

State of Arizona  
Senate  
Fifty-first Legislature  
First Regular Session  
2013

# **SB 1313**

Introduced by  
Senators Yarbrough, Worsley

## **AN ACT**

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 36-2999.54. Assessments; penalty for failure to pay

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

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

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

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

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

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

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

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

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

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

37 41-1511. Renewable energy tax incentives; qualification;  
38 definitions

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

43 B. To be eligible for the tax incentives, a renewable energy business  
44 must apply to the authority, on a form prescribed by the authority, for

1 preapproval of the business as qualifying for the incentives. The  
2 application must include:

- 3 1. The applicant's name, address, telephone number and federal  
4 taxpayer identification number or numbers.
- 5 2. The name, address, telephone number and e-mail address of a contact  
6 person for the applicant.
- 7 3. The address of the site where the qualifying renewable energy  
8 operation will be located.
- 9 4. A detailed description of the qualifying renewable energy operation  
10 and fixed capital assets.
- 11 5. An estimate of the capital investment and number of employment  
12 positions at the qualifying renewable energy operation, including:
  - 13 (a) A schedule of qualifying investments.
  - 14 (b) A list of full-time employment positions, the estimated number of  
15 employees to be hired for the positions each year during the first five years  
16 of operation and the annual wages for each position, calculated without  
17 employee-related benefits.
- 18 6. A nonrefundable processing fee in an amount determined by the  
19 authority.
- 20 7. Other information as required by the authority to determine  
21 eligibility for the tax incentives, and the amount of income tax credits, as  
22 prescribed by this section.
- 23 8. An affirmation, signed by an authorized executive representing the  
24 business, that the applicant:
  - 25 (a) Agrees to furnish records of expenditures for qualifying  
26 investments to the authority on request.
  - 27 (b) Will continue in business at the qualifying renewable energy  
28 operation for five full calendar years after postapproval for a tax  
29 incentive, other than for reasons beyond the control of the applicant.
  - 30 (c) Agrees to furnish to the authority information regarding the  
31 amount of tax benefits claimed each year.
  - 32 (d) Authorizes the department of revenue to provide tax information to  
33 the authority pursuant to section 42-2003 for the purpose of determining any  
34 inconsistency in information furnished by the applicant.
  - 35 (e) Agrees to allow site visits and audits to verify the applicant's  
36 continuing qualification and the accuracy of information submitted to the  
37 authority.
  - 38 (f) Consents to the adjustment or recapture of any amount of income  
39 tax credit or property tax incentive due to noncompliance with this section.
- 40 9. Letters of good standing from the department of revenue and the  
41 county treasurer of the county in which the project is located stating that  
42 the applicant is in good standing and is not delinquent in the payment of  
43 taxes.

44 C. To be eligible for the tax incentives, the applicant must make new  
45 capital investment in this state after September 30, 2009 in a manufacturing

1 facility or headquarters facility or any combination of qualifying  
2 facilities, as follows:

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

5 (a) At least fifty-one per cent of the net new full-time employment  
6 positions at the renewable energy operation pay a wage that equals or exceeds  
7 one hundred twenty-five per cent of the median annual wage in this state, as  
8 determined by the most recent annual Arizona commerce authority occupational  
9 wage and employment estimates ISSUED BEFORE THE PREAPPROVAL IS ISSUED  
10 PURSUANT TO SUBSECTION I OF THIS SECTION.

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

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

21 (a) At least one hundred twenty-five, but less than two hundred, per  
22 cent of the median annual wage in this state, as determined by the most  
23 recent annual Arizona commerce authority occupational wage and employment  
24 estimates ISSUED BEFORE THE PREAPPROVAL IS ISSUED PURSUANT TO SUBSECTION I OF  
25 THIS SECTION, the property may be classified as class six for ten tax years.

26 (b) At least two hundred per cent of the median annual wage in this  
27 state, as determined by the most recent annual Arizona commerce authority  
28 occupational wage and employment estimates ISSUED BEFORE THE PREAPPROVAL IS  
29 ISSUED PURSUANT TO SUBSECTION I OF THIS SECTION, the property may be  
30 classified as class six for fifteen tax years.

31 D. Final eligibility for the tax incentives is subject to any  
32 additional requirements prescribed by sections 42-12006, 43-1083.01 and  
33 43-1164.01, as applicable.

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

36 1. Renewable energy operations in separate locations.

37 2. Separate expansions of a renewable energy operation.

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

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

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

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

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

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

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

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

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

19 2. Must be claimed in five equal installments as provided in section  
20 43-1083.01 or 43-1164.01.

21 H. The authority shall establish a process for qualifying and  
22 preapproving applicants for the tax incentives. The authority shall not  
23 preapprove an applicant as qualifying for tax incentives under this section  
24 **FOR TAXABLE YEARS BEGINNING FROM AND** after December 31, 2019. Preapproval is  
25 based on:

26 1. Priority placement established by the date that the applicant files  
27 its initial application with the authority.

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

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

37 J. The authority shall not preapprove income tax credits under this  
38 section and section 41-1512 that combined would exceed seventy million  
39 dollars in any calendar year, except as provided by this subsection and  
40 subsection K of this section. The authority shall not preapprove income tax  
41 credits under this section for any one taxpayer in excess of thirty million  
42 dollars in any calendar year. A preapproved amount applies against the  
43 dollar limit for the year in which the application was submitted regardless  
44 of whether the initial preapproval period extends into the following year or

1 years. If, at the end of any year, an unused balance occurs under the dollar  
2 limit prescribed by this subsection:

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

8 2. Any remaining unused balance accruing through December 31, 2011  
9 shall be reallocated for the purposes of this section and section 41-1512 in  
10 the following year.

11 3. Any remaining unused balance accruing in 2012 and thereafter lapses  
12 and shall not be reallocated in the following year.

13 K. The authority shall reallocate the amount of income tax credits  
14 that are voluntarily relinquished under subsection L of this section, that  
15 lapse under subsection M of this section or that lapse under subsection P of  
16 this section. The reallocation shall be to other businesses that applied  
17 under this section or section 41-1512 in the original credit year based on  
18 priority placement. Once reallocated, the amount of the credit applies  
19 against the dollar limit of the original credit year regardless of the year  
20 in which the reallocation occurs.

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

22 M. Preapproval under this section lapses, the application is void and  
23 the amount of the preapproved income tax credits does not apply against the  
24 dollar limit prescribed by subsection J of this section if, within twelve  
25 months after preapproval, the renewable energy business fails to provide to  
26 the authority documentation of its expenditure of two hundred fifty thousand  
27 dollars in qualifying investment or, if the period over which the qualifying  
28 investment will be made exceeds twelve months, documentation of additional  
29 expenditures as required in this subsection for each twelve month period.

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

36 O. Before an applicant applies for postapproval under subsection P of  
37 this section, the applicant must enter into a written managed review  
38 agreement with the chief executive officer of the authority that establishes  
39 the requirements of a managed review to be conducted under this subsection at  
40 the applicant's expense. The managed review must be conducted by a certified  
41 public accountant who is selected by the applicant, who is licensed in this  
42 state and who is approved by the chief executive officer. The certified  
43 public accountant and the firm the certified public accountant is affiliated  
44 with shall not regularly perform services for the applicant or its  
45 affiliates. The managed review shall include an analysis of the applicant's

1 invoices, checks, accounting records and other documents and information to  
2 verify its base investment and other requirements prescribed by section  
3 42-12006, 43-1083.01 or 43-1164.01 to confirm the amount of credit or  
4 property tax incentive. The certified public accountant shall furnish  
5 written findings of the managed review to the chief executive officer. The  
6 chief executive officer shall review the findings and may examine records and  
7 perform other reviews that the chief executive officer considers necessary to  
8 verify that the managed review substantially conforms to the terms of the  
9 managed review agreement. The chief executive officer shall accept or reject  
10 the findings of the managed review. If the chief executive officer rejects  
11 all or part of the managed review, the chief executive officer shall provide  
12 written reasons for the rejection.

13 P. When the renewable energy operation begins operations, a renewable  
14 energy business that was preapproved for income tax credits under this  
15 section shall apply to the authority in writing for postapproval of the  
16 credits and submit documentation certifying the total amount and dates of the  
17 qualifying investments and identifying the fixed capital assets associated  
18 with the renewable energy operation incurred from and after September 30,  
19 2009 through the date of application for postapproval. From and after  
20 December 31, 2009, the authority shall provide postapproval to a renewable  
21 energy business that it has met the eligibility requirements of this section  
22 and shall notify the department of revenue that the renewable energy business  
23 may claim the tax credits pursuant to section 43-1083.01 or 43-1164.01. If  
24 the amount of qualifying investment actually spent is less than the amount  
25 preapproved for income tax credits, the preapproved amount not incurred  
26 lapses and does not apply against the dollar limit prescribed by subsection J  
27 of this section for that year. The authority shall not allow a credit under  
28 section 43-1083.01 or 43-1164.01 that exceeds the amount of the postapproval  
29 for the project under this subsection. For the purposes of this subsection,  
30 "begins operations" means:

- 31 1. A headquarters facility opens for public business.  
32 2. A manufacturing facility begins producing commercial quantities of  
33 usable products.

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

40 R. If the authority rescinds an applicant's preapproval or  
41 postapproval under subsection Q of this section, it shall notify the  
42 department of revenue and the county assessor of the action and the  
43 conditions of noncompliance. If the department of revenue obtains  
44 information indicating a possible failure to qualify and comply, it shall  
45 provide that information to the authority. The department of revenue may

1 require the business to file appropriate amended tax returns reflecting any  
2 recapture of income tax credits under section 43-1083.01 or 43-1164.01.

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

9 T. For five years after postapproval for tax incentives under this  
10 section, in any action involving the liquidation of the business assets or  
11 relocation out of state, this state claims the position of a secured creditor  
12 of the business in the amount of income tax credits and property tax  
13 incentives the business received pursuant to section 42-12006, 43-1083.01 or  
14 43-1164.01.

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

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

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

24 V. The authority shall:

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

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

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

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

41 X. For the purposes of this section:

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



1 investments in a qualified facility that are made on or after July 1, 2012  
2 are included in the computation of the credit.

3 B. To be eligible for the income tax credits, a taxpayer must apply to  
4 the authority, on a form prescribed by the authority, for preapproval of the  
5 business as qualifying for the credits. The application must include:

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

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

10 3. The address of the site where the qualified facility will be  
11 located.

12 4. A detailed description of the qualified facility and fixed capital  
13 assets.

14 5. An estimate of the capital investment and number of employment  
15 positions at the qualified facility, including:

16 (a) A schedule of qualifying investments.

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

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

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

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

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

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

33 (c) Agrees to furnish to the authority information regarding the  
34 amount of income tax credits claimed each year.

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

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

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

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

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

3 1. The applicant makes new capital investment in this state after June  
4 30, 2012 **IN A QUALIFIED FACILITY THAT IS COMPLETED** in a taxable year  
5 beginning from and after December 31, 2012 ~~in a qualified facility~~.

6 2. At least fifty-one per cent of the net new full-time employment  
7 positions at the qualified facility pay a wage that equals or exceeds one  
8 hundred twenty-five per cent of the median annual wage in this state, as  
9 determined by the most recent annual Arizona commerce authority occupational  
10 wage and employment estimates **ISSUED BEFORE THE PREAPPROVAL IS ISSUED**  
11 **PURSUANT TO SUBSECTION I OF THIS SECTION**.

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

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

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

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

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

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

26 G. Beginning with income tax credits allocated for 2013, an approved  
27 credit:

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

30 2. Must be claimed in five equal installments as provided by section  
31 43-1083.03 or 43-1164.04.

32 H. The authority shall establish a process for qualifying and  
33 preapproving applicants for the income tax credits. The authority shall not  
34 preapprove applicants as qualifying for credits under this section **FOR ANY**  
35 **TAXABLE YEAR BEGINNING FROM AND** after December 31, 2019. Preapproval is  
36 based on:

37 1. Priority placement established by the date that the applicant files  
38 its initial application with the authority.

39 2. The availability of income tax credit capacity under the dollar  
40 limit prescribed by section 41-1511, subsection J.

41 I. Within thirty days after receiving a complete and correct  
42 application, the authority shall review the application to determine whether  
43 the applicant satisfies all of the criteria prescribed by this section and  
44 either preapprove the project as qualifying for the purposes of an income tax

1 credit or provide reasons for its denial. The authority shall send copies of  
2 each preapproval to the department of revenue.

3 J. The authority shall not preapprove income tax credits under this  
4 section and section 41-1511 that combined would exceed the limits prescribed  
5 by section 41-1511, subsection J. A preapproved amount applies against the  
6 dollar limit for the year in which the application was submitted regardless  
7 of whether the initial preapproval period extends into the following year or  
8 years. A business shall not be preapproved for credits under both this  
9 section and section 41-1511 for the same capital investment. The authority  
10 shall not preapprove income tax credits under this section for any taxpayer  
11 in excess of thirty million dollars in any calendar year.

12 K. The authority shall reallocate the amount of income tax credits  
13 that are voluntarily relinquished under subsection L of this section, that  
14 lapse under subsection M of this section or that lapse under subsection P of  
15 this section. The reallocation shall be to other businesses that applied  
16 under this section or section 41-1511 in the original credit year based on  
17 priority placement. Once reallocated, the amount of the credit applies  
18 against the dollar limit of the original credit year regardless of the year  
19 in which the reallocation occurs.

20 L. A taxpayer may voluntarily relinquish unused credit amounts in  
21 writing to the authority.

22 M. Preapproval under this section lapses, the application is void and  
23 the amount of the preapproved income tax credits does not apply against the  
24 dollar limit prescribed by section 41-1511, subsection J if, within twelve  
25 months after preapproval, the business fails to provide to the authority  
26 documentation of its expenditure of two hundred fifty thousand dollars in  
27 qualifying investment or, if the period over which the qualifying investment  
28 will be made exceeds twelve months, documentation of additional expenditures  
29 as required in this subsection for each twelve-month period.

30 N. After October 31 of each year, if the authority has preapproved the  
31 maximum calendar year income tax credit amount pursuant to section 41-1511,  
32 subsection J, the authority may accept initial applications for the next  
33 calendar year, but the preapproval of any application pursuant to this  
34 subsection shall not be effective before the first business day of the  
35 following calendar year.

36 O. Before an applicant applies for postapproval under subsection P of  
37 this section, the applicant must enter into a written managed review  
38 agreement with the chief executive officer of the authority that establishes  
39 the requirements of a managed review to be conducted under this subsection at  
40 the applicant's expense. The managed review must be conducted by a certified  
41 public accountant who is selected by the applicant, who is licensed in this  
42 state and who is approved by the chief executive officer. The certified  
43 public accountant and the firm the certified public accountant is affiliated  
44 with shall not regularly perform services for the applicant or its  
45 affiliates. The managed review shall include an analysis of the applicant's

1 invoices, checks, accounting records and other documents and information to  
2 verify its base investment and other requirements prescribed by section  
3 43-1083.03 or 43-1164.04 to confirm the amount of credit. The certified  
4 public accountant shall furnish written findings of the managed review to the  
5 chief executive officer. The chief executive officer shall review the  
6 findings and may examine records and perform other reviews that the chief  
7 executive officer considers necessary to verify that the managed review  
8 substantially conforms to the terms of the managed review agreement. The  
9 chief executive officer shall accept or reject the findings of the managed  
10 review. If the chief executive officer rejects all or part of the managed  
11 review, the chief executive officer shall provide written reasons for the  
12 rejection.

13 P. When the qualified facility begins operations, a business that was  
14 preapproved for income tax credits under this section shall apply to the  
15 authority in writing for postapproval of the credits and submit documentation  
16 certifying the total amount and dates of the qualifying investments and  
17 identifying the fixed capital assets associated with the qualified facility  
18 incurred after June 30, 2012 through the date of application for  
19 postapproval. For taxable years beginning from and after December 31, ~~2011~~  
20 2012, the authority shall provide postapproval to a business that has met the  
21 eligibility requirements of this section and shall notify the department of  
22 revenue that the business may claim an income tax credit pursuant to section  
23 43-1083.03 or 43-1164.04. If the amount of qualifying investment actually  
24 spent is less than the amount preapproved for income tax credits, the  
25 preapproved amount not incurred lapses and does not apply against the dollar  
26 limit prescribed by section 41-1511, subsection J for that year. The  
27 department of revenue shall not allow an income tax credit under section  
28 43-1083.03 or 43-1164.04 that exceeds the amount of the postapproval for the  
29 project under this subsection. For the purposes of this subsection, "begins  
30 operations" means the qualified facility opens for public business.

31 Q. The authority may rescind an applicant's postapproval if the  
32 business no longer meets the terms and conditions required for qualifying for  
33 the credit. The authority may give special consideration, or allow temporary  
34 exemption from recapture of the credit, in the case of extraordinary hardship  
35 due to factors beyond the control of the qualifying business.

36 R. If the authority rescinds an applicant's preapproval or  
37 postapproval under subsection Q of this section, it shall notify the  
38 department of revenue of the action and the conditions of noncompliance. If  
39 the department of revenue obtains information indicating a possible failure  
40 to qualify and comply, it shall provide that information to the authority.  
41 The department of revenue may require the business to file appropriate  
42 amended tax returns reflecting any recapture of the credit under section  
43 43-1083.03 or 43-1164.04.

44 S. Preapproval and postapproval of an applicant for the purposes of  
45 income tax credits under this section do not constitute or imply compliance

1 with any other provision of law or any regulatory rule, order, procedure,  
2 permit or other measure required by law. To maintain qualification for a  
3 credit under this section, a business must separately comply with all  
4 environmental, employment and other regulatory measures.

5 T. For five years after postapproval of an income tax credit under  
6 this section, in any action involving the liquidation of the business assets  
7 or relocation out of state, this state claims the position of a secured  
8 creditor of the business in the amount of the credit the business received  
9 pursuant to section 43-1083.03 or 43-1164.04. The transfer of part or all of  
10 a company's assets that are then leased back by the company is not considered  
11 a liquidation under this section.

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

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

19 2. The amount of income tax credits postapproved with respect to each  
20 qualifying investment.

21 V. The authority shall:

22 1. Keep annual records of the information provided on applications for  
23 qualified facilities. These records shall reflect a percentage comparison of  
24 the annual amount of monies credited to qualified facilities to the estimated  
25 amount of monies spent in this state in the form of qualifying investments.

26 2. Maintain annual data on growth in this state of qualified  
27 facilities and related employment and wages.

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

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

37 X. For the purposes of this section:

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

41 2. "Facility" means a single parcel or contiguous parcels of owned or  
42 leased land in this state, the structures and personal property contained on  
43 the land or any part of the structures occupied by the owner. Parcels that  
44 are separated only by a public thoroughfare or right-of-way are considered to  
45 be contiguous.

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

5           4. "Manufacturing" means fabricating, producing or manufacturing raw  
6 or prepared materials into usable products, imparting new forms, qualities,  
7 properties and combinations. Manufacturing does not include generating  
8 electricity.

9           5. "Qualified facility" means a facility in this state that devotes at  
10 least eighty per cent of the property and payroll at the facility to one or  
11 more of the following:

12           (a) Qualified manufacturing.

13           (b) Qualified headquarters.

14           (c) Qualified research.

15           6. "Qualified headquarters" means a global, national or regional  
16 headquarters for a taxpayer that is involved in manufacturing and that  
17 derives at least sixty-five per cent of its revenue from out-of-state sales.

18           7. "Qualified manufacturing" means manufacturing tangible products in  
19 this state if at least sixty-five per cent of the product will be sold  
20 out-of-state.

21           8. "Qualified research" has the same meaning prescribed by section  
22 41(d) of the internal revenue code, as defined by section 43-105, except that  
23 the research must be conducted by a taxpayer involved in manufacturing that  
24 derives at least sixty-five per cent of its revenue from out-of-state sales.

25           9. "Qualifying investment" means investment in land, buildings,  
26 machinery, equipment and fixtures for expansion of an existing qualified  
27 facility or establishment of a new qualified facility in this state after  
28 June 30, 2012 for **A FACILITY COMPLETED IN** a taxable year beginning from and  
29 after December 31, ~~2011~~ 2012. Qualifying investment does not include  
30 relocating an existing qualified facility in this state to another location  
31 in this state without additional capital investment of at least two hundred  
32 fifty thousand dollars.

33           Sec. 4. Section 42-2003, Arizona Revised Statutes, is amended to read:

34           42-2003. Authorized disclosure of confidential information

35           A. Confidential information relating to:

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

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

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

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

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

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

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

18           B. Confidential information may be disclosed to:

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

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

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

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

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

42           (a) The United States internal revenue service, alcohol and tobacco  
43 tax and trade bureau of the United States treasury, United States bureau of  
44 alcohol, tobacco, firearms and explosives of the United States department of

- 1 justice, United States drug enforcement agency and federal bureau of  
2 investigation.
- 3 (b) A state tax official of another state.
- 4 (c) An organization of states, federation of tax administrators or  
5 multistate tax commission that operates an information exchange for tax  
6 administration purposes.
- 7 (d) An agency, official or organization of a foreign country with  
8 responsibilities that are comparable to those listed in subdivision (a), (b)  
9 or (c) of this paragraph.
- 10 (e) An agency, official or organization of an Indian tribal government  
11 with responsibilities comparable to the responsibilities of the agencies,  
12 officials or organizations identified in subdivision (a), (b) or (c) of this  
13 paragraph.
- 14 6. The auditor general, in connection with any audit of the department  
15 subject to the restrictions in section 42-2002, subsection D.
- 16 7. Any person to the extent necessary for effective tax administration  
17 in connection with:
- 18 (a) The processing, storage, transmission, destruction and  
19 reproduction of the information.
- 20 (b) The programming, maintenance, repair, testing and procurement of  
21 equipment for purposes of tax administration.
- 22 (c) The collection of the taxpayer's civil liability.
- 23 8. The office of administrative hearings relating to taxes  
24 administered by the department pursuant to section 42-1101, but the  
25 department shall not disclose any confidential information:
- 26 (a) Regarding income tax or withholding tax.
- 27 (b) On any tax issue relating to information associated with the  
28 reporting of income tax or withholding tax.
- 29 9. The United States treasury inspector general for tax administration  
30 for the purpose of reporting a violation of internal revenue code section  
31 7213A (26 United States Code section 7213A), unauthorized inspection of  
32 returns or return information.
- 33 10. The financial management service of the United States treasury  
34 department for use in the treasury offset program.
- 35 11. The United States treasury department or its authorized agent for  
36 use in the state income tax levy program and in the electronic federal tax  
37 payment system.
- 38 12. The Arizona commerce authority for its use in:
- 39 (a) Qualifying renewable energy operations for the tax incentives  
40 under sections 42-12006, 43-1083.01 and 43-1164.01.
- 41 (b) Qualifying businesses with a qualified facility for income tax  
42 credits under sections 43-1083.03 and 43-1164.04.
- 43 (c) Fulfilling its annual reporting responsibility pursuant to section  
44 41-1511, subsections U and V and section 41-1512, subsections U and V.
- 45 13. A prosecutor for purposes of section 32-1164, subsection C.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 H. Confidential information relating to transaction privilege tax, use  
2 tax, severance tax, jet fuel excise and use tax and ~~and~~ any other tax  
3 collected by the department on behalf of the county may be disclosed to any  
4 county, city or town tax official if the information relates to a taxpayer  
5 who is or may be taxable by the county, city or town. Any taxpayer  
6 information released by the department to the county, city or town:

7 1. May only be used for internal purposes.

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

15 I. The department may disclose statistical information gathered from  
16 confidential information if it does not disclose confidential information  
17 attributable to any one taxpayer. The department may disclose statistical  
18 information gathered from confidential information, even if it discloses  
19 confidential information attributable to a taxpayer, to:

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

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

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

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

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

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

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

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

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

8           Q. Except as provided in section 42-2002, subsection D, the department  
9 of revenue shall release confidential information as requested by the  
10 department of economic security pursuant to section 42-1122 or 46-291.  
11 Information disclosed under this subsection is limited to the same type of  
12 information that the United States internal revenue service is authorized to  
13 disclose under section 6103(1)(6) of the internal revenue code.

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

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

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

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

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

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

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

8           V. The department may disclose to the attorney general confidential  
9 information received under section 44-7111 and requested by the attorney  
10 general for purposes of determining compliance with and enforcing section  
11 44-7111. The department and attorney general shall share with each other the  
12 information received under section 44-7111, and may share the information  
13 with other federal, state or local agencies only for the purposes of  
14 enforcement of section 36-798.06, 44-7101, 44-7111 or corresponding laws of  
15 other states.

16           W. The department may provide the name and address of qualifying  
17 hospitals and qualifying health care organizations, as defined in section  
18 42-5001, to a business classified and reporting transaction privilege tax  
19 under the utilities classification.

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

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

28           1. May only be used by the city, town or county for internal purposes.

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

35           Sec. 5. Section 42-5071, Arizona Revised Statutes, is amended to read:

36           42-5071. Personal property rental classification

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

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

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

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

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

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

16           6. Leasing or renting aircraft, flight simulators or similar training  
17 equipment to students or staff by nonprofit, accredited educational  
18 institutions that offer associate or baccalaureate degrees in aviation or  
19 aerospace related fields.

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

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

27           1. Reimbursements by the lessee to the lessor of a motor vehicle for  
28 payments by the lessor of the applicable fees and taxes imposed by sections  
29 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15,  
30 article 2 and article IX, section 11, Constitution of Arizona, to the extent  
31 such amounts are separately identified as such fees and taxes and are billed  
32 to the lessee.

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

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

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

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

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

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

44           (d) Section 42-5061, subsection N.

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

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

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

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

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

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

25          Sec. 6. Section 43-1021, Arizona Revised Statutes, is amended to read:  
26 [43-1021. Additions to Arizona gross income](#)

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

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

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

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

42           4. Annuity income received during the taxable year to the extent that  
43 the sum of the proceeds received from such annuity in all taxable years prior  
44 to and including the current taxable year exceeds the total consideration and  
45 premiums paid by the taxpayer. This paragraph applies only to those

1 annuities with respect to which the first payment was received prior to  
2 December 31, 1978.

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

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

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

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

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

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

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

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

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

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

44 15. The amount by which the depreciation or amortization computed under  
45 the internal revenue code with respect to property for which a credit was

1 taken under section 43-1080 exceeds the amount of depreciation or  
2 amortization computed pursuant to the internal revenue code on the Arizona  
3 adjusted basis of the property.

4 16. The amount by which the adjusted basis computed under the internal  
5 revenue code with respect to property for which a credit was claimed under  
6 section 43-1080 and which is sold or otherwise disposed of during the taxable  
7 year exceeds the adjusted basis of the property computed under section  
8 43-1080.

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

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

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

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

27 21. Any amount deducted pursuant to section 170 of the internal revenue  
28 code representing contributions to a school tuition organization or a public  
29 school for which a credit is claimed under section 43-1089, 43-1089.01 or  
30 43-1089.03.

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

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

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

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

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

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

7           ~~28.~~ 27. The amount by which the depreciation or amortization computed  
8 under the internal revenue code with respect to property for which a credit  
9 was taken under section 43-1090.01 exceeds the amount of depreciation or  
10 amortization computed pursuant to the internal revenue code on the Arizona  
11 adjusted basis of the property.

12           ~~29.~~ 28. The amount by which the adjusted basis computed under the  
13 internal revenue code with respect to property for which a credit was claimed  
14 under section 43-1090.01 and which is sold or otherwise disposed of during  
15 the taxable year exceeds the adjusted basis of the property computed under  
16 section 43-1090.01.

17           ~~30.~~ 29. The amount of a nonqualified withdrawal, as defined in section  
18 15-1871, from a college savings plan established pursuant to section 529 of  
19 the internal revenue code that is made to a distributee to the extent the  
20 amount is not included in computing federal adjusted gross income, except  
21 that the amount added under this paragraph shall not exceed the difference  
22 between the amount subtracted under section 43-1022 in prior taxable years  
23 and the amount added under this section in any prior taxable years.

24           ~~31.~~ 30. The amount of unemployment compensation that is excluded from  
25 federal adjusted gross income pursuant to section 85(c) of the internal  
26 revenue code as added by section 1007 of the American recovery and  
27 reinvestment act of 2009 (P.L. 111-5).

28           ~~32.~~ 31. The amount of discharge of indebtedness income that is  
29 deferred and excluded from the computation of federal adjusted gross income  
30 or federal taxable income in the current taxable year pursuant to section  
31 108(i) of the internal revenue code as added by section 1231 of the American  
32 recovery and reinvestment act of 2009 (P.L. 111-5).

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

40           ~~34.~~ 33. For taxable years beginning from and after December 31, 2011  
41 through December 31, 2014, the amount of any deduction that is claimed in  
42 computing federal adjusted gross income for health insurance premiums or  
43 contributions to a health savings account for which a credit is claimed under  
44 section 43-1087.01 [OR 43-1185](#).

1           Sec. 7. Section 43-1022, Arizona Revised Statutes, is amended to read:  
2           43-1022. Subtractions from Arizona gross income

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

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

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

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

13           (b) The Arizona state retirement system, the corrections officer  
14 retirement plan, the public safety personnel retirement system, the elected  
15 officials' retirement plan, an optional retirement program established by the  
16 Arizona board of regents under section 15-1628, an optional retirement  
17 program established by a community college district board under section  
18 15-1451 or a retirement plan established for employees of a county, city or  
19 town in this state.

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

23           4. The amount of any distributions from an individual retirement  
24 account as provided for in section 408 of the internal revenue code or from a  
25 qualified retirement plan of a self-employed individual as provided for in  
26 section 401 of the internal revenue code to the extent that total adjustments  
27 made pursuant to this paragraph in all tax years do not exceed the total of  
28 all contributions made by the taxpayer to such plans before December 31,  
29 1975, which were included in computing Arizona taxable income.

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

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

38           7. The amount of any income tax refunds that were received from states  
39 other than Arizona and that were included as income in computing federal  
40 adjusted gross income.

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

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

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

7           11. The amount by which the adjusted basis of property described in  
8 this paragraph and computed pursuant to this title and the income tax act of  
9 1954, as amended, exceeds the adjusted basis of such property computed  
10 pursuant to the internal revenue code. This paragraph shall apply to all  
11 property that is held for the production of income and that is sold or  
12 otherwise disposed of during the taxable year other than depreciable property  
13 used in a trade or business.

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

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

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

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

29           16. The amount of prizes or winnings less than five thousand dollars in  
30 a single taxable year from any of the state lotteries established and  
31 operated pursuant to title 5, chapter 5.1, article 1, except that all such  
32 winnings before March 22, 1983, including periodic distributions from such  
33 winnings made after March 22, 1983, may be subtracted.

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

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

43           19. To the extent not already excluded from Arizona gross income under  
44 the internal revenue code, compensation received for active service as a  
45 member of the reserves, the national guard or the armed forces of the United

1 States, including compensation for service in a combat zone as determined  
2 under section 112 of the internal revenue code.

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

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

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

16 (a) An eligible individual may subtract:

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

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

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

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

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

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

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

41 27. For property placed in service:

42 (a) In taxable years ~~ending through~~ BEGINNING BEFORE December 31,  
43 2012, an amount equal to the depreciation allowable pursuant to section  
44 167(a) of the internal revenue code for the taxable year computed as if the  
45 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 (b) In taxable years beginning from and after December 31, 2012  
4 through December 31, 2013, an amount determined in the year the asset was  
5 placed in service based on the calculation in subdivision (a) of this  
6 paragraph. In the first taxable year beginning from and after December 31,  
7 2013, **THE TAXPAYER MAY ELECT TO SUBTRACT** the amount necessary to make the  
8 depreciation claimed to date for the purposes of this title the same as it  
9 would have been if subdivision (c) of this paragraph had applied for the  
10 entire time the asset was in service. Subdivision (c) of this paragraph  
11 applies for the remainder of the asset's life. **IF THE TAXPAYER DOES NOT MAKE**  
12 **THE ELECTION UNDER THIS SUBDIVISION, SUBDIVISION (a) OF THIS PARAGRAPH**  
13 **APPLIES FOR THE REMAINDER OF THE ASSET'S LIFE.**

14 (c) In taxable years beginning from and after December 31, 2013, an  
15 amount equal to the depreciation allowable pursuant to section 167(a) of the  
16 internal revenue code for the taxable year as computed as if the additional  
17 allowance for depreciation had been ten per cent of the amount allowed  
18 pursuant to section 168(k) of the internal revenue code.

19 28. With respect to property that is sold or otherwise disposed of  
20 during the taxable year by a taxpayer that complied with section 43-1021,  
21 paragraph 25 with respect to that property, the amount of depreciation that  
22 has been allowed pursuant to section 167(a) of the internal revenue code to  
23 the extent that the amount has not already reduced Arizona taxable income in  
24 the current or prior taxable years.

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

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

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

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

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

1           32. The amount of previously deferred discharge of indebtedness income  
2 that is included in the computation of federal adjusted gross income or  
3 federal taxable income in the current taxable year pursuant to section 108(i)  
4 of the internal revenue code as added by section 1231 of the American  
5 recovery and reinvestment act of 2009 (P.L. 111-5), to the extent that the  
6 amount was previously added to Arizona gross income pursuant to section  
7 43-1021, paragraph ~~32~~ 31.

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

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

22           35. An amount of any net long-term capital gain included in federal  
23 adjusted gross income for the taxable year that is derived from an investment  
24 in an asset acquired after December 31, 2011, as follows:

25           (a) For taxable years beginning from and after December 31, 2012  
26 through December 31, 2013, ten per cent of the net long-term capital gain  
27 included in federal adjusted gross income.

28           (b) For taxable years beginning from and after December 31, 2013  
29 through December 31, 2014, twenty per cent of the net long-term capital gain  
30 included in federal adjusted gross income.

31           (c) For taxable years beginning from and after December 31, 2014,  
32 twenty-five per cent of the net long-term capital gain included in federal  
33 adjusted gross income.

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

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

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



1 maintenance costs. An exemption under this subsection is in lieu of an  
2 exemption under subsection B of this section for the same person.

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

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

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

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

13 Sec. 9. Section 43-1083.03, Arizona Revised Statutes, is amended to  
14 read:

15 43-1083.03. Credit for qualified facilities

16 A. For taxable years beginning from and after December 31, ~~2011~~ 2012  
17 through December 31, 2019, a credit is allowed against the taxes imposed by  
18 this title for qualifying investment and employment in expanding or locating  
19 a qualified facility in this state. To qualify for the credit, after June  
20 30, 2012 the taxpayer must invest in a new qualified facility or expand an  
21 existing qualified facility in this state and produce new full-time  
22 employment positions where the job duties are performed at the location of  
23 the qualifying investment. The taxpayer must meet the employee compensation  
24 and employee health benefit requirements prescribed by section 41-1512.

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

26 1. Ten per cent of the lesser of:

27 (a) The taxpayer's total capital investment in the qualified facility.

28 (b) Two hundred thousand dollars for each net new full-time employment  
29 position at the qualified facility.

30 2. The amount of the credit shall not exceed the postapproval amount  
31 determined by the Arizona commerce authority under section 41-1512,  
32 subsection P.

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

36 C. To claim the credit the taxpayer must:

37 1. Conduct a business that qualifies under section 41-1512.

38 2. Receive preapproval and postapproval from the Arizona commerce  
39 authority pursuant to section 41-1512.

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

43 D. To be counted for the purposes of the credit, an employee must have  
44 been employed at the qualified facility for at least ninety days during the  
45 taxable year in a permanent full-time employment position of at least one

1 thousand seven hundred fifty hours per year. An employee who is hired during  
2 the last ninety days of the taxable year shall be considered a new employee  
3 during the next taxable year. To be counted for the purposes of the credit  
4 during the first taxable year of employment, the employee must not have been  
5 previously employed by the taxpayer within twelve months before the current  
6 date of hire. The terms of employment must comply in all cases with the  
7 requirements of section 41-1512 and be certified by the Arizona commerce  
8 authority.

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

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

24 G. Except as provided by subsection H of this section, if, within five  
25 taxable years after first receiving a credit pursuant to this section, the  
26 certification of qualification of a business is terminated or revoked under  
27 section 41-1512, other than for reasons beyond the control of the business as  
28 determined by the Arizona commerce authority, the taxpayer is disqualified  
29 from credits under this section in subsequent taxable years. On a  
30 determination that the taxpayer has committed fraud or relocated outside of  
31 this state within five taxable years after first receiving a credit pursuant  
32 to this section, the credits allowed the taxpayer in all taxable years  
33 pursuant to this section are subject to recapture pursuant to this  
34 subsection. This subsection applies only in the case of the termination or  
35 revocation of a certification of qualification under section 41-1512. This  
36 subsection does not apply if, in any taxable year, a taxpayer otherwise does  
37 not qualify for or fails to claim the credit under this section. The  
38 recapture of credits is computed by increasing the amount of taxes imposed in  
39 the year following the year of termination or revocation by the full amount  
40 of all credits previously allowed under this section.

41 H. A taxpayer who claims a credit under section 43-1074, ~~or~~ 43-1079 OR  
42 43-1083.01 may not claim a credit under this section with respect to the same  
43 full-time employment positions.

44 I. The department of revenue shall adopt rules and prescribe forms and  
45 procedures as necessary for the purposes of this section. The department of

1 revenue and the Arizona commerce authority shall collaborate in adopting  
2 rules as necessary to avoid duplication and contradictory requirements while  
3 accomplishing the intent and purposes of this section.

4 Sec. 10. Section 43-1089.02, Arizona Revised Statutes, is amended to  
5 read:

6 43-1089.02. Credit for donation of school site

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

11 B. To qualify for the credit:

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

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

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

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

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

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

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

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

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

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

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

6 I. If the donee is a school district:

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

17 2. The district may sell any donated property pursuant to section  
18 15-342, but the proceeds from the sale shall only be used for capital  
19 projects. The school facilities board shall withhold an amount that  
20 corresponds to the amount of the proceeds from any monies that would  
21 otherwise be due the school district from the school facilities board  
22 pursuant to section 15-2041.

23 J. If the donee is a charter school:

24 1. The charter school shall:

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

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

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

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

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

40 2. The charter school, or a successor in interest, shall pay to the  
41 state treasurer the amount of the credit allowed under this section, or if  
42 that amount is unknown, the amount of the allowable credit under this  
43 section, if any of the circumstances listed in paragraph 1, subdivision (b)  
44 of this subsection ~~occur~~ OCCURS. If the amount is not paid within one year  
45 after the treasurer receives notice under paragraph 1, subdivision (b) of

1 this subsection, a penalty and interest shall be added, determined pursuant  
2 to title 42, chapter 1, article 3.

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

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

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

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

22 (d) On enforcement and satisfaction of the lien pursuant to paragraph  
23 4 of this subsection.

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

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

29 Sec. 11. Section 43-1121, Arizona Revised Statutes, is amended to  
30 read:

31 43-1121. Additions to Arizona gross income: corporations

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

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

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

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

42 4. Expenses and interest relating to tax-exempt income on indebtedness  
43 incurred or continued to purchase or carry obligations the interest on which  
44 is wholly exempt from the tax imposed by this title. Financial institutions,

1 as defined in section 6-101, shall be governed by section 43-961,  
2 paragraph 2.

3 5. Commissions, rentals and other amounts paid or accrued to a  
4 domestic international sales corporation controlled by the payor corporation  
5 if the domestic international sales corporation is not required to report its  
6 taxable income to this state because its income is not derived from or  
7 attributable to sources within this state. If the domestic international  
8 sales corporation is subject to article 4 of this chapter, the department  
9 shall prescribe by rule the method of determining the portion of the  
10 commissions, rentals and other amounts which are paid or accrued to the  
11 controlled domestic international sales corporation and which shall be  
12 deducted by the payor. For the purposes of this paragraph, "control" means  
13 direct or indirect ownership or control of fifty per cent or more of the  
14 voting stock of the domestic international sales corporation by the payor  
15 corporation.

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

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

21 8. The amount of exploration expenses determined pursuant to section  
22 617 of the internal revenue code to the extent that they exceed seventy-five  
23 thousand dollars and to the extent that the election is made to defer those  
24 expenses not in excess of seventy-five thousand dollars.

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

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

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

35 12. The loss of an insurance company that is exempt under section  
36 43-1201 to the extent that it is included in computing Arizona gross income  
37 on a consolidated return pursuant to section 43-947.

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

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

1 year exceeds the adjusted basis of the property computed under section  
2 43-1169.

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

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

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

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

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

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

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

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

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

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

37 ~~25.~~ 24. Any amount deducted in computing Arizona taxable income as  
38 expenses for installing water conservation system plumbing stub outs in this  
39 state with respect to which a credit is claimed pursuant to section 43-1182.

40 ~~26.~~ 25. Any amount deducted pursuant to section 170 of the internal  
41 revenue code representing contributions to a school tuition organization for  
42 which a credit is claimed under section 43-1183 or 43-1184.

1           Sec. 12. Section 43-1122, Arizona Revised Statutes, is amended to  
2 read:

3           43-1122. Subtractions from Arizona gross income; corporations

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

6           1. The amounts computed pursuant to section 43-1022, paragraphs 8  
7 through 15, 27, 28, ~~29, 30 AND 31 and 32~~. For the purposes of this  
8 paragraph, "federal adjusted gross income" as used in section 43-1022 means  
9 "federal taxable income".

10          2. The amount of Arizona capital loss carryover as defined in section  
11 43-1124 in an amount not to exceed one thousand dollars.

12          3. With respect to a financial institution as defined in section  
13 6-101, expenses and interest relating to tax-exempt income disallowed  
14 pursuant to section 265 of the internal revenue code.

15          4. Dividends received from another corporation owned or controlled  
16 directly or indirectly by a recipient corporation. For the purposes of this  
17 paragraph, "control" means direct or indirect ownership or control of fifty  
18 per cent or more of the voting stock of the payor corporation by the  
19 recipient corporation. Dividends shall have the meaning provided in section  
20 316 of the internal revenue code. This subtraction shall apply without  
21 regard to ~~the provisions of~~ section 43-961, paragraph 2 and article 4 of this  
22 chapter. A corporation that has its commercial domicile, as defined in  
23 section 43-1131, in this state may subtract the full amount of the dividends.  
24 A corporation that does not have its commercial domicile in this state may  
25 subtract:

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

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

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

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

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

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

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

37          10. The amount of deferred exploration expenses allowed by section  
38 43-1127.

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

1           12. The amortization of pollution control devices allowed by section  
2 43-1129.

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

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

8           15. The income of an insurance company that is exempt under section  
9 43-1201 to the extent that it is included in computing Arizona gross income  
10 on a consolidated return pursuant to section 43-947.

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

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

18           18. An amount equal to the depreciation allowable pursuant to section  
19 167(a) of the internal revenue code for the taxable year computed as if the  
20 election described in section 168(k)(2)(D)(iii) of the internal revenue code  
21 had been made for each applicable class of property in the year the property  
22 was placed in service.

23           Sec. 13. Section 43-1164.04, Arizona Revised Statutes, is amended to  
24 read:

25           43-1164.04. Credit for qualified facilities

26           A. For taxable years beginning from and after December 31, ~~2011~~ 2012  
27 through December 31, 2019, a credit is allowed against the taxes imposed by  
28 this title for qualifying investment and employment in expanding or locating  
29 a qualified facility in this state. To qualify for the credit, after June  
30 30, 2012 the taxpayer must invest in a new qualified facility or expand an  
31 existing qualified facility in this state and produce new full-time  
32 employment positions where the job duties are performed at the location of  
33 the qualifying investment. The taxpayer must meet the employee compensation  
34 and employee health benefit requirements prescribed by section 41-1512.

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

36           1. Ten per cent of the lesser of:

37           (a) The taxpayer's total capital investment in the qualified facility.

38           (b) Two hundred thousand dollars for each net new full-time employment  
39 position at the qualified facility.

40           2. The amount of the credit shall not exceed the postapproval amount  
41 determined by the Arizona commerce authority under section 41-1512,  
42 subsection P.

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

1 C. To claim the credit the taxpayer must:

2 1. Conduct a business that qualifies under section 41-1512.

3 2. Receive preapproval and postapproval from the Arizona commerce  
4 authority pursuant to section 41-1512.

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

8 D. To be counted for the purposes of the credit, an employee must have  
9 been employed at the qualified facility for at least ninety days during the  
10 taxable year in a permanent full-time employment position of at least one  
11 thousand seven hundred fifty hours per year. An employee who is hired during  
12 the last ninety days of the taxable year shall be considered a new employee  
13 during the next taxable year. To be counted for the purposes of the credit  
14 during the first taxable year of employment, the employee must not have been  
15 previously employed by the taxpayer within twelve months before the current  
16 date of hire. The terms of employment must comply in all cases with the  
17 requirements of section 41-1512 and be certified by the Arizona commerce  
18 authority.

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

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

33 G. Except as provided by subsection H of this section, if, within five  
34 taxable years after first receiving a credit pursuant to this section, the  
35 certification of qualification of a business is terminated or revoked under  
36 section 41-1512, other than for reasons beyond the control of the business as  
37 determined by the Arizona commerce authority, the taxpayer is disqualified  
38 from credits under this section in subsequent taxable years. On a  
39 determination that the taxpayer has committed fraud or relocated outside of  
40 this state within five taxable years after first receiving a credit pursuant  
41 to this section, the credits allowed the taxpayer in all taxable years  
42 pursuant to this section are subject to recapture pursuant to this  
43 subsection. This subsection applies only in the case of the termination or  
44 revocation of a certification of qualification under section 41-1512. This  
45 subsection does not apply if, in any taxable year, a taxpayer otherwise does

1 not qualify for or fails to claim the credit under this section. The  
2 recapture of credits is computed by increasing the amount of taxes imposed in  
3 the year following the year of termination or revocation by the full amount  
4 of all credits previously allowed under this section.

5 H. A taxpayer who claims a credit under section ~~43-1074 or 43-1079~~  
6 ~~43-1161, 43-1164.01 OR 43-1167~~ may not claim a credit under this section with  
7 respect to the same full-time employment positions.

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

13 Sec. 14. Laws 2011, chapter 287, section 5 is amended to read:

14 Sec. 5. Delayed repeal

15 Sections 43-1087.01 and 43-1185, Arizona Revised Statutes, ~~as added by~~  
16 ~~this act~~, are repealed FOR TAXABLE YEARS BEGINNING from and after December  
17 31, 2014.

18 Sec. 15. Effect on preexisting tax credits

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

23 B. The delayed repeal of sections 41-1511, 41-1512, 43-1083.01,  
24 43-1083.03, 43-1164.01 and 43-1164.04, Arizona Revised Statutes, by Laws  
25 2012, chapter 343, section 18 does not affect either of the following:

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

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