Joint Legislative Budget Committee
Staff Memorandum

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DATE: March 17, 2011

TO: Richard Stavneak, Director

FROM: Hans Olofsson, Chief Economist

SUBJECT: SB 1041 – INVEST ARIZONA WITH PROPOSED SENATOR REAGAN FLOOR AMENDMENT

We have a member request for a fiscal note on SB 1041, Invest Arizona. The Senate passed the bill on March 3rd and it appears to create a $3,000 tax credit for new jobs. The recent Arizona Commerce Authority (ACA) legislation in the Second Special Session also created a $3,000 tax credit for new jobs. It is unclear from the engrossed version, however, whether SB 1041 is intended to be in lieu of, or in addition to, the ACA legislation.

In our research on SB 1041, we discovered a proposed Senator Reagan floor amendment that would have clarified the bill's intent. We understand that the Reagan floor amendment was not offered for technical reasons. We believe it would be most useful to analyze SB 1041 with the proposed Reagan floor amendment.

Description

SB 1041 with the Reagan floor amendment would have amended the ACA legislation (Laws 2011, 2nd Special Session, Chapter 1). Specifically, the proposed amendment would:

- Modify the $3,000 new employment tax credit under the ACA bill by eliminating the per employer credit cap of 400 net new jobs per year. The amendment would, however, retain the aggregate statewide cap of 10,000 net new jobs per year.
- Provide that if a company has insufficient income tax liability to receive the tax credit, it would be allowed to receive a refund from its withholding taxes. The ACA legislation did not have a "refundability" provision.
- Exclude new jobs created at a location where more than 10% of business activity is retail-oriented.
- Allow businesses that meet certain employment and capital investment requirements to have any property constructed or renovated between January 1, 2011 and June 30, 2017 assessed under Class 6 (5% assessment ratio).

Estimated Impact

SB 1041 with the proposed Reagan floor amendment is estimated to increase the direct General Fund cost relative to the ACA bill by $3.3 million in FY 2012, $8.9 million in FY 2013, $19.7 million in FY 2014, and $31.8 million in FY 2015. The fiscal impact by provision (in million of dollars) is shown in the table below.

Provision	**Tax**	**FY12**	**FY13**	**FY14**	**FY15**
Expansion of $3,000 New Job Credit	Income	(3.3)	(6.7)	(14.9)	(23.9)
Reduced Assessment of Qualifying New Property	Property		(2.2)	(4.8)	(7.9)
Total General Fund Impact		**($3.3)**	**($8.9)**	**($19.7)**	**($31.8)**

The fiscal impact is over and above the estimate for the ACA bill *(see fiscal note for HB 2001, 2nd Special Session).* The estimated impact does not reflect any offsetting revenue effects that may result from increased economic activity spurred by the proposed legislation.

(Continued)

Analysis

Expansion of New Job Tax Credit
The ACA fiscal note estimated that the $3,000 new jobs tax credit would cost $6.7 million in FY 2012 and grow to $50.9 million in FY 2018. This loss related to the credit being taken against "Baseline" jobs that would occur irrespective of the tax incentive. JLBC's ACA analysis assumed that 5.6% of all new baseline jobs would qualify for the new $3,000 credit given the restrictions concerning median wages, employee health insurance and capital investment requirements. The 400 jobs per employer cap and the lack of refundable credits also served to lower the usage of the credit. Under these assumptions, the ACA fiscal note estimated that employers would claim approximately 2,200 tax credits in FY 2012, 4,500 in FY 2013, 5,500 in FY 2014, and 6,000 in FY 2015 for baseline jobs.

SB 1041 is expected to increase usage of the credit since it removes the per-employer credit cap and makes the credit refundable. We assume that these changes will increase credit use by another 1,100 claims in FY 2012 to 3,000 claims in FY 2015. Compared to the ACA bill, the proposed amendment would increase the cost of the credit by an estimated $3.3 million in FY 2012, $6.7 million in FY 2013, $14.9 million in FY 2014, and $23.9 million in FY 2015.

To the extent that SB 1041 results in the creation of new jobs above the baseline forecast, the bill's new job credit will have a greater cost. The cost of these "above the baseline" tax credits is assumed to be offset by the withholding tax and other related new taxes generated by these new jobs.

Reduced Assessment for Qualifying New Property
Under SB 1041 with the proposed floor amendment, qualifying businesses with property constructed between January 1, 2011 and June 30, 2017 will have such property assessed under Class 6's 5% assessment ratio. Commercial property is otherwise assessed at 20% of full cash value (although the assessment will be phased down to 18% in TY 2016 under the ACA bill).

Based on the most recent county levy limit worksheets, the state is estimated to add $7.5 billion in new property in FY 2012. This figure represents new full cash value from all classes of property, such as residential, commercial and agricultural. Of the total amount of new property in FY 2012, it is estimated that 23%, or $1.7 billion, represents baseline growth in locally assessed business property in the absence of the tax incentive. This figure is estimated to grow to $1.8 billion in FY 2013.

The JLBC analysis assumes that 20%, or $360 million, of baseline business property growth would qualify for the Class 6 assessment provided by SB 1041. This means that such new property would be assessed at $18 million (5% of $360 million) as opposed to $72 million (20% of $360 million) under current law. Thus, SB 1041 would reduce NAV by an estimated $(54) million, which represents about 5% of all new NAV under the baseline.

Under the state's K-12 funding formula, any loss of the local property tax base results in an automatic increase of state funding to schools. For this reason, it is estimated that the $(54) million NAV loss under SB 1041 will increase state aid to schools by $2.2 million in FY 2013. There would be no offsetting truth-in-taxation (TNT) cost savings since the initial NAV loss would apply only to new property. By FY 2015, it is estimated that the proposed amendment would have reduced total NAV by about $(200) million relative to the baseline, which would result in a state aid increase to schools of $7.9 million compared to current law.

The increased cost of state aid to schools will be offset to the extent that SB 1041 results in new business property acquisition above the levels assumed in the baseline forecast.

Local Government Impact

Each year, incorporated cities and towns receive 15% of income tax collections from 2 years prior. The proposed amendment would reduce local government distributions by $(0.5) million, beginning in FY 2014. Additionally, the amendment would shift the tax burden to property owners not affected by the legislation and/or result in property tax losses for local governments.

HO:lm
Attachment
xc: Richard Stavneak, Director

Fifty-first Legislature **Reagan**
First Session S.B. 1041

REAGAN FLOOR AMENDMENT

SENATE AMENDMENTS TO S.B. 1041

(Reference to CE amendment)

Page 1, strike lines 2 through 32

Strike page 2

Page 3, strike lines 1 through 31, insert:

"Section 1. Section 20-224.03, Arizona Revised Statutes, as added by Laws 2011, second special session, chapter 1, section 10, is amended to read:

20-224.03. Premium tax credit for new employment

A. A credit is allowed against the premium tax liability imposed pursuant to section 20-224, 20-837, 20-1010, 20-1060 or 20-1097.07 for net increases in full-time employees hired in qualified employment positions as certified by the Arizona commerce authority pursuant to section ~~41-1525~~ 41-1521. A tax credit is not allowed against the portion of the tax payable to the fire fighters' relief and pension fund pursuant to section 20-224 or the portion of the tax payable to the public safety personnel retirement system pursuant to section 20-224.01.

B. Subject to subsection E of this section, the amount of the tax credit is equal to three thousand dollars for each full-time employee hired for the full taxable year in a qualified employment position in each of the first three years of employment~~, but not more than four hundred employees in any taxable year~~.

C. To qualify for a credit under this section, the insurer and the employment positions must meet the requirements prescribed by section ~~41-1525~~ 41-1521.

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

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

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

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

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

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

J. A failure to timely report and certify to the Arizona commerce authority the information prescribed by section ~~41-1525~~ 41-1521, subsection D and in the manner prescribed by section ~~41-1525~~ 41-1521, subsection E disqualifies the insurer from the credit under this section. The department of insurance shall require written evidence of the timely report to the Arizona commerce authority.

K. A tax credit under this section is subject to recovery for a violation described in section ~~41-1525~~ 41-1521, subsection ~~G~~ H.

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

Page 7, line 17, strike "INVEST ARIZONA" insert "ARIZONA QUALITY JOBS INCENTIVES"

Strike lines 18 through 35

Strike pages 8 through 11

Page 12, strike lines 1, 2 and 3, insert:

"Sec. 4. Section 41-1525, Arizona Revised Statutes, as added by Laws 2011, second special session, chapter 1, section 45, is transferred and renumbered for placement in title 41, chapter 10, article 2, Arizona Revised Statutes, as added by this act, as section 41-1521, and as so renumbered is amended to read:

41-1521. Arizona quality jobs incentives; tax credits for new employment; qualifications; definitions

A. The owner of a business or an insurer located in this state before July, 2017 is eligible for income tax credits under section 43-1074 or 43-1161 or an insurance premium tax credit under section 20-224.03 for net increases in qualified employment positions, EXCEPT EMPLOYMENT POSITIONS AT A LOCATION WHERE MORE THAN TEN PER CENT OF THE BUSINESS CONDUCTED AT THE LOCATION CONSISTS OF RETAIL SALES OF TANGIBLE PERSONAL PROPERTY, MEASURED EITHER BY THE NUMBER OF EMPLOYEES ASSIGNED TO RETAIL SALES OR THE SQUARE FOOTAGE OF THE FACILITY USED FOR RETAIL SALES ACTIVITIES AT THE LOCATION. RETAIL SALES AND RETAIL SALES ACTIVITIES DO NOT INCLUDE:

1. FOOD AND BEVERAGE FOR CONSUMPTION ON THE PREMISES SOLELY BY EMPLOYEES AND OCCASIONAL GUESTS OF EMPLOYEES AT THE LOCATION.

2. PROMOTIONAL PRODUCTS NOT AVAILABLE FOR SALE AND DISPLAYING THE COMPANY LOGO OR TRADEMARK.

3. PRODUCTS SOLD TO COMPANY EMPLOYEES.

B. To qualify under this section, the owner must in the first taxable year it claims a tax credit:

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

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

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

D. To claim a tax credit, the owner must:

1. Certify to the department of revenue or the department of insurance, as applicable, on or before the due date of the tax return,

including any extensions for the year for which the credit is claimed, in a form prescribed by the department, including electronic media, information that the department may require, including the ownership interests of co-owners of the business if the business is a partnership, limited liability company or an S corporation OR BENEFICIAL INTEREST IF THE BUSINESS IS A TRUST, and the following information for each employee in the location:

(a) The date of initial employment.

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

(c) Whether the position was full-time.

(d) The employee's annual compensation.

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

(f) IF THE EMPLOYEE HAD BEEN PREVIOUSLY EMPLOYED, THE LAST DATE OF PREVIOUS EMPLOYMENT.

~~(f)~~ (g) Other information required by the department.

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

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

(b) The physical address of the business location.

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

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

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

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

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

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

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

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

(k) THAT THE ONLY RETAIL SALES ACTIVITIES ENGAGED IN AT THE LOCATION WERE AS SPECIFIED IN SUBSECTION A OF THIS SECTION.

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

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

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

(i) The total number of filled qualified employment positions created at the location during the taxable year.

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

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

(b) That all employees filling a qualified employment position were employed for at least ninety days during the first taxable year.

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

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

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

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

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

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

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

G. PROPERTY THAT IS OWNED OR USED BY A QUALIFYING BUSINESS MAY BE ASSESSED AS CLASS SIX PROPERTY PURSUANT TO SECTION 42-12006 AS PROVIDED BY SECTION 41-1522.

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

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

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

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

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

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

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

K. 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.~~

1. "ASSIGNED TO RETAIL SALES" MEANS WORKING MORE THAN TWENTY-FIVE PER CENT OF AN EMPLOYEE'S TIME IN ONE OR MORE RETAIL SALES ACTIVITIES.

2. "Primarily" means more than seventy-five per cent of the square footage of the location or locations.

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

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

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

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

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

(e) AN EMPLOYEE HIRED TO FILL THE POSITION MAY NOT HAVE BEEN EMPLOYED BY THE TAXPAYER IN THIS STATE DURING THE TWELVE MONTHS BEFORE THE CURRENT DATE OF HIRE.

4. "RETAIL SALES" MEANS THE SALE OF TANGIBLE PERSONAL PROPERTY TO AN ULTIMATE CONSUMER.

5. "RETAIL SALES ACTIVITIES" MEANS ALL ACTIVITIES PERSONS OPERATING A RETAIL BUSINESS NORMALLY ENGAGE IN, INCLUDING TAKING ORDERS, FILLING ORDERS, BILLING ORDERS, RECEIVING AND PROCESSING PAYMENT AND SHIPPING, STOCKING AND DELIVERING TANGIBLE PERSONAL PROPERTY TO THE ULTIMATE CONSUMER, EXCEPT DROP SHIPMENTS BY A COMPANY ACTING ON BEHALF OF AN UNRELATED COMPANY THAT HAS MADE A SALE TO A FINAL CONSUMER.

Sec. 5. Title 41, chapter 10, article 2, Arizona Revised Statutes, as added by this act, is amended by adding sections 41-1522, 41-1523 and 41-1524, to read:"

Renumber to conform

Page 12, line 6, strike "DEPARTMENT OF COMMERCE" insert "ARIZONA COMMERCE AUTHORITY"

Line 17, after "AND" insert "REAL PROPERTY"

Line 19, after "2017" strike remainder of line

Strike line 20

Line 21, strike "REAL PROPERTY THAT IS" insert "AND"

Line 26, after "MORE" insert "AND THAT IS LOCATED IN A COUNTY THAT HAS A POPULATION OF EIGHT HUNDRED THOUSAND PERSONS OR MORE"

Line 32, strike "FIFTEEN" insert "FIVE"

Page 13, line 5, strike "DEPARTMENT" insert "AUTHORITY"

Line 12, after the second "THE" strike remainder of line

Line 13, strike "COMMERCE" insert "AUTHORITY"; strike "DEPARTMENT" insert "AUTHORITY"

Lines 15 and 35, strike "DEPARTMENT" insert "AUTHORITY"

Page 14, line 1, strike "DEPARTMENT" insert "AUTHORITY"

Line 9, strike "DEPARTMENT OF COMMERCE" insert "AUTHORITY"

Line 10, strike "DEPARTMENT" insert "AUTHORITY"

Line 18, strike "DEPARTMENT'S" insert "AUTHORITY'S"

Lines 23 and 24, strike "DEPARTMENT" insert "AUTHORITY"

Page 15, lines 1, 5 and 8, strike "DEPARTMENT OF COMMERCE" insert "AUTHORITY"

Line 17, strike "DEPARTMENT" insert "AUTHORITY"

Line 27, strike "department" insert "authority"

Line 28, strike "DEPARTMENT OF COMMERCE" insert "AUTHORITY"

Page 16, line 3, strike "department of commerce" insert "Arizona commerce authority"

Line 5, strike "DEPARTMENT OF COMMERCE" insert "ARIZONA COMMERCE AUTHORITY"

Line 13, strike "COMMERCE" insert "AUTHORITY"

Page 17, strike lines 6 through 36

Strike pages 18 and 19

Page 20, strike lines 1 through 28, insert:

"Sec. 6. Section 42-12006, Arizona Revised Statutes, as amended by Laws 2011, second special session, chapter 1, section 79, is amended to read:

42-12006. Class six property

For purposes of taxation, class six is established consisting of:

1. Noncommercial historic property as defined in section 42-12101 and valued at full cash value.

2. Real and personal property that is located within the area of a foreign trade zone or subzone established under 19 United States Code section 81 and title 44, chapter 18, that is activated for foreign trade zone use by the district director of the United States customs service pursuant to 19 Code of Federal Regulations section 146.6 and that is valued at full cash value. Property that is classified under this paragraph shall not thereafter be classified under paragraph 6 of this section.

3. Real and personal property and improvements that are located in a military reuse zone that is established under title 41, chapter 10, article 3 and that is devoted to providing aviation or aerospace services or to manufacturing, assembling or fabricating aviation or aerospace products, valued at full cash value and subject to the following terms and conditions:

(a) Property may not be classified under this paragraph for more than five tax years.

(b) Any new addition or improvement to property already classified under this paragraph qualifies separately for classification under this paragraph for not more than five tax years.

(c) If a military reuse zone is terminated, the property in that zone that was previously classified under this paragraph shall be reclassified as prescribed by this article.

(d) Property that is classified under this paragraph shall not thereafter be classified under paragraph 6 of this section.

4. Real and personal property and improvements or a portion of such property comprising an environmental technology manufacturing, producing or processing facility that qualified under section 41-1514.02, valued at full cash value and subject to the following terms and conditions:

(a) Property shall be classified under this paragraph for twenty tax years from the date placed in service.

(b) Any addition or improvement to property already classified under this paragraph qualifies separately for classification under this subdivision for an additional twenty tax years from the date placed in service.

(c) After revocation of certification under section 41-1514.02, property that was previously classified under this paragraph shall be reclassified as prescribed by this article.

(d) Property that is classified under this paragraph shall not thereafter be classified under paragraph 6 of this section.

5. That portion of real and personal property that is used on or after January 1, 1999 specifically and solely for remediation of the environment by an action that has been determined to be reasonable and necessary to respond to the release or threatened release of a hazardous substance by the department of environmental quality pursuant to section 49-282.06 or pursuant to its corrective action authority under rules adopted pursuant to section 49-922, subsection B, paragraph 4 or by the United States environmental protection agency pursuant to the national contingency plan (40 Code of Federal Regulations part 300) and that is valued at full cash value. Property that is not being used specifically and solely for the remediation objectives described in this paragraph shall not be classified under this paragraph. For the purposes of this paragraph, "remediation of the environment" means one or more of the following actions:

(a) Monitoring, assessing or evaluating the release or threatened release.

(b) Excavating, removing, transporting, treating and disposing of contaminated soil.

(c) Pumping and treating contaminated water.

(d) Treatment, containment or removal of contaminants in groundwater or soil.

6. Real and personal property and improvements constructed or installed from and after December 31, 2004 through December 31, 2010 and

owned by a qualified business under section 41-1516 and used solely for the purpose of harvesting, transporting or the initial processing of qualifying forest products removed from qualifying projects as defined in section 41-1516. The classification under this paragraph is subject to the following terms and conditions:

(a) Property may be initially classified under this paragraph only in valuation years 2005 through 2010.

(b) Property may not be classified under this paragraph for more than five years.

(c) Any new addition or improvement, constructed or installed from and after December 31, 2004 through December 31, 2010, to property already classified under this paragraph qualifies separately for classification and assessment under this paragraph for not more than five years.

(d) Property that is classified under this paragraph shall not thereafter be classified under paragraph 2, 3 or 4 of this section.

7. Real and personal property and improvements to the property that are used specifically and solely to manufacture from and after December 31, 2006 through December 31, 2016 biodiesel fuel that is one hundred per cent biodiesel and its by-products and that are valued at full cash value. This paragraph applies only to the portion of property that is used specifically for manufacturing and processing one hundred per cent biodiesel fuel, or its related by-products, from raw feedstock obtained from off-site sources, including necessary on-site storage facilities that are intrinsically associated with the manufacturing process. Any other commercial or industrial use disqualifies the entire property from classification under this paragraph.

8. Real and personal property and improvements that are certified pursuant to section 41-1511, subsection C, paragraph 2 and that are used for renewable energy manufacturing or headquarters operations as provided by section 42-12057. This paragraph applies only to property that is used in manufacturing and headquarters operations of renewable energy companies, including necessary on-site research and development, testing and storage facilities that are associated with the manufacturing process. Up to ten per cent of the aggregate full cash value of the property may be derived from uses that are ancillary to and intrinsically associated with the manufacturing process or headquarters operation. Any additional ancillary property is not qualified for classification under this paragraph. No new properties may be classified pursuant to this paragraph from and after

December 31, 2014. Classification under this paragraph is limited to the time periods determined by the Arizona commerce authority pursuant to section 41-1511, subsection C, paragraph 2, subdivision (a) or (b). Property that is classified under this paragraph shall not thereafter be classified under any other paragraph of this section.

9. PERSONAL PROPERTY AND REAL PROPERTY IMPROVEMENTS THAT ARE CONSTRUCTED OR UNDERGO A MAJOR RENOVATION FROM AND AFTER DECEMBER 31, 2011 THROUGH JUNE 30, 2017 AND OWNED OR USED BY A BUSINESS THAT IS CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1522, AND VALUED AT FULL CASH VALUE, AS FOLLOWS:

(a) PROPERTY LOCATED IN A CITY OR TOWN WITH A POPULATION OF FIFTY THOUSAND PERSONS OR MORE AND THAT IS LOCATED IN A COUNTY THAT HAS A POPULATION OF EIGHT HUNDRED THOUSAND PERSONS OR MORE, AND OWNED BY A BUSINESS:

(i) EMPLOYING AT LEAST TWENTY-FIVE NEW EMPLOYEES IN QUALIFIED EMPLOYMENT POSITIONS ON BEING CERTIFIED UNDER SECTION 41-1522.

(ii) MAKING A CAPITAL INVESTMENT OF AT LEAST FIVE MILLION DOLLARS WITHIN THREE YEARS AFTER FIRST BEING CERTIFIED UNDER SECTION 41-1522.

(b) PROPERTY LOCATED IN ANY OTHER LOCATION AND OWNED BY A BUSINESS:

(i) EMPLOYING AT LEAST FIVE NEW EMPLOYEES IN QUALIFIED EMPLOYMENT POSITIONS ON BEING CERTIFIED UNDER SECTION 41-1522.

(ii) MAKING A CAPITAL INVESTMENT OF AT LEAST ONE MILLION DOLLARS WITHIN THREE YEARS AFTER FIRST BEING CERTIFIED UNDER SECTION 41-1522.

(c) PROPERTY MAY NOT BE CLASSIFIED UNDER THIS PARAGRAPH FOR MORE THAN TEN TAX YEARS.

(d) PROPERTY THAT HAS BEEN CLASSIFIED UNDER THIS PARAGRAPH SHALL NOT THEREAFTER BE CLASSIFIED UNDER ANY OTHER PROVISION OF THIS SECTION."

Page 22, line 4, after "AND" insert "REAL PROPERTY"

Strike line 6

Line 7, strike "DEPARTMENT OF COMMERCE" insert "ARIZONA COMMERCE AUTHORITY"

Page 27, line 14, strike "CREDIT" insert "REFUND"; after "BY" insert "SECTION 43-1074, SUBSECTION G OR"

Strike lines 25 through 36

Strike pages 28 through 31, insert:

"Sec. 10. Section 43-1074, Arizona Revised Statutes, as added by Laws 2011, second special session, chapter 1, section 95, is amended to read:

43-1074. Credit for new employment

A. A credit is allowed against the taxes imposed by this title for net increases in full-time employees hired in qualified employment positions as certified by the Arizona commerce authority pursuant to section ~~41-1525~~ 41-1521, EXCEPT EMPLOYMENT POSITIONS AT A LOCATION WHERE MORE THAN TEN PER CENT OF THE BUSINESS CONDUCTED AT THE LOCATION CONSISTS OF RETAIL SALES OF TANGIBLE PERSONAL PROPERTY, MEASURED BY EITHER THE NUMBER OF EMPLOYEES ASSIGNED TO RETAIL SALES OR THE SQUARE FOOTAGE OF THE FACILITY USED FOR RETAIL SALES ACTIVITIES AT THE LOCATION. RETAIL SALES AND RETAIL SALES ACTIVITIES DO NOT INCLUDE:

1. FOOD AND BEVERAGE FOR CONSUMPTION ON THE PREMISES SOLELY BY EMPLOYEES AND OCCASIONAL GUESTS OF EMPLOYEES AT THE LOCATION.

2. PROMOTIONAL PRODUCTS NOT AVAILABLE FOR SALE AND DISPLAYING THE COMPANY LOGO OR TRADEMARK.

3. PRODUCTS SOLD TO COMPANY EMPLOYEES.

B. Subject to subsection E of this section, the amount of the credit is equal to three thousand dollars for each full-time employee hired for the full taxable year in a qualified employment position in each of the first three years of employment~~, but not more than four hundred employees in any taxable year~~.

C. To qualify for a credit under this section, the taxpayer and the employment positions must meet the requirements prescribed by section ~~41-1525~~ 41-1521.

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

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

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

G. If the allowable tax credit exceeds the income taxes otherwise due on the claimant's income, or if there are no state income taxes due on the claimant's income, the amount of the claim not used as an offset against the income taxes may EITHER:

1. Be carried forward as a tax credit against subsequent years' income tax liability for a period not exceeding five taxable years.

2. BE RECOVERED AS A REFUND OF THAT AMOUNT FROM WITHHOLDING TAXES PAID BY THE EMPLOYER TO THE DEPARTMENT PURSUANT TO SECTION 43-401 WITH RESPECT TO THE EMPLOYMENT POSITIONS THAT QUALIFY FOR THE CREDIT UNDER THIS SECTION.

H. Co-owners of a business, including partners in a partnership, TRUSTS AND BENEFICIARIES OF A TRUST and shareholders of an S corporation, as defined in section 1361 of the internal revenue code, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners of the business may not exceed the amount that would have been allowed for a sole owner of the business.

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

J. A failure to timely report and certify to the Arizona commerce authority the information prescribed by section ~~41-1525~~ 41-1521, subsection D, and in the manner prescribed by section ~~41-1525~~ 41-1521, subsection E disqualifies the taxpayer from the credit under this section. The department shall require written evidence of the timely report to the Arizona commerce authority.

K. A tax credit under this section is subject to recovery for a violation described in section ~~41-1525~~ 41-1521, subsection ~~G~~ H.

Sec. 11. Section 43-1161, Arizona Revised Statutes, as added by Laws 2011, second special session, chapter 1, section 107, is amended to read:

43-1161. Credit for new employment

A. A credit is allowed against the taxes imposed by this title for net increases in full-time employees hired in qualified employment positions as certified by the Arizona commerce authority pursuant to section ~~41-1525~~ 41-1521, EXCEPT EMPLOYMENT POSITIONS AT A LOCATION WHERE MORE THAN TEN PER CENT OF THE BUSINESS CONDUCTED AT THE LOCATION CONSISTS OF RETAIL SALES OF TANGIBLE PERSONAL PROPERTY, MEASURED BY EITHER THE NUMBER OF EMPLOYEES ASSIGNED TO RETAIL SALES OR THE SQUARE FOOTAGE OF THE FACILITY USED FOR RETAIL SALES ACTIVITIES AT THE LOCATION. RETAIL SALES AND RETAIL SALES ACTIVITIES DO NOT INCLUDE:

1. FOOD AND BEVERAGE FOR CONSUMPTION ON THE PREMISES SOLELY BY EMPLOYEES AND OCCASIONAL GUESTS OF EMPLOYEES AT THE LOCATION.

2. PROMOTIONAL PRODUCTS NOT AVAILABLE FOR SALE AND DISPLAYING THE COMPANY LOGO OR TRADEMARK.

3. PRODUCTS SOLD TO COMPANY EMPLOYEES.

B. Subject to subsection E of this section, the amount of the credit is equal to three thousand dollars for each full-time employee hired for the full taxable year in a qualified employment position in each of the first three years of employment~~, but not more than four hundred employees in any taxable year~~.

C. To qualify for a credit under this section, the taxpayer and the employment positions must meet the requirements prescribed by section ~~41-1525~~ 41-1521.

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

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

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

G. If the allowable tax credit exceeds the income taxes otherwise due on the claimant's income, or if there are no state income taxes due on the claimant's income, the amount of the claim not used as an offset against the income taxes may EITHER:

1. Be carried forward as a tax credit against subsequent years' income tax liability for a period not exceeding five taxable years.

2. BE RECOVERED AS A REFUND OF THAT AMOUNT FROM WITHHOLDING TAXES PAID BY THE EMPLOYER TO THE DEPARTMENT PURSUANT TO SECTION 43-401 WITH RESPECT TO THE EMPLOYMENT POSITIONS THAT QUALIFY FOR THE CREDIT UNDER THIS SECTION.

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

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

J. A failure to timely report and certify to the Arizona commerce authority the information prescribed by section ~~41-1525~~ 41-1521, subsection D, and in the manner prescribed by section ~~41-1525~~ 41-1521, subsection E disqualifies the taxpayer from the credit under this section. The department shall require written evidence of the timely report to the Arizona commerce authority.

K. A tax credit under this section is subject to recovery for a violation described in section ~~41-1525~~ 41-1521, subsection ~~G~~ H."

Amend title to conform

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