

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

HOUSE BILL 2815

AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 20-224.03. Premium tax credit for new employment

5 A. FOR TAXABLE YEARS BEGINNING from and after June 30, 2011 THROUGH
6 DECEMBER 31, 2019, a credit is allowed against the premium tax liability
7 imposed pursuant to section 20-224, 20-837, 20-1010, 20-1060 or 20-1097.07
8 for net increases in full-time employees residing in this state and hired in
9 qualified employment positions in this state as computed and certified by the
10 Arizona commerce authority pursuant to section 41-1525. A tax credit is not
11 allowed against the portion of the tax payable to the fire fighters' relief
12 and pension fund pursuant to section 20-224 or the portion of the tax payable
13 to the public safety personnel retirement system pursuant to section
14 20-224.01.

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

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

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

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

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

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

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

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

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

9 ~~E.~~ D. To qualify for a credit under this section, the insurer and the
10 employment positions must meet the requirements prescribed by section
11 41-1525.

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

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

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

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

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

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

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

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

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

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

15 41-1511. Renewable energy tax incentives; qualification;
16 definitions

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

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

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

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

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

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

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

35 (a) A schedule of qualifying investments.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 D. Final eligibility for the tax incentives is subject to any
8 additional requirements prescribed by sections 42-12006, 43-1083.01 and
9 43-1164.01, as applicable.

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

12 1. Renewable energy operations in separate locations.

13 2. Separate expansions of a renewable energy operation.

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

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

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

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

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

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

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

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

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

38 2. Must be claimed in five equal installments as provided in section
39 43-1083.01 or 43-1164.01.

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

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

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

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

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

20 1. The balance shall be allocated to ~~renewable-energy~~ businesses that
21 successfully appeal the denial of approval under this section ~~OR SECTION~~
22 ~~41-1512.~~ Any amount of income tax credits due to successful appeals that are
23 not paid from an unused balance at the end of any year shall be paid against
24 the dollar limit in the following year.

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

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

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

38 L. A taxpayer may voluntarily relinquish unused credit amounts.

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

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

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

9 O. Before an applicant applies for postapproval under subsection P of
10 this section, the applicant must enter into a written managed review
11 agreement with the chief executive officer of the authority that establishes
12 the requirements of a managed review to be conducted under this subsection at
13 the applicant's expense. The managed review must be conducted by a certified
14 public accountant who is selected by the applicant, who is licensed in this
15 state and who is approved by the chief executive officer. The certified
16 public accountant and the firm the certified public accountant is affiliated
17 with shall not regularly perform services for the applicant or its
18 affiliates. The managed review shall include an analysis of the applicant's
19 invoices, checks, accounting records and other documents and information to
20 verify its base investment and other requirements prescribed by section
21 42-12006, 43-1083.01 or 43-1164.01 to confirm the amount of credit or
22 property tax incentive. The certified public accountant shall furnish
23 written findings of the managed review to the chief executive officer. The
24 chief executive officer shall review the findings and may examine records and
25 perform other reviews that the chief executive officer considers necessary to
26 verify that the managed review substantially conforms to the terms of the
27 managed review agreement. The chief executive officer shall accept or reject
28 the findings of the managed review. If the chief executive officer rejects
29 all or part of the managed review, the chief executive officer shall provide
30 written reasons for the rejection.

31 P. When the renewable energy operation begins operations, a renewable
32 energy business that was preapproved for income tax credits under this
33 section shall apply to the authority in writing for postapproval of the
34 credits and submit documentation certifying the total amount and dates of the
35 qualifying investments and identifying the fixed capital assets associated
36 with the renewable energy operation incurred from and after September 30,
37 2009 through the date of application for postapproval. From and after
38 December 31, 2009, the authority shall provide postapproval to a renewable
39 energy business that it has met the eligibility requirements of this section
40 and shall notify the department of revenue that the renewable energy business
41 may claim the tax credits pursuant to section 43-1083.01 or 43-1164.01. If
42 the amount of qualifying investment actually spent is less than the amount
43 preapproved for income tax credits, the preapproved amount not incurred
44 lapses and does not apply against the dollar limit prescribed by subsection J
45 of this section for that year. The authority shall not allow a credit under

1 section 43-1083.01 or 43-1164.01 that exceeds the amount of the postapproval
2 for the project under this subsection. For the purposes of this subsection,
3 "begins operations" means:

- 4 1. A headquarters facility opens for public business.
- 5 2. A manufacturing facility begins producing commercial quantities of
6 usable products.

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

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

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

27 T. For five years after postapproval for tax incentives under this
28 section, in any action involving the liquidation of the business assets or
29 relocation out of state, this state claims the position of a secured creditor
30 of the business in the amount of income tax credits and property tax
31 incentives the business received pursuant to section 42-12006, 43-1083.01 or
32 43-1164.01.

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

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

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

42 V. The authority shall:

- 43 1. Keep annual records of the information provided on applications for
44 renewable energy businesses. These records shall reflect a percentage
45 comparison of the annual amount of monies exempted or credited to qualifying

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

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

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

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

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

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

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

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

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

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

1 (a) AGREES TO FURNISH RECORDS OF EXPENDITURES FOR QUALIFYING
2 INVESTMENTS TO THE AUTHORITY ON REQUEST.

3 (b) WILL CONTINUE IN BUSINESS AT THE QUALIFIED FACILITY FOR FIVE FULL
4 CALENDAR YEARS AFTER POSTAPPROVAL FOR THE CREDIT, OTHER THAN FOR REASONS
5 BEYOND THE CONTROL OF THE APPLICANT.

6 (c) AGREES TO FURNISH TO THE AUTHORITY INFORMATION REGARDING THE
7 AMOUNT OF INCOME TAX CREDITS CLAIMED EACH YEAR.

8 (d) AUTHORIZES THE DEPARTMENT OF REVENUE TO PROVIDE TAX INFORMATION TO
9 THE AUTHORITY PURSUANT TO SECTION 42-2003 FOR THE PURPOSE OF DETERMINING ANY
10 INCONSISTENCY IN INFORMATION FURNISHED BY THE APPLICANT.

11 (e) AGREES TO ALLOW SITE VISITS AND AUDITS TO VERIFY THE APPLICANT'S
12 CONTINUING QUALIFICATION AND THE ACCURACY OF INFORMATION SUBMITTED TO THE
13 AUTHORITY.

14 (f) CONSENTS TO THE ADJUSTMENT OR RECAPTURE OF ANY AMOUNT OF INCOME
15 TAX CREDIT DUE TO NONCOMPLIANCE WITH THIS SECTION.

16 9. LETTERS OF GOOD STANDING FROM THE DEPARTMENT OF REVENUE STATING
17 THAT THE APPLICANT IS NOT DELINQUENT IN THE PAYMENT OF TAXES.

18 C. THE APPLICANT MAY QUALIFY FOR THE INCOME TAX CREDITS PURSUANT TO
19 SECTION 43-1083.03 OR 43-1164.04, AS APPLICABLE, IF:

20 1. THE APPLICANT MAKES NEW CAPITAL INVESTMENT IN THIS STATE AFTER JUNE
21 30, 2012 IN A TAXABLE YEAR BEGINNING FROM AND AFTER DECEMBER 31, 2012 IN A
22 QUALIFIED FACILITY.

23 2. AT LEAST FIFTY-ONE PER CENT OF THE NET NEW FULL-TIME EMPLOYMENT
24 POSITIONS AT THE QUALIFIED FACILITY PAY A WAGE THAT EQUALS OR EXCEEDS ONE
25 HUNDRED TWENTY-FIVE PER CENT OF THE MEDIAN ANNUAL WAGE IN THIS STATE, AS
26 DETERMINED BY THE MOST RECENT ANNUAL ARIZONA COMMERCE AUTHORITY OCCUPATIONAL
27 WAGE AND EMPLOYMENT ESTIMATES.

28 3. ALL NET NEW FULL-TIME EMPLOYMENT POSITIONS INCLUDE HEALTH INSURANCE
29 COVERAGE FOR THE EMPLOYEES FOR WHICH THE APPLICANT PAYS AT LEAST EIGHTY PER
30 CENT OF THE PREMIUM OR MEMBERSHIP COST.

31 D. FINAL ELIGIBILITY FOR AN INCOME TAX CREDIT IS SUBJECT TO ANY
32 ADDITIONAL REQUIREMENTS PRESCRIBED BY SECTION 43-1083.03 OR 43-1164.04, AS
33 APPLICABLE.

34 E. AN APPLICANT MAY SEPARATELY APPLY AND QUALIFY WITH RESPECT TO
35 INVESTMENTS FOR SEPARATE EXPANSIONS OF A QUALIFIED FACILITY.

36 F. THE AMOUNT OF THE INCOME TAX CREDIT TO BE PREAPPROVED BY THE
37 AUTHORITY TO A QUALIFYING APPLICANT IS TEN PER CENT OF THE LESSER OF:

38 1. THE AMOUNT THE APPLICANT HAS PROJECTED IN TOTAL QUALIFYING
39 INVESTMENT IN THE QUALIFIED FACILITY.

40 2. TWO HUNDRED THOUSAND DOLLARS FOR EACH NET NEW FULL-TIME EMPLOYMENT
41 POSITION PROJECTED BY THE APPLICANT AT A QUALIFIED FACILITY.

42 G. BEGINNING WITH INCOME TAX CREDITS ALLOCATED FOR 2013, AN APPROVED
43 CREDIT:

44 1. MUST BE CLAIMED ON A TIMELY FILED ORIGINAL INCOME TAX RETURN,
45 INCLUDING EXTENSIONS.

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

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

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

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

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

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

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

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

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

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

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

5 O. BEFORE AN APPLICANT APPLIES FOR POSTAPPROVAL UNDER SUBSECTION P OF
6 THIS SECTION, THE APPLICANT MUST ENTER INTO A WRITTEN MANAGED REVIEW
7 AGREEMENT WITH THE CHIEF EXECUTIVE OFFICER OF THE AUTHORITY THAT ESTABLISHES
8 THE REQUIREMENTS OF A MANAGED REVIEW TO BE CONDUCTED UNDER THIS SUBSECTION AT
9 THE APPLICANT'S EXPENSE. THE MANAGED REVIEW MUST BE CONDUCTED BY A CERTIFIED
10 PUBLIC ACCOUNTANT WHO IS SELECTED BY THE APPLICANT, WHO IS LICENSED IN THIS
11 STATE AND WHO IS APPROVED BY THE CHIEF EXECUTIVE OFFICER. THE CERTIFIED
12 PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT IS AFFILIATED
13 WITH SHALL NOT REGULARLY PERFORM SERVICES FOR THE APPLICANT OR ITS
14 AFFILIATES. THE MANAGED REVIEW SHALL INCLUDE AN ANALYSIS OF THE APPLICANT'S
15 INVOICES, CHECKS, ACCOUNTING RECORDS AND OTHER DOCUMENTS AND INFORMATION TO
16 VERIFY ITS BASE INVESTMENT AND OTHER REQUIREMENTS PRESCRIBED BY SECTION
17 43-1083.03 OR 43-1164.04 TO CONFIRM THE AMOUNT OF CREDIT. THE CERTIFIED
18 PUBLIC ACCOUNTANT SHALL FURNISH WRITTEN FINDINGS OF THE MANAGED REVIEW TO THE
19 CHIEF EXECUTIVE OFFICER. THE CHIEF EXECUTIVE OFFICER SHALL REVIEW THE
20 FINDINGS AND MAY EXAMINE RECORDS AND PERFORM OTHER REVIEWS THAT THE CHIEF
21 EXECUTIVE OFFICER CONSIDERS NECESSARY TO VERIFY THAT THE MANAGED REVIEW
22 SUBSTANTIALLY CONFORMS TO THE TERMS OF THE MANAGED REVIEW AGREEMENT. THE
23 CHIEF EXECUTIVE OFFICER SHALL ACCEPT OR REJECT THE FINDINGS OF THE MANAGED
24 REVIEW. IF THE CHIEF EXECUTIVE OFFICER REJECTS ALL OR PART OF THE MANAGED
25 REVIEW, THE CHIEF EXECUTIVE OFFICER SHALL PROVIDE WRITTEN REASONS FOR THE
26 REJECTION.

27 P. WHEN THE QUALIFIED FACILITY BEGINS OPERATIONS, A BUSINESS THAT WAS
28 PREAPPROVED FOR INCOME TAX CREDITS UNDER THIS SECTION SHALL APPLY TO THE
29 AUTHORITY IN WRITING FOR POSTAPPROVAL OF THE CREDITS AND SUBMIT DOCUMENTATION
30 CERTIFYING THE TOTAL AMOUNT AND DATES OF THE QUALIFYING INVESTMENTS AND
31 IDENTIFYING THE FIXED CAPITAL ASSETS ASSOCIATED WITH THE QUALIFIED FACILITY
32 INCURRED AFTER JUNE 30, 2012 THROUGH THE DATE OF APPLICATION FOR
33 POSTAPPROVAL. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2011,
34 THE AUTHORITY SHALL PROVIDE POSTAPPROVAL TO A BUSINESS THAT HAS MET THE
35 ELIGIBILITY REQUIREMENTS OF THIS SECTION AND SHALL NOTIFY THE DEPARTMENT OF
36 REVENUE THAT THE BUSINESS MAY CLAIM AN INCOME TAX CREDIT PURSUANT TO SECTION
37 43-1083.03 OR 43-1164.04. IF THE AMOUNT OF QUALIFYING INVESTMENT ACTUALLY
38 SPENT IS LESS THAN THE AMOUNT PREAPPROVED FOR INCOME TAX CREDITS, THE
39 PREAPPROVED AMOUNT NOT INCURRED LAPSES AND DOES NOT APPLY AGAINST THE DOLLAR
40 LIMIT PRESCRIBED BY SECTION 41-1511, SUBSECTION J FOR THAT YEAR. THE
41 DEPARTMENT OF REVENUE SHALL NOT ALLOW AN INCOME TAX CREDIT UNDER SECTION
42 43-1083.03 OR 43-1164.04 THAT EXCEEDS THE AMOUNT OF THE POSTAPPROVAL FOR THE
43 PROJECT UNDER THIS SUBSECTION. FOR THE PURPOSES OF THIS SUBSECTION, "BEGINS
44 OPERATIONS" MEANS THE QUALIFIED FACILITY OPENS FOR PUBLIC BUSINESS.

1 Q. THE AUTHORITY MAY RESCIND AN APPLICANT'S POSTAPPROVAL IF THE
2 BUSINESS NO LONGER MEETS THE TERMS AND CONDITIONS REQUIRED FOR QUALIFYING FOR
3 THE CREDIT. THE AUTHORITY MAY GIVE SPECIAL CONSIDERATION, OR ALLOW TEMPORARY
4 EXEMPTION FROM RECAPTURE OF THE CREDIT, IN THE CASE OF EXTRAORDINARY HARDSHIP
5 DUE TO FACTORS BEYOND THE CONTROL OF THE QUALIFYING BUSINESS.

6 R. IF THE AUTHORITY RESCINDS AN APPLICANT'S PREAPPROVAL OR
7 POSTAPPROVAL UNDER SUBSECTION Q OF THIS SECTION, IT SHALL NOTIFY THE
8 DEPARTMENT OF REVENUE OF THE ACTION AND THE CONDITIONS OF NONCOMPLIANCE. IF
9 THE DEPARTMENT OF REVENUE OBTAINS INFORMATION INDICATING A POSSIBLE FAILURE
10 TO QUALIFY AND COMPLY, IT SHALL PROVIDE THAT INFORMATION TO THE AUTHORITY.
11 THE DEPARTMENT OF REVENUE MAY REQUIRE THE BUSINESS TO FILE APPROPRIATE
12 AMENDED TAX RETURNS REFLECTING ANY RECAPTURE OF THE CREDIT UNDER SECTION
13 43-1083.03 OR 43-1164.04.

14 S. PREAPPROVAL AND POSTAPPROVAL OF AN APPLICANT FOR THE PURPOSES OF
15 INCOME TAX CREDITS UNDER THIS SECTION DO NOT CONSTITUTE OR IMPLY COMPLIANCE
16 WITH ANY OTHER PROVISION OF LAW OR ANY REGULATORY RULE, ORDER, PROCEDURE,
17 PERMIT OR OTHER MEASURE REQUIRED BY LAW. TO MAINTAIN QUALIFICATION FOR A
18 CREDIT UNDER THIS SECTION, A BUSINESS MUST SEPARATELY COMPLY WITH ALL
19 ENVIRONMENTAL, EMPLOYMENT AND OTHER REGULATORY MEASURES.

20 T. FOR FIVE YEARS AFTER POSTAPPROVAL OF AN INCOME TAX CREDIT UNDER
21 THIS SECTION, IN ANY ACTION INVOLVING THE LIQUIDATION OF THE BUSINESS ASSETS
22 OR RELOCATION OUT OF STATE, THIS STATE CLAIMS THE POSITION OF A SECURED
23 CREDITOR OF THE BUSINESS IN THE AMOUNT OF THE CREDIT THE BUSINESS RECEIVED
24 PURSUANT TO SECTION 43-1083.03 OR 43-1164.04. THE TRANSFER OF PART OR ALL OF
25 A COMPANY'S ASSETS THAT ARE THEN LEASED BACK BY THE COMPANY IS NOT CONSIDERED
26 A LIQUIDATION UNDER THIS SECTION.

27 U. ANY INFORMATION GATHERED FROM A BUSINESS FOR THE PURPOSES OF THIS
28 SECTION IS CONSIDERED TO BE CONFIDENTIAL TAXPAYER INFORMATION AND SHALL BE
29 DISCLOSED ONLY AS PROVIDED IN SECTION 42-2003, SUBSECTION B, PARAGRAPH 12,
30 EXCEPT THAT THE AUTHORITY SHALL PUBLISH THE FOLLOWING INFORMATION IN ITS
31 ANNUAL REPORT:

32 1. THE NAME OF EACH BUSINESS AND THE AMOUNT OF INCOME TAX CREDITS
33 PREAPPROVED FOR EACH QUALIFYING INVESTMENT.

34 2. THE AMOUNT OF INCOME TAX CREDITS POSTAPPROVED WITH RESPECT TO EACH
35 QUALIFYING INVESTMENT.

36 V. THE AUTHORITY SHALL:

37 1. KEEP ANNUAL RECORDS OF THE INFORMATION PROVIDED ON APPLICATIONS FOR
38 QUALIFIED FACILITIES. THESE RECORDS SHALL REFLECT A PERCENTAGE COMPARISON OF
39 THE ANNUAL AMOUNT OF MONIES CREDITED TO QUALIFIED FACILITIES TO THE ESTIMATED
40 AMOUNT OF MONIES SPENT IN THIS STATE IN THE FORM OF QUALIFYING INVESTMENTS.

41 2. MAINTAIN ANNUAL DATA ON GROWTH IN THIS STATE OF QUALIFIED
42 FACILITIES AND RELATED EMPLOYMENT AND WAGES.

43 3. NOT LATER THAN APRIL 30 FOLLOWING EACH CALENDAR YEAR, PREPARE AND
44 PUBLISH A REPORT SUMMARIZING THE INFORMATION COLLECTED PURSUANT TO THIS

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

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

8 X. FOR THE PURPOSES OF THIS SECTION:

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

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

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

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

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

28 (a) QUALIFIED MANUFACTURING.

29 (b) QUALIFIED HEADQUARTERS.

30 (c) QUALIFIED RESEARCH.

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

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

37 8. "QUALIFIED RESEARCH" HAS THE SAME MEANING PRESCRIBED BY SECTION
38 41(d) OF THE INTERNAL REVENUE CODE, AS DEFINED BY SECTION 43-105, EXCEPT THAT
39 THE RESEARCH MUST BE CONDUCTED BY A TAXPAYER INVOLVED IN MANUFACTURING THAT
40 DERIVES AT LEAST SIXTY-FIVE PER CENT OF ITS REVENUE FROM OUT-OF-STATE SALES.

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

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

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

5 41-1525. Arizona quality jobs incentives: tax credits for new
6 employment: qualifications: definitions

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

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

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

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

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

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

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

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

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

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

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

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

11 ~~1.~~ 2. Certify to the department of revenue or the department of
12 insurance, as applicable, on or before the due date of the tax return,
13 including any extensions for the year for which the credit is claimed, in a
14 form prescribed by the department, including electronic media, information
15 that the department may require, including the ownership interests of
16 co-owners of the business if the business is a partnership, limited liability
17 company or an S corporation, and the following information for each employee
18 in the DESIGNATED location:

19 (a) The date of initial employment.

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

21 (c) Whether the position was full-time.

22 (d) The employee's annual compensation.

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

25 (f) Other information required by the department.

26 ~~2.~~ 3. Report and certify to the authority the following information,
27 and provide supporting documentation, on a form and in a manner approved by
28 the authority, and as specified in subsection ~~E~~ F of this section, for each
29 year in which the taxpayer earned and claimed or used credits or is carrying
30 forward amounts from previously earned and claimed credits:

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

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

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

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

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

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

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

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

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

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

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

9 ~~3-~~ 4. For any year in which the taxpayer is claiming first year
10 credits, report and certify the following additional information and provide
11 supporting documentation to the authority on a form and in a manner approved
12 by the authority, and as specified in subsection ~~E-~~ F of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (a) Land, buildings, machinery and fixtures.

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

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

9 ~~2.~~ 3. "Location" means a single parcel or contiguous parcels of owned
10 or leased land in this state, the structures and personal property contained
11 on the land or any part of the structures occupied by the owner. Parcels
12 that are separated only by a public thoroughfare or right-of-way are
13 considered to be contiguous but parcels that are in locations respectively
14 described by subsection B, paragraphs 1 and 2 of this section are not
15 considered to be contiguous.

16 ~~3.~~ 4. "Qualified employment position" means employment that meets the
17 following requirements:

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

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

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

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

30 Sec. 5. Section 42-2003, Arizona Revised Statutes, as amended by Laws
31 2012, chapter 170, section 39, is amended to read:

32 ~~42-2003.~~ Authorized disclosure of confidential information

33 A. Confidential information relating to:

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

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

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

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

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

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

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

15 B. Confidential information may be disclosed to:

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

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

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

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

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

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

45 (b) A state tax official of another state.

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

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

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

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

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

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

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

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

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

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

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

26 9. The United States treasury inspector general for tax administration
27 for the purpose of reporting a violation of internal revenue code section
28 7213A (26 United States Code section 7213A), unauthorized inspection of
29 returns or return information.

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

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

35 12. The Arizona commerce authority for its use in:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 E. The department, ~~upon~~ ON the request of any person, shall provide
23 the names and addresses of bingo licensees as defined in section 5-401,
24 verify whether or not a person has a privilege license and number, a
25 distributor's license and number or a withholding license and number or
26 disclose the information to be posted on the department's website or
27 otherwise publicly accessible pursuant to section 42-1124, subsection F and
28 section 42-3201, subsection A.

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

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

42 H. Confidential information relating to transaction privilege tax, use
43 tax, severance tax, jet fuel excise and use tax and ~~rental-occupancy tax~~ ANY
44 OTHER TAX COLLECTED BY THE DEPARTMENT ON BEHALF OF THE COUNTY may be
45 disclosed to any county, city or town tax official if the information relates

1 to a taxpayer who is or may be taxable by the county, city or town. Any
2 taxpayer information released by the department to the county, city or town:

3 1. May only be used for internal purposes.

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

11 I. The department may disclose statistical information gathered from
12 confidential information if it does not disclose confidential information
13 attributable to any one taxpayer. The department may disclose statistical
14 information gathered from confidential information, even if it discloses
15 confidential information attributable to a taxpayer, to:

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

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

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

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

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

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

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

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

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

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

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

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

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

26 U. For proceedings before the department, the office of administrative
27 hearings, the board of tax appeals or any state or federal court involving
28 penalties that were assessed against a return preparer, an electronic return
29 preparer or a payroll service company pursuant to section 42-1103.02,
30 42-1125.01 or 43-419, confidential information may be disclosed only before
31 the judge or administrative law judge adjudicating the proceeding, the
32 parties to the proceeding and the parties' representatives in the proceeding
33 prior to its introduction into evidence in the proceeding. The confidential
34 information may be introduced as evidence in the proceeding only if the
35 taxpayer's name, the names of any dependents listed on the return, all social
36 security numbers, the taxpayer's address, the taxpayer's signature and any
37 attachments containing any of the foregoing information are redacted and if
38 either:

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

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

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

4 V. The department may disclose to the attorney general confidential
5 information received under section 44-7111 and requested by the attorney
6 general for purposes of determining compliance with and enforcing section
7 44-7111. The department and attorney general shall share with each other the
8 information received under section 44-7111, and may share the information
9 with other federal, state or local agencies only for the purposes of
10 enforcement of section 44-7101, section 44-7111 or corresponding laws of
11 other states.

12 W. The department may provide the name and address of qualifying
13 hospitals and qualifying health care organizations, as defined in section
14 42-5001, to a business classified and reporting transaction privilege tax
15 under the utilities classification.

16 Sec. 6. Repeal

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

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

21 42-11127. Exempt personal property

22 A. Pursuant to article IX, section 2, subsection (6), Constitution of
23 Arizona, personal property that is class two property pursuant to section
24 42-12002, paragraph 2, subdivision (a) or (b) that is used for agricultural
25 purposes or personal property that is class one property pursuant to section
26 42-12001 that is used in a trade or business as described in section
27 42-12001, paragraphs 8 through 11 or 13 is exempt from taxation up to a
28 maximum amount of fifty thousand dollars of full cash value for each
29 taxpayer.

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

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

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

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

4 ~~43-222.~~ Income tax credit review schedule

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

7 1. For years ending in 0 and 5, sections 43-1075, 43-1075.01,
8 43-1079.01, 43-1087, 43-1088, 43-1090.01, 43-1163, 43-1163.01, 43-1167.01,
9 43-1175 and 43-1182.

10 2. For years ending in 1 and 6, sections 43-1074.02, 43-1083,
11 43-1083.02, 43-1085.01, 43-1164.02, 43-1164.03 and 43-1183.

12 3. For years ending in 2 and 7, sections 43-1073, 43-1079, 43-1080,
13 43-1085, 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1090, 43-1164, 43-1167,
14 43-1169, 43-1176 and 43-1181.

15 4. For years ending in 3 and 8, sections 43-1074.01, 43-1081, 43-1168,
16 43-1170 and 43-1178.

17 5. For years ending in 4 and 9, sections 43-1076, 43-1081.01,
18 43-1083.01, 43-1084, 43-1162, 43-1164.01, 43-1170.01 and 43-1184 AND,
19 BEGINNING IN 2019, SECTIONS 43-1082.01 AND 43-1171.

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

21 ~~43-1022.~~ Subtractions from Arizona gross income

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

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

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

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

32 (b) The Arizona state retirement system, the corrections officer
33 retirement plan, the public safety personnel retirement system, the elected
34 officials' retirement plan, an optional retirement program established by the
35 Arizona board of regents under section 15-1628, an optional retirement
36 program established by a community college district board under section
37 15-1451 or a retirement plan established for employees of a county, city or
38 town in this state.

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

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

1 made pursuant to this paragraph in all tax years do not exceed the total of
2 all contributions made by the taxpayer to such plans ~~prior to~~ BEFORE December
3 31, 1975, which were included in computing Arizona taxable income.

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

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

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

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

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

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

24 11. The amount by which the adjusted basis of property described in
25 this paragraph and computed pursuant to this title and the income tax act of
26 1954, as amended, exceeds the adjusted basis of such property computed
27 pursuant to the internal revenue code. This paragraph shall apply to all
28 property ~~which~~ THAT is held for the production of income and ~~which~~ THAT is
29 sold or otherwise disposed of during the taxable year other than depreciable
30 property used in a trade or business.

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

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

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

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

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

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

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

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

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

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

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

33 (a) An eligible individual may subtract:

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

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

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

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

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

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

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

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

16 28. **FOR PROPERTY PLACED IN SERVICE:**

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

22 (b) **IN TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2012**
23 **THROUGH DECEMBER 31, 2013, AN AMOUNT DETERMINED IN THE YEAR THE ASSET WAS**
24 **PLACED IN SERVICE BASED ON THE CALCULATION IN SUBDIVISION (a) OF THIS**
25 **PARAGRAPH. IN THE FIRST TAXABLE YEAR BEGINNING FROM AND AFTER DECEMBER 31,**
26 **2013, THE AMOUNT NECESSARY TO MAKE THE DEPRECIATION CLAIMED TO DATE FOR THE**
27 **PURPOSES OF THIS TITLE THE SAME AS IT WOULD HAVE BEEN IF SUBDIVISION (c) OF**
28 **THIS PARAGRAPH HAD APPLIED FOR THE ENTIRE TIME THE ASSET WAS IN SERVICE.**
29 **SUBDIVISION (c) OF THIS PARAGRAPH APPLIES FOR THE REMAINDER OF THE ASSET'S**
30 **LIFE.**

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

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

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

1 the amount was adjusted under section 43-1021, paragraph 27 and in each of
2 the following four years.

3 31. For taxable years beginning from and after December 31, 2007
4 through December 31, 2012, the amount contributed during the taxable year to
5 college savings plans established pursuant to section 529 of the internal
6 revenue code to the extent that the contributions were not deducted in
7 computing federal adjusted gross income. The amount subtracted shall not
8 exceed:

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

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

16 32. To the extent not already excluded from Arizona gross income under
17 the internal revenue code, the amount authorized by section 43-1032 for
18 displaced pupils choice grants.

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

24 34. The amount of previously deferred discharge of indebtedness income
25 that is included in the computation of federal adjusted gross income or
26 federal taxable income in the current taxable year pursuant to section 108(i)
27 of the internal revenue code as added by section 1231 of the American
28 recovery and reinvestment act of 2009 (P.L. 111-5), to the extent that the
29 amount was previously added to Arizona gross income pursuant to section
30 43-1021, paragraph 33.

31 35. The portion of the net operating loss carryforward that would have
32 been allowed as a deduction in the current year pursuant to section 172 of
33 the internal revenue code if the election described in section 172(b)(1)(H)
34 of the internal revenue code had not been made in the year of the loss that
35 exceeds the actual net operating loss carryforward that was deducted in
36 arriving at federal adjusted gross income. This subtraction only applies to
37 taxpayers who made an election under section 172(b)(1)(H) of the internal
38 revenue code as amended by section 1211 of the American recovery and
39 reinvestment act of 2009 (P.L. 111-5) or as amended by section 13 of the
40 worker, homeownership, and business assistance act of 2009 (P.L. 111-92).

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

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

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

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

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

13 Sec. 10. Section 43-1074, Arizona Revised Statutes, as amended by Laws
14 2012, chapter 3, section 45, is amended to read:

15 43-1074. Credit for new employment

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

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

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

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

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

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

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

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

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

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

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

15 ~~E.~~ D. To qualify for a credit under this section, the taxpayer and
16 the employment positions must meet the requirements prescribed by section
17 41-1525.

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

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

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

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

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

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

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

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

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

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

22 43-1083.01. Credit for renewable energy industry

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

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

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

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

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

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

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

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

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

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

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

14 C. To claim the credit the taxpayer must:

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

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

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

20 D. To be counted for the purposes of the credit, an employee must have
21 been employed at the qualifying facility for at least ninety days during the
22 taxable year in a permanent full-time employment position of at least one
23 thousand seven hundred fifty hours per year. An employee who is hired during
24 the last ninety days of the taxable year shall be considered a new employee
25 during the next taxable year. To be counted for the purposes of the credit
26 during the first taxable year of employment, the employee must not have been
27 previously employed by the taxpayer within twelve months before the current
28 date of hire. The terms of employment must comply in all cases with the
29 requirements of section 41-1511 and certification by the Arizona commerce
30 authority.

31 E. Co-owners of a business, including partners in a partnership,
32 members of a limited liability company and shareholders of an S corporation,
33 as defined in section 1361 of the internal revenue code, may each claim only
34 the pro rata share of the credit allowed under this section based on the
35 ownership interest. The total of the credits allowed all owners of the
36 business may not exceed the amount that would have been allowed for a sole
37 owner of the business.

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

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

18 H. A taxpayer who claims a credit under section 43-1074, 43-1077 or
19 43-1079 may not claim a credit under this section with respect to the same
20 full-time employment positions.

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

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

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

35 43-1083.03. Credit for qualified facilities

36 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2011
37 THROUGH DECEMBER 31, 2019, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY
38 THIS TITLE FOR QUALIFYING INVESTMENT AND EMPLOYMENT IN EXPANDING OR LOCATING
39 A QUALIFIED FACILITY IN THIS STATE. TO QUALIFY FOR THE CREDIT, AFTER JUNE
40 30, 2012 THE TAXPAYER MUST INVEST IN A NEW QUALIFIED FACILITY OR EXPAND AN
41 EXISTING QUALIFIED FACILITY IN THIS STATE AND PRODUCE NEW FULL-TIME
42 EMPLOYMENT POSITIONS WHERE THE JOB DUTIES ARE PERFORMED AT THE LOCATION OF
43 THE QUALIFYING INVESTMENT. THE TAXPAYER MUST MEET THE EMPLOYEE COMPENSATION
44 AND EMPLOYEE HEALTH BENEFIT REQUIREMENTS PRESCRIBED BY SECTION 41-1512.

1 B. THE AMOUNT OF THE CREDIT IS COMPUTED AS FOLLOWS:
2 1. TEN PER CENT OF THE LESSER OF:
3 (a) THE TAXPAYER'S TOTAL CAPITAL INVESTMENT IN THE QUALIFIED FACILITY.
4 (b) TWO HUNDRED THOUSAND DOLLARS FOR EACH NET NEW FULL-TIME EMPLOYMENT
5 POSITION AT THE QUALIFIED FACILITY.
6 2. THE AMOUNT OF THE CREDIT SHALL NOT EXCEED THE POSTAPPROVAL AMOUNT
7 DETERMINED BY THE ARIZONA COMMERCE AUTHORITY UNDER SECTION 41-1512,
8 SUBSECTION P.
9 3. THE CREDIT AMOUNT COMPUTED UNDER PARAGRAPH 1 OF THIS SUBSECTION IS
10 APPORTIONED, AND THE TAXPAYER SHALL CLAIM THE CREDIT IN FIVE EQUAL ANNUAL
11 INSTALLMENTS IN EACH OF FIVE CONSECUTIVE TAXABLE YEARS.
12 C. TO CLAIM THE CREDIT THE TAXPAYER MUST:
13 1. CONDUCT A BUSINESS THAT QUALIFIES UNDER SECTION 41-1512.
14 2. RECEIVE PREAPPROVAL AND POSTAPPROVAL FROM THE ARIZONA COMMERCE
15 AUTHORITY PURSUANT TO SECTION 41-1512.
16 3. SUBMIT TO THE DEPARTMENT A COPY OF A CURRENT AND VALID
17 CERTIFICATION OF QUALIFICATION ISSUED TO THE TAXPAYER BY THE ARIZONA COMMERCE
18 AUTHORITY.
19 D. TO BE COUNTED FOR THE PURPOSES OF THE CREDIT, AN EMPLOYEE MUST HAVE
20 BEEN EMPLOYED AT THE QUALIFIED FACILITY FOR AT LEAST NINETY DAYS DURING THE
21 TAXABLE YEAR IN A PERMANENT FULL-TIME EMPLOYMENT POSITION OF AT LEAST ONE
22 THOUSAND SEVEN HUNDRED FIFTY HOURS PER YEAR. AN EMPLOYEE WHO IS HIRED DURING
23 THE LAST NINETY DAYS OF THE TAXABLE YEAR SHALL BE CONSIDERED A NEW EMPLOYEE
24 DURING THE NEXT TAXABLE YEAR. TO BE COUNTED FOR THE PURPOSES OF THE CREDIT
25 DURING THE FIRST TAXABLE YEAR OF EMPLOYMENT, THE EMPLOYEE MUST NOT HAVE BEEN
26 PREVIOUSLY EMPLOYED BY THE TAXPAYER WITHIN TWELVE MONTHS BEFORE THE CURRENT
27 DATE OF HIRE. THE TERMS OF EMPLOYMENT MUST COMPLY IN ALL CASES WITH THE
28 REQUIREMENTS OF SECTION 41-1512 AND BE CERTIFIED BY THE ARIZONA COMMERCE
29 AUTHORITY.
30 E. CO-OWNERS OF A BUSINESS, INCLUDING PARTNERS IN A PARTNERSHIP,
31 MEMBERS OF A LIMITED LIABILITY COMPANY AND SHAREHOLDERS OF AN S CORPORATION,
32 AS DEFINED IN SECTION 1361 OF THE INTERNAL REVENUE CODE, MAY EACH CLAIM ONLY
33 THE PRO RATA SHARE OF THE CREDIT ALLOWED UNDER THIS SECTION BASED ON THE
34 OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL OWNERS OF THE
35 BUSINESS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN ALLOWED FOR A SOLE
36 OWNER OF THE BUSINESS.
37 F. IF THE ALLOWABLE TAX CREDIT FOR A TAXABLE YEAR EXCEEDS THE INCOME
38 TAXES OTHERWISE DUE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO STATE INCOME
39 TAXES DUE ON THE CLAIMANT'S INCOME, THE AMOUNT OF THE CLAIM NOT USED AS AN
40 OFFSET AGAINST INCOME TAXES SHALL BE PAID TO THE TAXPAYER IN THE SAME MANNER
41 AS A REFUND UNDER SECTION 42-1118. REFUNDS MADE PURSUANT TO THIS SUBSECTION
42 ARE SUBJECT TO SETOFF UNDER SECTION 42-1122. IF THE DEPARTMENT DETERMINES
43 THAT A REFUND IS INCORRECT OR INVALID, THE EXCESS REFUND MAY BE TREATED AS A
44 TAX DEFICIENCY PURSUANT TO SECTION 42-1108.

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

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

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

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

28 43-1122. Subtractions from Arizona gross income: corporations

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

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

35 2. The amount of Arizona capital loss carryover as defined in section
36 43-1124 in an amount not to exceed one thousand dollars.

37 3. With respect to a financial institution as defined in section
38 6-101, expenses and interest relating to tax-exempt income disallowed
39 pursuant to section 265 of the internal revenue code.

40 4. Dividends received from another corporation owned or controlled
41 directly or indirectly by a recipient corporation. For the purposes of this
42 paragraph, "control" means direct or indirect ownership or control of fifty
43 per cent or more of the voting stock of the payor corporation by the
44 recipient corporation. Dividends shall have the meaning provided in section
45 316 of the internal revenue code. This subtraction shall apply without

1 regard to the provisions of section 43-961, paragraph 2 and article 4 of this
2 chapter. A corporation that has its commercial domicile, as defined in
3 section 43-1131, in this state may subtract the full amount of the dividends.
4 A corporation that does not have its commercial domicile in this state may
5 subtract:

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

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

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

11 6. The amount of dividend income from foreign corporations.

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

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

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

17 10. The amount of deferred exploration expenses allowed by section
18 43-1127.

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

25 12. The amortization of pollution control devices allowed by section
26 43-1129.

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

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

32 15. The income of an insurance company that is exempt under section
33 43-1201 to the extent that it is included in computing Arizona gross income
34 on a consolidated return pursuant to section 43-947.

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

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

42 18. AN AMOUNT EQUAL TO THE DEPRECIATION ALLOWABLE PURSUANT TO SECTION
43 167(a) OF THE INTERNAL REVENUE CODE FOR THE TAXABLE YEAR COMPUTED AS IF THE
44 ELECTION DESCRIBED IN SECTION 168(k)(2)(D)(iii) OF THE INTERNAL REVENUE CODE

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

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

5 43-1123. Net operating loss: definition

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

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

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

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

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

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

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

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

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

35 Sec. 15. Section 43-1161, Arizona Revised Statutes, as amended by Laws
36 2012, chapter 3, section 52, is amended to read:

37 43-1161. Credit for new employment

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

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

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

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

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

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

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

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

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

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

38 ~~C.~~ D. To qualify for a credit under this section, the taxpayer and
39 the employment positions must meet the requirements prescribed by section
40 41-1525.

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

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

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

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

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

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

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

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

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

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

43-1164.01. Credit for renewable energy industry

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

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

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

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

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

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

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

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

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

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

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

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

33 C. To claim the credit the taxpayer must:

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

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

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

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

1 previously employed by the taxpayer within twelve months before the current
2 date of hire. The terms of employment must comply in all cases with the
3 requirements of section 41-1511 and certification by the Arizona commerce
4 authority.

5 E. Co-owners of a business, including corporate partners in a
6 partnership and members of a limited liability company, may each claim only
7 the pro rata share of the credit allowed under this section based on the
8 ownership interest. The total of the credits allowed all owners of the
9 business may not exceed the amount that would have been allowed for a sole
10 owner of the business.

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

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

36 H. A taxpayer who claims a credit under section 43-1161, 43-1165 or
37 43-1167 may not claim a credit under this section with respect to the same
38 full-time employment positions.

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

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

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

10 43-1164.04. Credit for qualified facilities

11 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2011
12 THROUGH DECEMBER 31, 2019, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY
13 THIS TITLE FOR QUALIFYING INVESTMENT AND EMPLOYMENT IN EXPANDING OR LOCATING
14 A QUALIFIED FACILITY IN THIS STATE. TO QUALIFY FOR THE CREDIT, AFTER JUNE
15 30, 2012 THE TAXPAYER MUST INVEST IN A NEW QUALIFIED FACILITY OR EXPAND AN
16 EXISTING QUALIFIED FACILITY IN THIS STATE AND PRODUCE NEW FULL-TIME
17 EMPLOYMENT POSITIONS WHERE THE JOB DUTIES ARE PERFORMED AT THE LOCATION OF
18 THE QUALIFYING INVESTMENT. THE TAXPAYER MUST MEET THE EMPLOYEE COMPENSATION
19 AND EMPLOYEE HEALTH BENEFIT REQUIREMENTS PRESCRIBED BY SECTION 41-1512.

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

21 1. TEN PER CENT OF THE LESSER OF:

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

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

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

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

31 C. TO CLAIM THE CREDIT THE TAXPAYER MUST:

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

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

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

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

1 DATE OF HIRE. THE TERMS OF EMPLOYMENT MUST COMPLY IN ALL CASES WITH THE
2 REQUIREMENTS OF SECTION 41-1512 AND BE CERTIFIED BY THE ARIZONA COMMERCE
3 AUTHORITY.

4 E. CO-OWNERS OF A BUSINESS, INCLUDING CORPORATE PARTNERS IN A
5 PARTNERSHIP AND MEMBERS OF A LIMITED LIABILITY COMPANY, MAY EACH CLAIM ONLY
6 THE PRO RATA SHARE OF THE CREDIT ALLOWED UNDER THIS SECTION BASED ON THE
7 OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL OWNERS OF THE
8 BUSINESS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN ALLOWED FOR A SOLE
9 OWNER OF THE BUSINESS.

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

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

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

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

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

2 Sec. 17. Delayed repeal

3 Sections 41-1511, 41-1512, 43-1083.01, ~~and 43-1083.03~~, 43-1164.01 ~~AND~~
4 43-1164.04, Arizona Revised Statutes, ~~as added by this act~~, are repealed from
5 and after December 31, ~~2015~~ 2020.

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

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

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

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

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

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

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

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

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

26 B. The committee shall:

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

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

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

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

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

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

43 Sec. 20. Legislative intent

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

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

6 Sec. 21. Purpose

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

13 Sec. 22. Effective date; retroactivity; applicability

14 A. Sections 41-1511, 41-1512, 43-1083.01, 43-1083.03, 43-1164.01 and
15 43-1164.04, Arizona Revised Statutes, as added or amended by this act, are
16 effective retroactively to from and after June 30, 2012.

17 B. Except as provided by section 41-1525, subsection L, paragraph 1,
18 subdivision (b), Arizona Revised Statutes, as added by this act, sections
19 20-224.03, 41-1525, 43-1074 and 43-1161, Arizona Revised Statutes, as amended
20 by this act, and sections 41-1512, 43-1083.03 and 43-1164.04, Arizona Revised
21 Statutes, as added by this act, apply to taxable years beginning from and
22 after December 31, 2012.