assets that are then leased back by the company is not considered
32 a liquidation under this section.
33 U. Any information gathered from a business for the purposes of this
34 section is considered to be confidential taxpayer information and shall be
35 disclosed only as provided in section 42-2003, subsection B, paragraph 12,
36 except that the authority shall publish the following information in its
37 annual report:
38 1. The name of each business and the amount of income tax credits
39 preapproved for each qualifying investment.
40 2. The amount of income tax credits postapproved with respect to each
41 qualifying investment.
42 V. The authority shall:
43 1. Keep annual records of the information provided on applications for
44 qualified facilities. These records shall reflect a percentage comparison of

1 the annual amount of monies credited to qualified facilities to the estimated
2 amount of monies spent in this state in the form of qualifying investments.
3 2. Maintain annual data on growth in this state of qualified
4 facilities and related employment and wages.
5 3. Not later than April 30 following each calendar year, prepare and
6 publish a report summarizing the information collected pursuant to this
7 subsection. The authority shall make copies of the annual report available
8 to the public on request.
9 W. The authority shall adopt rules and prescribe forms and procedures
10 as necessary for the purposes of this section. The authority and the
11 department of revenue shall collaborate in adopting rules as necessary to
12 avoid duplication and inconsistencies while accomplishing the intent and
13 purposes of this section.
14 X. For the purposes of this section:
15 1. "Capital investment" means an expenditure to acquire, lease or
16 improve property that is used in operating a business, including land,
17 buildings, machinery, equipment and fixtures.
18 2. "Facility" means a single parcel or contiguous parcels of owned or
19 leased land in this state, the structures and personal property contained on
20 the land or any part of the structures occupied by the owner. Parcels that
21 are separated only by a public thoroughfare or right-of-way are considered to
22 be contiguous.
23 3. "Headquarters" means a principal central administrative office
24 where primary headquarters related functions and services are performed,
25 including financial, personnel, administrative, legal, planning and similar
26 business functions.
27 4. "Manufacturing" means fabricating, producing or manufacturing raw
28 or prepared materials into usable products, imparting new forms, qualities,
29 properties and combinations. Manufacturing does not include generating
30 electricity.
31 5. "Qualified facility" means a facility in this state that devotes at
32 least eighty per cent of the property and payroll at the facility to one or
33 more of the following:
34 (a) Qualified manufacturing.
35 (b) Qualified headquarters.
36 (c) Qualified research.
37 6. "Qualified headquarters" means a global, national or regional
38 headquarters for a taxpayer that is involved in manufacturing and that
39 derives at least sixty-five per cent of its revenue from out-of-state sales.
40 7. "Qualified manufacturing" means manufacturing tangible products in
41 this state if at least sixty-five per cent of the product will be sold
42 out-of-state.
43 8. "Qualified research" has the same meaning prescribed by section
44 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 FACILITY COMPLETED IN a taxable year beginning from and after December 31, ~~2011~~ 2012. 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. 6. Section 42-2003, Arizona Revised Statutes, is amended to read:

42-2003. Authorized disclosure of confidential information

A. Confidential information relating to:

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

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

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

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

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

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

(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.

16. THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION FOR ITS USE IN ADMINISTERING NURSING FACILITY PROVIDER ASSESSMENTS.

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, 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 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 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 ~~and~~ 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 1, subdivision (a), item (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 36-798.06, 44-7101~~,~~ OR 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.

X. The department may disclose to the attorney general confidential information requested by the attorney general for the purposes of determining compliance with and enforcing section 36-798.06.

Y. The department may disclose to an official of any city, town or county in a current agreement or considering a prospective agreement with the department as described in section 42-5032.02, subsection F any information relating to amounts subject to distribution required by section 42-5032.02. Information disclosed by the department under this subsection:

1. May only be used by the city, town or county 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 city, town or county must agree with the department in writing that any release of confidential information that violates the confidentiality standards will result in the immediate suspension of any rights of the city, town or county to receive information under this subsection.

Sec. 7. Section 42-5071, Arizona Revised Statutes, is amended to read:

42-5071. Personal property rental classification

A. The personal property rental classification is comprised of the business of leasing or renting tangible personal property for a consideration. The tax does not apply to:

1. Leasing or renting films, tapes or slides used by theaters or movies, which are engaged in business under the amusement classification, or used by television stations or radio stations.

2. Activities engaged in by the Arizona exposition and state fair board or county fair commissions in connection with events sponsored by such entities.

3. Leasing or renting tangible personal property by a parent corporation to a subsidiary corporation or by a subsidiary corporation to another subsidiary of the same parent corporation if taxes were paid under this chapter on the gross proceeds or gross income accruing from the initial sale of the tangible personal property. For the purposes of this paragraph, "subsidiary" means a corporation of which at least eighty per cent of the voting shares are owned by the parent corporation.

4. Operating coin-operated washing, drying and dry cleaning machines or coin-operated car washing machines at establishments for the use of such machines.

5. Leasing or renting tangible personal property for incorporation into or comprising any part of a qualified environmental technology facility as described in section 41-1514.02. This paragraph shall apply for ten full consecutive calendar or fiscal years following the initial lease or rental by each qualified environmental technology manufacturer, producer or processor.

6. Leasing or renting aircraft, flight simulators or similar training equipment to students or staff by nonprofit, accredited educational

institutions that offer associate or baccalaureate degrees in aviation or aerospace related fields.

7. Leasing or renting photographs, transparencies or other creative works used by this state on internet ~~web sites~~ WEBSITES, in magazines or in other publications that encourage tourism.

B. The tax base for the personal property rental classification is the gross proceeds of sales or gross income derived from the business, but the gross proceeds of sales or gross income derived from the following shall be deducted from the tax base:

1. Reimbursements by the lessee to the lessor of a motor vehicle for payments by the lessor of the applicable fees and taxes imposed by sections 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15, article 2 and article IX, section 11, Constitution of Arizona, to the extent such amounts are separately identified as such fees and taxes and are billed to the lessee.

2. Leases or rentals of tangible personal property which, if it had been purchased instead of leased or rented by the lessee, would have been exempt under:

(a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29, 50 or 55.

(b) Section 42-5061, subsection B, except that a lease or rental of new machinery or equipment is not exempt pursuant to:

(i) Section 42-5061, subsection B, paragraph 13 if the lease is for less than two years.

(ii) Section 42-5061, subsection B, paragraph 21.

(c) Section 42-5061, subsection J, paragraph 1.

(d) Section 42-5061, subsection N.

3. Motor vehicle fuel and use fuel that are subject to a tax imposed under title 28, chapter 16, article 1, sales of use fuel to a holder of a valid single trip use fuel tax permit issued under section 28-5739 and sales of aviation fuel that are subject to the tax imposed under section 28-8344.

4. Leasing or renting a motor vehicle subject to and upon which the fee has been paid under title 28, chapter 16, article 4.

5. Amounts received by a motor vehicle dealer for the first month of a lease payment if the lease and the lease payment for the first month of the lease are transferred to a third-party leasing company.

C. Sales of tangible personal property to be leased or rented to a person engaged in a business classified under the personal property rental classification are deemed to be resale sales.

D. In computing the tax base, the gross proceeds of sales or gross income from the lease or rental of a motor vehicle does not include any amount attributable to the car rental surcharge under section 5-839, 28-5810 or 48-4234.

E. Until December 31, 1988, leasing or renting animals for recreational purposes is exempt from the tax imposed by this section. Beginning January 1, 1989, the gross proceeds or gross income from leasing or renting animals for recreational purposes is subject to taxation under this section. Tax liabilities, penalties and interest paid for taxable periods before January 1, 1989 shall not be refunded unless the taxpayer requesting the refund provides proof satisfactory to the department that the monies paid as taxes will be returned to the customer.

Sec. 8. Section 43-1021, Arizona Revised Statutes, is amended to read:

43-1021. Additions to Arizona gross income

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

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

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

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

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

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

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

7. The amount by which the adjusted basis of property described in this paragraph and computed pursuant to the internal revenue code exceeds the adjusted basis of such property computed pursuant to this title and the income tax act of 1954, as amended. This paragraph shall apply to all property which is held for the production of income and which is sold or

otherwise disposed of during the taxable year, except depreciable property used in a trade or business.

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

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

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

11. That portion of the net operating loss included in federal adjusted gross income which has already been taken as a net operating loss for Arizona purposes or which is separately taken as a subtraction under the special net operating loss transition rule.

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

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

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

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

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

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

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

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

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

21. Any amount deducted pursuant to section 170 of the internal revenue code representing contributions to a school tuition organization or a public school for which a credit is claimed under section 43-1089, 43-1089.01 or 43-1089.03.

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

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

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

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

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

~~27. The amount of any deductions that are claimed in computing federal adjusted gross income representing expenses for which a credit is claimed under either section 43-1075 or 43-1075.01 or both.~~

~~28.~~ 27. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under section 43-1090.01 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

~~29.~~ 28. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under section 43-1090.01 and which is sold or otherwise disposed of during

the taxable year exceeds the adjusted basis of the property computed under section 43-1090.01.

~~30.~~ 29. The amount of a nonqualified withdrawal, as defined in section 15-1871, from a college savings plan established pursuant to section 529 of the internal revenue code that is made to a distributee to the extent the amount is not included in computing federal adjusted gross income, except that the amount added under this paragraph shall not exceed the difference between the amount subtracted under section 43-1022 in prior taxable years and the amount added under this section in any prior taxable years.

~~31.~~ 30. The amount of unemployment compensation that is excluded from federal adjusted gross income pursuant to section 85(c) of the internal revenue code as added by section 1007 of the American recovery and reinvestment act of 2009 (P.L. 111-5).

~~32.~~ 31. The amount of discharge of indebtedness income that is deferred and excluded from the computation of federal adjusted gross income or federal taxable income in the current taxable year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5).

~~33.~~ 32. The amount of any previously deferred original issue discount that was deducted in computing federal adjusted gross income or federal taxable income in the current year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5), to the extent that the amount was previously subtracted from Arizona gross income pursuant to section 43-1022, paragraph 31.

~~34.~~ 33. For taxable years beginning from and after December 31, 2011 through December 31, 2014, the amount of any deduction that is claimed in computing federal adjusted gross income for health insurance premiums or contributions to a health savings account for which a credit is claimed under section 43-1087.01 OR 43-1185.

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

43-1022. <u>Subtractions from Arizona gross income</u>

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

1 officials' retirement plan, an optional retirement program established by the
2 Arizona board of regents under section 15-1628, an optional retirement
3 program established by a community college district board under section
4 15-1451 or a retirement plan established for employees of a county, city or
5 town in this state.
6 3. A beneficiary's share of the fiduciary adjustment to the extent
7 that the amount determined by section 43-1333 decreases the beneficiary's
8 Arizona gross income.
9 4. The amount of any distributions from an individual retirement
10 account as provided for in section 408 of the internal revenue code or from a
11 qualified retirement plan of a self-employed individual as provided for in
12 section 401 of the internal revenue code to the extent that total adjustments
13 made pursuant to this paragraph in all tax years do not exceed the total of
14 all contributions made by the taxpayer to such plans before December 31,
15 1975, which were included in computing Arizona taxable income.
16 5. The amount of income on an installment receivable that is
17 recognized pursuant to the internal revenue code and that has already been
18 recognized on the death of the taxpayer for purposes of this title for tax
19 years ending before January 1, 1990.
20 6. Interest income received on obligations of the United States, less
21 any interest on indebtedness, or other related expenses, and deducted in
22 arriving at Arizona gross income, which were incurred or continued to
23 purchase or carry such obligations.
24 7. The amount of any income tax refunds that were received from states
25 other than Arizona and that were included as income in computing federal
26 adjusted gross income.
27 8. Annuity income included in federal adjusted gross income pursuant
28 to section 72 of the internal revenue code if the first payment with respect
29 to such annuity was received before December 31, 1978.
30 9. The excess of a partner's share of income required to be included
31 under section 702(a)(8) of the internal revenue code over the income required
32 to be included under chapter 14, article 2 of this title.
33 10. The excess of a partner's share of partnership losses determined
34 pursuant to chapter 14, article 2 of this title over the losses allowable
35 under section 702(a)(8) of the internal revenue code.
36 11. The amount by which the adjusted basis of property described in
37 this paragraph and computed pursuant to this title and the income tax act of
38 1954, as amended, exceeds the adjusted basis of such property computed
39 pursuant to the internal revenue code. This paragraph shall apply to all
40 property that is held for the production of income and that is sold or
41 otherwise disposed of during the taxable year other than depreciable property
42 used in a trade or business.
43 12. The amount allowed by section 43-1024 for amortization, by a
44 qualified defense contractor certified by the Arizona commerce authority

1 under section 41-1508, of a capital investment for private commercial
2 activities.
3 13. The amount of gain included in federal adjusted gross income on the
4 sale or other disposition of a capital investment that a qualified defense
5 contractor has elected to amortize pursuant to section 43-1024.
6 14. The amount allowed by section 43-1025 for contributions during the
7 taxable year of agricultural crops to charitable organizations.
8 15. The portion of any wages or salaries paid or incurred by the
9 taxpayer for the taxable year that is equal to the amount of the federal work
10 opportunity credit, the empowerment zone employment credit, the credit for
11 employer paid social security taxes on employee cash tips and the Indian
12 employment credit that the taxpayer received under sections 45A, 45B, 51(a)
13 and 1396 of the internal revenue code.
14 16. The amount of prizes or winnings less than five thousand dollars in
15 a single taxable year from any of the state lotteries established and
16 operated pursuant to title 5, chapter 5.1, article 1, except that all such
17 winnings before March 22, 1983, including periodic distributions from such
18 winnings made after March 22, 1983, may be subtracted.
19 17. The amount of exploration expenses that is determined pursuant to
20 section 617 of the internal revenue code, that has been deferred in a taxable
21 year ending before January 1, 1990 and for which a subtraction has not
22 previously been made. The subtraction shall be made on a ratable basis as
23 the units of produced ores or minerals discovered or explored as a result of
24 this exploration are sold.
25 18. The amount included in federal adjusted gross income pursuant to
26 section 86 of the internal revenue code, relating to taxation of social
27 security and railroad retirement benefits.
28 19. To the extent not already excluded from Arizona gross income under
29 the internal revenue code, compensation received for active service as a
30 member of the reserves, the national guard or the armed forces of the United
31 States, including compensation for service in a combat zone as determined
32 under section 112 of the internal revenue code.
33 20. The amount of unreimbursed medical and hospital costs, adoption
34 counseling, legal and agency fees and other nonrecurring costs of adoption
35 not to exceed three thousand dollars. In the case of a husband and wife who
36 file separate returns, the subtraction may be taken by either taxpayer or may
37 be divided between them, but the total subtractions allowed both husband and
38 wife shall not exceed three thousand dollars. The subtraction under this
39 paragraph may be taken for the costs that are described in this paragraph and
40 that are incurred in prior years, but the subtraction may be taken only in
41 the year during which the final adoption order is granted.
42 21. The amount authorized by section 43-1027 for the taxable year
43 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. For property placed in service:

(a) In taxable years ~~ending through~~ BEGINNING BEFORE 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 TAXPAYER MAY ELECT TO SUBTRACT 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. IF THE TAXPAYER DOES NOT MAKE

THE ELECTION UNDER THIS SUBDIVISION, SUBDIVISION (a) 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.

28. 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 25 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.

29. With respect to property for which an adjustment was made under section 43-1021, paragraph 26, an amount equal to one-fifth of the amount of the adjustment pursuant to section 43-1021, paragraph 26 in the year in which the amount was adjusted under section 43-1021, paragraph 26 and in each of the following four years.

30. The amount contributed during the taxable year to college savings plans established pursuant to section 529 of the internal revenue code to the extent that the contributions were not deducted in computing federal adjusted gross income. The amount subtracted shall not exceed:

(a) Seven hundred fifty dollars for a single individual or a head of household.

(b) One thousand five hundred dollars for a married couple filing a joint return. In the case of a husband and wife who file separate returns, the subtraction may be taken by either taxpayer or may be divided between them, but the total subtractions allowed both husband and wife shall not exceed one thousand five hundred dollars.

31. The amount of any original issue discount that was deferred and not allowed to be deducted in computing federal adjusted gross income or federal taxable income in the current taxable year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5).

32. The amount of previously deferred discharge of indebtedness income that is included in the computation of federal adjusted gross income or federal taxable income in the current taxable year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5), to the extent that the amount was previously added to Arizona gross income pursuant to section 43-1021, paragraph ~~32~~ 31.

33. The portion of the net operating loss carryforward that would have been allowed as a deduction in the current year pursuant to section 172 of the internal revenue code if the election described in section 172(b)(1)(H)

of the internal revenue code had not been made in the year of the loss that exceeds the actual net operating loss carryforward that was deducted in arriving at federal adjusted gross income. This subtraction only applies to taxpayers who made an election under section 172(b)(1)(H) of the internal revenue code as amended by section 1211 of the American recovery and reinvestment act of 2009 (P.L. 111-5) or as amended by section 13 of the worker, homeownership, and business assistance act of 2009 (P.L. 111-92).

34. For taxable years beginning from and after December 31, 2013, the amount of any net capital gain included in federal adjusted gross income for the taxable year derived from investment in a qualified small business as determined by the Arizona commerce authority pursuant to section 41-1518.

35. 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.

FOR THE PURPOSES OF THIS PARAGRAPH, A TRANSFEREE THAT RECEIVES AN ASSET BY GIFT OR AT THE DEATH OF A TRANSFEROR IS CONSIDERED TO HAVE ACQUIRED THE ASSET WHEN THE ASSET WAS ACQUIRED BY THE TRANSFEROR. IF THE DATE AN ASSET IS ACQUIRED CANNOT BE VERIFIED, A SUBTRACTION UNDER THIS PARAGRAPH IS NOT ALLOWED.

36. If an individual is not claiming itemized deductions pursuant to section 43-1042, the amount of premium costs for long-term care insurance, as defined in section 20-1691.

37. With respect to a long-term health care savings account established pursuant to section 43-1032, the amount deposited by the taxpayer in the account during the taxable year to the extent that the taxpayer's contributions are included in the taxpayer's federal adjusted gross income.

Sec. 10. Section 43-1023, Arizona Revised Statutes, is amended to read:

43-1023. <u>Exemptions for blind persons, persons over sixty-five years of age and dependents</u>

A. A taxpayer is allowed an exemption of one thousand five hundred dollars:

1. For a taxpayer who is blind or if either the taxpayer's central visual acuity does not exceed 20/200 in the better eye with correcting lenses or the taxpayer's visual acuity is greater than 20/200 but is accompanied by

a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty degrees.

2. For the taxpayer's spouse if a separate return is made by the taxpayer, if the spouse is blind, as defined in paragraph 1 of this subsection, has no Arizona adjusted gross income for the calendar year in which the taxable year of the taxpayer begins and is not the dependent of another taxpayer. For the purposes of this paragraph, the determination of whether the spouse is blind shall be made at the close of the taxable year of the taxpayer. If the spouse dies during such taxable year, the determination shall be made as of the time of the spouse's death.

B. A taxpayer is allowed an exemption of two thousand three hundred dollars for:

1. Each dependent of the taxpayer, as defined in section 43-1001~~, and subject to the qualifications prescribed by section 151(c) of the internal revenue code~~.

2. Each person age sixty-five or older regardless of the person's relationship to the taxpayer:

(a) If the taxpayer pays more than one-fourth of the total cost of maintaining such person in a nursing care institution or residential care institution licensed pursuant to title 36, chapter 4, or an assisted living facility provider of a type certified pursuant to title 11, chapter 2, article 7, if such payments exceed eight hundred dollars in the taxable year.

(b) If the taxpayer otherwise makes payments exceeding eight hundred dollars in the taxable year for home health care or other types of medical care.

3. For taxable years beginning from and after December 31, 2003, each birth for which a certificate of birth resulting in stillbirth has been issued pursuant to section 36-330 if the child otherwise would have been a member of the taxpayer's household. The taxpayer may claim the exemption under this paragraph only in the taxable year in which the stillbirth occurred.

C. For taxable years beginning from and after December 31, 1998, a resident taxpayer is allowed an exemption of ten thousand dollars for each parent or ancestor of a parent of the taxpayer, who is age sixty-five or older, who requires assistance with activities of daily living and who lives in the taxpayer's principal residence for the entire taxable year, if the taxpayer pays more than one-half of the person's total support and maintenance costs. An exemption under this subsection is in lieu of an exemption under subsection B of this section for the same person.

D. A taxpayer shall not take more than one exemption for the same person under either subsection B or C of this section.

E. A taxpayer is allowed an exemption of two thousand one hundred dollars:

1. If the taxpayer has attained the age of sixty-five before the close of the taxable year filing a separate or joint return and the taxpayer is not claimed as a dependent by another taxpayer.

2. For the taxpayer's spouse if the spouse has attained the age of sixty-five before the close of the taxable year, a joint return is filed and the spouse is not a dependent of another taxpayer.

Sec. 11. Section 43-1083.03, Arizona Revised Statutes, is amended to read:

43-1083.03. Credit for qualified facilities

A. For taxable years beginning from and after December 31, ~~2011~~ 2012 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 OR 43-1083.01 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. 12. Section 43-1089.02, Arizona Revised Statutes, is amended to read:

43-1089.02. Credit for donation of school site

A. A credit is allowed against the taxes imposed by this title in the amount of thirty per cent of the value of real property and improvements donated by the taxpayer to a school district or a charter school for use as a school or as a site for the construction of a school.

B. To qualify for the credit:

1. The real property and improvements must be located in this state.

2. The real property and improvements must be conveyed unencumbered and in fee simple, except that:

(a) The conveyance must include as a deed restriction and protective covenant running with title to the land the requirement that as long as the donee holds title to the property the property shall only be used as a school or as a site for the construction of a school, subject to subsection I or J of this section.

(b) In the case of a donation to a charter school, the donor shall record a lien on the property as provided by subsection J, paragraph 3 of this section.

3. The conveyance shall not violate section 15-341, subsection D ~~and~~ OR section 15-183, subsection ~~V~~ U.

C. For THE purposes of this section, the value of the donated property is the property's fair market value as determined in an appraisal as defined in section 32-3601 that is conducted by an independent party and that is paid for by the donee.

D. If the property is donated by co-owners, including partners in a partnership and shareholders of an S corporation, as defined in section 1361 of the internal revenue code, each donor may claim only the pro rata share of the allowable credit under this section based on the ownership interest. If the property is donated by a husband and wife who file separate returns for a taxable year in which they could have filed a joint return, they may determine between them the share of the credit each will claim. The total of the credits allowed all co-owner donors may not exceed the allowable credit.

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

F. The credit under this section is in lieu of any deduction pursuant to section 170 of the internal revenue code taken for state tax purposes.

G. On written request by the donee, the donor shall disclose in writing to the donee the amount of the credit allowed pursuant to this section with respect to the property received by the donee.

H. A school district or charter school may refuse the donation of any property for purposes of this section.

I. If the donee is a school district:

1. The district shall notify the school facilities board established by section 15-2001 and furnish the board with any information the board requests regarding the donation. A school district shall not accept a donation pursuant to this section unless the school facilities board has reviewed the proposed donation and has issued a written determination that the real property and improvements are suitable as a school site or as a school. The school facilities board shall issue a determination that the real property and improvements are not suitable as a school site or as a school if the expenses that would be necessary to make the property suitable as a school site or as a school exceed the value of the proposed donation.

2. The district may sell any donated property pursuant to section 15-342, but the proceeds from the sale shall only be used for capital projects. The school facilities board shall withhold an amount that corresponds to the amount of the proceeds from any monies that would otherwise be due the school district from the school facilities board pursuant to section 15-2041.

J. If the donee is a charter school:

1. The charter school shall:

(a) Immediately notify the sponsor of the charter school by certified mail and shall furnish the sponsor with any information requested by the sponsor regarding the donation during the ten year period after the conveyance is recorded.

(b) Notify the sponsor by certified mail, and the sponsor shall notify the state treasurer, in the event of the charter school's financial failure or if the charter school:

(i) Fails to establish a charter school on the property within forty-eight months after the conveyance is recorded.

(ii) Fails to provide instruction to pupils on the property within forty-eight months after the conveyance is recorded.

(iii) Establishes a charter school on the property but subsequently ceases to operate the charter school on the property for twenty-four consecutive months or fails to provide instruction to pupils on the property for twenty-four consecutive months.

2. The charter school, or a successor in interest, shall pay to the state treasurer the amount of the credit allowed under this section, or if that amount is unknown, the amount of the allowable credit under this section, if any of the circumstances listed in paragraph 1, subdivision (b) of this subsection ~~occur~~ OCCURS. If the amount is not paid within one year after the treasurer receives notice under paragraph 1, subdivision (b) of this subsection, a penalty and interest shall be added, determined pursuant to title 42, chapter 1, article 3.

3. A tax credit under this section constitutes a lien on the property, which the donor must record along with the title to the property to qualify for the credit. The amount of the lien is the amount of the allowable credit under this section, adjusted according to the average change in the GDP price deflator, as defined in section 41-563, for each calendar year since the donation, but not exceeding twelve and one-half per cent more than the allowable credit. The lien is subordinate to any liens securing the financing of the school construction. The lien is extinguished on the earliest of the following:

(a) Ten years after the lien is recorded. After that date, the charter school, or a successor in interest, may request the state treasurer to release the lien.

(b) On payment to the state treasurer by the donee charter school, or by a successor in interest, of the amount of the allowable credit under this section, either voluntarily or as required by paragraph 2 of this subsection. After the required amount is paid, the charter school or successor in interest may request the state treasurer to release the lien.

(c) On conveyance of fee simple title to the property to a school district.

(d) On enforcement and satisfaction of the lien pursuant to paragraph 4 of this subsection.

4. The state treasurer shall enforce the lien by foreclosure within one year after receiving notice of any of the circumstances described in paragraph 1, subdivision (b) of this subsection.

5. Subject to paragraphs 3 and 4 of this subsection, the charter school may sell any donated property.

Sec. 13. Section 43-1121, Arizona Revised Statutes, is amended to read:

43-1121. <u>Additions to Arizona gross income; corporations</u>

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

1. The amounts computed pursuant to section 43-1021, paragraphs 3 through 9, 12, 25, 26, 31, 32~~,~~ AND 33 ~~and 34~~.

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

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

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

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

6. Federal income tax refunds received during the taxable year to the extent they were deducted in arriving at Arizona taxable income in a previous year.

7. The amount of net operating loss taken pursuant to section 172 of the internal revenue code.

8. The amount of exploration expenses determined pursuant to section 617 of the internal revenue code to the extent that they exceed seventy-five thousand dollars and to the extent that the election is made to defer those expenses not in excess of seventy-five thousand dollars.

9. Amortization of costs incurred to install pollution control devices and deducted pursuant to the internal revenue code or the amount of deduction for depreciation taken pursuant to the internal revenue code on pollution control devices for which an election is made pursuant to section 43-1129.

10. The amount of depreciation or amortization of costs of child care facilities deducted pursuant to section 167 or 188 of the internal revenue code for which an election is made to amortize pursuant to section 43-1130.

11. Arizona state income tax refunds received, to the extent the amount of the refunds is not already included in Arizona gross income, if a tax benefit was derived by deduction of this amount in a prior year.

12. The loss of an insurance company that is exempt under section 43-1201 to the extent that it is included in computing Arizona gross income on a consolidated return pursuant to section 43-947.

13. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under section 43-1169 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

14. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under section 43-1169 and which is sold or otherwise disposed of during the taxable

year exceeds the adjusted basis of the property computed under section 43-1169.

15. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under either section 43-1170 or 43-1170.01 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

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

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

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

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

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

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

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

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

~~24. The amount of any deductions that are claimed in computing federal taxable income representing expenses for which a credit is claimed under either section 43-1163 or 43-1163.01 or both.~~

~~25.~~ 24. Any amount deducted in computing Arizona taxable income as expenses for installing water conservation system plumbing stub outs in this state with respect to which a credit is claimed pursuant to section 43-1182.

~~26.~~ 25. Any amount deducted pursuant to section 170 of the internal revenue code representing contributions to a school tuition organization for which a credit is claimed under section 43-1183 or 43-1184.

Sec. 14. Section 43-1122, Arizona Revised Statutes, is amended to read:

43-1122. Subtractions from Arizona gross income; corporations

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, 27, 28, ~~29,~~ 30 AND 31 ~~and 32~~. 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 regard to ~~the provisions of~~ section 43-961, paragraph 2 and article 4 of this chapter. A corporation that has its commercial domicile, as defined in section 43-1131, in this state may subtract the full amount of the dividends. A corporation that does not have its commercial domicile in this state may subtract:

(a) For its taxable year beginning in 1990, an amount equal to one-half of the dividends.

(b) For taxable years beginning in 1991 and thereafter, the full amount of the dividends.

5. Interest income received on obligations of the United States.

6. The amount of dividend income from foreign corporations.

7. The amount of net operating loss allowed by section 43-1123.

8. The amount of any state income tax refunds received which were included as income in computing federal taxable income.

9. The amount of expense recapture included in income pursuant to section 617 of the internal revenue code for mine exploration expenses.

10. The amount of deferred exploration expenses allowed by section 43-1127.

11. The amount of exploration expenses related to the exploration of oil, gas or geothermal resources, computed in the same manner and on the same basis as a deduction for mine exploration pursuant to section 617 of the internal revenue code. This computation is subject to the adjustments contained in section 43-1121, paragraph 8 and paragraphs 9 and 10 of this section relating to exploration expenses.

12. The amortization of pollution control devices allowed by section 43-1129.

13. The amount of amortization of the cost of child care facilities pursuant to section 43-1130.

14. The amount of income from a domestic international sales corporation required to be included in the income of its shareholders pursuant to section 995 of the internal revenue code.

15. The income of an insurance company that is exempt under section 43-1201 to the extent that it is included in computing Arizona gross income on a consolidated return pursuant to section 43-947.

16. The amount of contributions by the taxpayer during the taxable year to medical savings accounts established on behalf of the taxpayer's employees as provided by section 43-1028, to the extent that the contributions are not deductible under the internal revenue code.

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

18. 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.

Sec. 15. Section 43-1164.04, Arizona Revised Statutes, is amended to read:

43-1164.04. Credit for qualified facilities

A. For taxable years beginning from and after December 31, ~~2011~~ 2012 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 corporate partners in a partnership and members of a limited liability company, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all owners of the business may not exceed the amount that would have been allowed for a sole owner of the business.

F. If the allowable tax credit for a taxable year exceeds the income taxes otherwise due on the claimant's income, or if there are no state income taxes due on the claimant's income, the amount of the claim not used as an offset against income taxes shall be paid to the taxpayer in the same manner as a refund under section 42-1118. Refunds made pursuant to this subsection are subject to setoff under section 42-1122. If the department determines that a refund is incorrect or invalid, the excess refund may be treated as a tax deficiency pursuant to section 42-1108.

G. Except as provided by subsection H of this section, if, within five taxable years after first receiving a credit pursuant to this section, the certification of qualification of a business is terminated or revoked under section 41-1512, 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~~ 43-1161, 43-1164.01 OR 43-1167 may not claim a credit under this section with respect to the same full-time employment positions.

I. The department of revenue shall adopt rules and prescribe forms and procedures as necessary for the purposes of this section. The department of revenue and the 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. 16. Laws 2011, chapter 287, section 5 is amended to read:

Sec. 5. Delayed repeal

Sections 43-1087.01 and 43-1185, Arizona Revised Statutes, ~~as added by this act,~~ are repealed FOR TAXABLE YEARS BEGINNING from and after December 31, 2014.

Sec. 17. Effect on preexisting tax credits

A. The delayed repeal of sections 43-1087.01 and 43-1185, Arizona Revised Statutes, by Laws 2011, chapter 287, section 5, as amended by this act, does not affect the use of any carryovers from unused credits earned before the repeal.

B. The delayed repeal of sections 41-1511, 41-1512, 43-1083.01, 43-1083.03, 43-1164.01 and 43-1164.04, Arizona Revised Statutes, by Laws 2012, chapter 343, section 18 does not affect either of the following:

1. The taxpayer's right to claim the remainder of the five equal annual installments of the credits if the first year was claimed on a timely filed original return for a taxable year that began before December 31, 2019 and the taxpayer continues to meet all of the requirements of the repealed statute.

2. The ability of the department of revenue to require the recapture of any of the credits claimed under the repealed statute.

APPROVED BY THE GOVERNOR APRIL 16, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 17, 2013.

Passed the House March 25, 2013,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

Passed the Senate February 25, 2013,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

President of the Senate

Charmin Billington

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR
This Bill was received by the Governor this

15 day of April, 2013,

at 2:35 o'clock P M.

Michaela Howard
Secretary to the Governor

Approved this 16th day of

April, 2013,

at 3:38 o'clock P.M. 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 17th day of April, 2013,

at 8:41 o'clock A M.

Ken Bennett
Secretary of State

S.B. 1313