

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

HOUSE BILL 2272

AN ACT

AMENDING SECTIONS 20-224.03, 41-1518, 43-1074, 43-1074.02 AND 43-1161,
ARIZONA REVISED STATUTES; RELATING TO TAX CREDITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 20-224.03, Arizona Revised Statutes, is amended to
3 read:

4 20-224.03. Premium tax credit for new employment

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

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

17 1. Three thousand dollars for each full-time employee hired in a
18 qualified employment position in the first year or partial year of
19 employment. Employees hired in the last ninety days of the taxable year are
20 excluded for that taxable year and are considered to be new employees in the
21 following taxable year.

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

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

28 C. The capital investment and the new qualified employment positions
29 requirements of section 41-1525, subsection B must be accomplished within
30 twelve months after the start of the required capital investment. No credit
31 may be claimed until both requirements are met. A business that meets the
32 requirements of section 41-1525, subsection B for a location is eligible to
33 claim first year credits for three years beginning with the taxable year in
34 which those requirements are completed. Employees hired at the location
35 before the beginning of the taxable year but during the twelve-month period
36 allowed in this subsection are considered to be new employees for the taxable
37 year in which all of those requirements are completed. The employees that
38 are considered to be new employees for the taxable year under this subsection
39 shall not be included in the average number of full-time employees during the
40 immediately preceding taxable year until the taxable year in which all of the
41 requirements of section 41-1525, subsection B are completed. An employee
42 working at a temporary work site in this state while the designated location
43 is under construction is considered to be working at the designated location
44 if all of the following occur:

- 1 1. The employee is hired after the start of the required investment at
2 the designated location.
- 3 2. The employee is hired to work at the designated location after it
4 is completed.
- 5 3. The payroll for the employees destined for the designated location
6 is segregated from other employees.
- 7 4. The employee is moved to the designated location within thirty days
8 after its completion.
- 9 D. To qualify for a credit under this section, the insurer and the
10 employment positions must meet the requirements prescribed by section
11 41-1525.
- 12 E. A credit is allowed for employment in the second and third year
13 only for qualified employment positions for which a credit was claimed and
14 allowed in the first year.
- 15 F. The net increase in the number of qualified employment positions is
16 the lesser of the total number of filled qualified employment positions
17 created at the designated location or locations during the taxable year or
18 the difference between the average number of full-time employees in this
19 state in the current taxable year and the average number of full-time
20 employees in this state during the immediately preceding taxable year. The
21 net increase in the number of qualified employment positions computed under
22 this subsection may not exceed the difference between the average number of
23 full-time employees in this state in the current taxable year and the average
24 number of full-time employees in this state during the immediately preceding
25 taxable year.
- 26 G. A taxpayer who claims a credit under section 20-224.04 shall not
27 claim a credit under this section with respect to the same employment
28 positions.
- 29 H. If the allowable tax credit exceeds the state premium tax
30 liability, the amount of the claim not used as an offset against the state
31 premium tax liability may be carried forward as a tax credit against
32 subsequent years' state premium tax liability for a period not exceeding five
33 taxable years.
- 34 I. If the business is sold or changes ownership through
35 reorganization, stock purchase or merger, the new taxpayer may claim first
36 year credits only for the qualified employment positions that it created and
37 filled with an eligible employee after the purchase or reorganization was
38 complete. If a person purchases a taxpayer that had qualified for first or
39 second year credits or if an insurance business changes ownership through
40 reorganization, stock purchase or merger, the new taxpayer may claim the
41 second or third year credits if it meets other eligibility requirements of
42 this section. Credits for which a taxpayer qualified before the changes
43 described in this subsection are terminated and lost at the time the changes
44 are implemented.

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

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

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

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

14 N. FOR THE PURPOSES OF SUBSECTION B, PARAGRAPHS 2 AND 3 OF THIS
15 SECTION, IF A FULL-TIME EMPLOYEE IN THE QUALIFIED EMPLOYMENT POSITION LEAVES
16 DURING THE TAXABLE YEAR, THE EMPLOYEE MAY BE REPLACED WITH ANOTHER NEW
17 FULL-TIME EMPLOYEE IN THE SAME EMPLOYMENT POSITION AND THE NEW EMPLOYEE WILL
18 BE TREATED AS BEING IN THEIR SECOND OR THIRD FULL YEAR OF CONTINUOUS
19 EMPLOYMENT FOR THE PURPOSES OF THE CREDIT UNDER THIS SECTION IF:

20 1. THE TOTAL TIME THE POSITION WAS VACANT FROM THE DATE THE EMPLOYMENT
21 POSITION WAS ORIGINALLY FILLED TO THE END OF THE CURRENT TAX YEAR TOTALS
22 NINETY DAYS OR LESS.

23 2. THE NEW EMPLOYEE MEETS ALL OF THE SAME REQUIREMENTS AS THE ORIGINAL
24 EMPLOYEE WAS REQUIRED TO MEET.

25 Sec. 2. Section 41-1518, Arizona Revised Statutes, is amended to read:
26 41-1518. Capital investment incentives; evaluation;
27 certification; definitions

28 A. The Arizona commerce authority shall receive and evaluate
29 applications that are submitted by qualified investors to receive a tax
30 credit pursuant to section 43-1074.02 for qualified investments made in a
31 qualified small business and certify to the department of revenue the names,
32 amounts and other relevant information relating to the applicants.

33 B. To be eligible for a tax credit pursuant to this section and
34 section 43-1074.02, a qualified investor shall file an application with the
35 authority within ~~thirty~~ NINETY days after making a qualified investment. The
36 application, on a form prescribed by the authority, shall include:

37 1. The name, address and federal income tax identification number of
38 the applicant.

39 2. The name and federal employer identification number of the
40 qualified small business that received a qualified investment made by the
41 applicant.

42 3. The date the qualified investment was made.

43 4. Any additional information that the authority requires.

44 C. As part of the application, the applicant and the qualified small
45 business that receives the investment shall each provide written

1 authorization pursuant to section 42-2003 designating the authority as
2 eligible to receive tax information from the department of revenue for the
3 purpose of determining if any misrepresentations exist on the application.
4 The authorization shall limit disclosure to income tax information for the
5 latest two years for which returns were filed with the department of revenue
6 preceding the date the application is filed and for all tax years through the
7 year in which the investment was made for which a return was not filed as of
8 the date of the application. The applicant shall also provide in the written
9 authorization income tax information for all tax years in which the applicant
10 could claim or carry forward the credit pursuant to this section, but limited
11 to the tax years in which the applicant actually claims a credit or carries
12 forward a credit on a return filed with the department of revenue. An
13 applicant who has an individual ownership interest as a co-owner of a
14 business who may be entitled to a pro rata share of the credit pursuant to
15 section 43-1074.02, subsection E shall provide a written authorization with
16 content similar to the authorization, and in the same manner as, any other
17 applicant is required to provide.

18 D. The authority shall review and make a determination with respect to
19 each application within ninety days after receiving the application. The
20 authority may request additional information from the applicant in order to
21 make an informed decision regarding the eligibility of the qualified investor
22 or qualified small business.

23 E. Subject to subsection F of this section, the authority shall
24 authorize tax credits for each qualified investor who makes a qualified
25 investment in a qualified small business. The amount of the credit shall be:

26 1. If the qualified investment is made in a qualified small business
27 that maintains its principal place of business in a rural county of this
28 state or is a bioscience enterprise, twelve per cent of the amount of the
29 investment per year for the first and second taxable years after the
30 investment is made and eleven per cent of the amount of the investment for
31 the third taxable year after the year in which the investment is made.

32 2. If the qualified investment is made in a qualified small business
33 other than a business described in paragraph 1 of this subsection, ten per
34 cent of the amount of the investment for each of the three taxable years
35 after the year in which the investment is made.

36 F. The authority shall not authorize tax credits under this section
37 after June 30, ~~2016~~ 2021. The authority shall not certify tax credits under
38 this section exceeding twenty million dollars. Tax credits that expire after
39 certification or that are otherwise not timely used by the qualified investor
40 for whom they were originally authorized shall be included in the twenty
41 million dollar limitation. If qualifying applications exceed twenty million
42 dollars, the authority shall authorize credits in the order of the date and
43 time that the applications are received by the authority, as evidenced by the
44 time and date stamped on the application when received by the authority. All
45 applications shall be filed ~~in person at~~ ON A FORM AND IN THE MANNER

1 **PRESCRIBED BY** the Arizona commerce authority. If an application is received
2 that, if authorized, would require the authority to exceed the twenty million
3 dollar limit, the authority shall only grant the applicant the remaining
4 amount of tax credits that would not exceed the twenty million dollar limit.
5 After the authority authorizes twenty million dollars in tax credits, the
6 authority shall deny any subsequent applications that are received. The
7 authority shall certify to the qualified investor and to the department of
8 revenue the amount of the tax credit that is authorized for purposes of
9 section 43-1074.02 for each taxable year described in subsection E of this
10 section.

11 G. The total of all qualified investments in any calendar year by a
12 qualified investor and its affiliates in qualified small businesses that are
13 eligible for a tax credit pursuant to this section and section 43-1074.02
14 shall not exceed ~~two hundred fifty~~ **FIVE HUNDRED** thousand dollars. The
15 maximum amount of qualified investments in a single qualified small business
16 for which the authority may authorize tax credits under this section shall
17 not exceed an aggregate of two million dollars in investments for all taxable
18 years. If applications for tax credits are received for investments that
19 exceed the limits prescribed by this subsection for any qualified small
20 business, the authority shall authorize credits in the order of the date and
21 time that the applications are received by the authority. If an application
22 is received that, if authorized, would require the authority to authorize tax
23 credits for any investment in a qualified small business that would cause the
24 total qualified investments in the business to exceed the limits prescribed
25 by this subsection, the authority shall only grant the applicant the
26 remaining amount of tax credits that would not exceed the limits prescribed
27 by this subsection.

28 H. The qualified investor shall file a return claiming the tax credit
29 with the department of revenue for application against income tax pursuant to
30 section 43-1074.02 by the due date of the return, including extensions, for
31 the tax year in which the credit is available. If the qualified investor
32 fails to timely file a return claiming the credit for a taxable year, the
33 credit expires for that taxable year and there shall be no carryforward of
34 the expired credit. If a qualified investor includes co-owners of a business
35 who qualify for individual pro rata shares of the credit pursuant to section
36 43-1074.02, subsection E, each individual owner shall file a return claiming
37 the tax credit with the department of revenue by the due date of the return,
38 including extensions, for the tax year in which the credit is available. If
39 an individual co-owner fails to timely file a return claiming the credit for
40 a taxable year, the credit expires for that taxable year and there shall be
41 no carryforward of the expired credit. Credits that expire or that otherwise
42 are not timely used by the qualified investor or by the individual co-owner
43 of a business for whom the credits were originally authorized shall not be
44 reissued.

1 I. On receiving an application for a tax credit from a qualified
2 investor, or a written request for certification as a qualified small
3 business from a corporation, limited liability company, partnership or other
4 business entity, the authority shall determine whether the corporation,
5 limited liability company, partnership or other business entity that is named
6 in the application or written request is a qualified small business. The
7 authority shall determine if the business is a bioscience enterprise and if
8 the business maintains its principal place of business in a rural county in
9 this state. After determining the qualifications, the authority shall
10 certify the qualified small business as being eligible to receive qualified
11 investments for purposes of this section. The certification is valid for one
12 year, but the authority may revoke the certification at any time or refuse to
13 renew the certification if the business fails to maintain the required
14 qualifications. If a qualified small business fails to maintain the
15 qualifications, the business shall notify the authority within five business
16 days of failing to meet the qualifications. The authority shall revoke the
17 certification of the business and may assess a penalty against the business
18 entity equal to the amount of the tax credits authorized after the business
19 failed to meet the qualifications. The penalty shall be deposited into the
20 state general fund. If the certification is revoked or expires, subsequent
21 investments in the business do not qualify for a tax credit pursuant to this
22 section and section 43-1074.02. All tax credits that are issued before any
23 expiration or revocation of the certification shall remain valid. Any
24 application for a tax credit shall not be denied on the basis of the
25 expiration or revocation of the certification if the investment was made
26 before the date of the expiration or revocation.

27 J. The authority shall provide to the department of revenue necessary
28 information required to administer this section and section 43-1074.02. If
29 the authority subsequently discovers that an applicant who received a tax
30 credit misrepresented information on the application, the authority shall
31 immediately notify the department of revenue and provide the department of
32 revenue all information that relates to that applicant. If the department of
33 revenue determines that there has been a misrepresentation on the
34 application, the department of revenue shall deny the credit if the
35 misrepresentation relates to whether the applicant was a qualified investor
36 or made a qualified investment. If the misrepresentation relates to whether
37 the investment was made to:

38 1. A qualified small business, the department of revenue shall deny
39 the credit only if the applicant knew or should have known at any time before
40 the certification that the representation was false.

41 2. A bioscience enterprise or a business that maintains its principal
42 place of business in a rural county in this state, the department of revenue
43 shall decrease the amount of the credit that would have been allowed under
44 subsection E, paragraph 1 of this section to the amount allowed under
45 subsection E, paragraph 2 of this section only if the applicant knew or

1 should have known at any time before the certification that the
2 representation was false.

3 K. For the purposes of this section:

4 1. "Affiliate" means any person or entity that controls, that is
5 controlled by or that is under common control with another person or
6 entity. For the purposes of this paragraph, "control" means the power to
7 determine the policies of an entity whether through ownership of voting
8 securities, by contract or otherwise.

9 2. "Asset" means any owned property that has value including financial
10 assets and physical assets. Intellectual property shall not be included when
11 determining total assets.

12 3. "Bioscience enterprise" means a business whose activity is related
13 to bioscience as determined by the authority or any corporation, partnership,
14 limited liability company or other business entity that is primarily engaged
15 in a business that conducts research, development, manufacture, marketing,
16 sale and licensing of products, services and solutions relating to either of
17 the following:

18 (a) Medical, pharmaceutical, nutraceutical, bioengineering,
19 biomechanical, bioinformatics or other life-science based applications.

20 (b) Applications of modern biological, bioengineering, biomechanical
21 or bioinformatics technologies in the fields of human, plant or animal
22 health, agriculture, defense, homeland security or the environment.

23 4. "Qualified investment" means an investment in an equity security
24 that meets all of the following requirements:

25 (a) The equity security shall be common stock, preferred stock, an
26 interest in a partnership or limited liability company, a security that is
27 convertible into an equity security or any other equity security as
28 determined by the authority.

29 (b) The investment shall be at least twenty-five thousand dollars.

30 (c) The qualified investor and its affiliates do not hold, of record
31 or beneficially, immediately before making an investment, equity securities
32 possessing more than thirty per cent of the total voting power of all equity
33 securities of the qualified small business.

34 5. "Qualified investor" means an individual, limited liability
35 company, partnership, S corporation as defined in section 1361 of the
36 internal revenue code or other business entity that makes a qualified
37 investment in a qualified small business. Qualified investor does not mean a
38 corporation that is subject to tax under title 43, chapter 11.

39 6. "Qualified small business" means a corporation, limited liability
40 company, partnership or other business entity that:

41 (a) Maintains at least a portion of its operations at an office or
42 manufacturing or research facility located in this state.

43 (b) Has at least two principal full-time equivalent employees who are
44 residents in this state. For the purposes of this subdivision, "principal"
45 means a person whose sole responsibility is not administrative.

1 (c) Does not engage in any activities that involve human cloning or
2 embryonic stem cell research.

3 (d) Has total assets not exceeding two million dollars through
4 December 31, 2011 or ten million dollars beginning from and after December
5 31, 2011, excluding any investment made under this section.

6 (e) Has not exceeded the limitation on qualified investments
7 prescribed by subsection G of this section.

8 (f) Does not have a principal business involving activities excluded
9 by the authority. The authority shall provide a list of excluded businesses
10 to any person on request.

11 7. "Rural county" means a county that has a population of seven
12 hundred fifty thousand or fewer persons.

13 Sec. 3. Section 43-1074, Arizona Revised Statutes, is amended to read:

14 43-1074. Credit for new employment

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

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

22 1. Three thousand dollars for each full-time employee hired in a
23 qualified employment position in the first year or partial year of
24 employment. Employees hired in the last ninety days of the taxable year are
25 excluded for that taxable year and are considered to be new employees in the
26 following taxable year.

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

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

33 C. The capital investment and the new qualified employment positions
34 requirements of section 41-1525, subsection B must be accomplished within
35 twelve months after the start of the required capital investment. No credit
36 may be claimed until both requirements are met. A business that meets the
37 requirements of section 41-1525, subsection B for a location is eligible to
38 claim first year credits for three years beginning with the taxable year in
39 which those requirements are completed. Employees hired at the location
40 before the beginning of the taxable year but during the twelve-month period
41 allowed in this subsection are considered to be new employees for the taxable
42 year in which all of those requirements are completed. The employees that
43 are considered to be new employees for the taxable year under this subsection
44 shall not be included in the average number of full-time employees during the
45 immediately preceding taxable year until the taxable year in which all of the

1 requirements of section 41-1525, subsection B are completed. An employee
2 working at a temporary work site in this state while the designated location
3 is under construction is considered to be working at the designated location
4 if all of the following occur:

5 1. The employee is hired after the start of the required investment at
6 the designated location.

7 2. The employee is hired to work at the designated location after it
8 is completed.

9 3. The payroll for the employees destined for the designated location
10 is segregated from other employees.

11 4. The employee is moved to the designated location within thirty days
12 after its completion.

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

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

19 F. The net increase in the number of qualified employment positions is
20 the lesser of the total number of filled qualified employment positions
21 created at the designated location or locations during the taxable year or
22 the difference between the average number of full-time employees in this
23 state in the current taxable year and the average number of full-time
24 employees in this state during the immediately preceding taxable year. The
25 net increase in the number of qualified employment positions computed under
26 this subsection may not exceed the difference between the average number of
27 full-time employees in this state in the current taxable year and the average
28 number of full-time employees in this state during the immediately preceding
29 taxable year.

30 G. A taxpayer who claims a credit under section 43-1079 or 43-1083.01
31 shall not claim a credit under this section with respect to the same
32 employment positions.

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

38 I. Co-owners of a business, including partners in a partnership and
39 shareholders of an S corporation, as defined in section 1361 of the internal
40 revenue code, may each claim only the pro rata share of the credit allowed
41 under this section based on the ownership interest. The total of the credits
42 allowed all such owners of the business may not exceed the amount that would
43 have been allowed for a sole owner of the business.

44 J. If the business is sold or changes ownership through
45 reorganization, stock purchase or merger, the new taxpayer may claim first

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

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

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

16 M. FOR THE PURPOSES OF SUBSECTION B, PARAGRAPHS 2 AND 3 OF THIS
17 SECTION, IF A FULL-TIME EMPLOYEE IN THE QUALIFIED EMPLOYMENT POSITION LEAVES
18 DURING THE TAXABLE YEAR, THE EMPLOYEE MAY BE REPLACED WITH ANOTHER NEW
19 FULL-TIME EMPLOYEE IN THE SAME EMPLOYMENT POSITION AND THE NEW EMPLOYEE WILL
20 BE TREATED AS BEING IN THEIR SECOND OR THIRD FULL YEAR OF CONTINUOUS
21 EMPLOYMENT FOR THE PURPOSES OF THE CREDIT UNDER THIS SECTION IF:

22 1. THE TOTAL TIME THE POSITION WAS VACANT FROM THE DATE THE EMPLOYMENT
23 POSITION WAS ORIGINALLY FILLED TO THE END OF THE CURRENT TAX YEAR TOTALS
24 NINETY DAYS OR LESS.

25 2. THE NEW EMPLOYEE MEETS ALL OF THE SAME REQUIREMENTS AS THE ORIGINAL
26 EMPLOYEE WAS REQUIRED TO MEET.

27 Sec. 4. Section 43-1074.02, Arizona Revised Statutes, is amended to
28 read:

29 43-1074.02. Credit for investment in qualified small businesses

30 A. For taxable years beginning from and after December 31, 2006
31 through December 31, ~~2019~~ 2024, a credit is allowed against the taxes imposed
32 by this title for investment made after June 30, 2006 in qualified small
33 businesses. The amount of the credit is the amount determined and authorized
34 by the Arizona commerce authority as provided by section 41-1518.

35 B. To claim the credit under this section, the taxpayer shall attach
36 to its tax return a copy of the Arizona commerce authority certification
37 provided pursuant to section 41-1518. No credit is allowed under this
38 section unless the taxpayer provides the certification.

39 C. The basis of any investment with respect to which the taxpayer has
40 claimed a credit under this section shall be reduced by the amount of the
41 credit claimed with respect to that investment.

42 D. If the allowable tax credit exceeds the taxes due under this title
43 on the claimant's income, or if there are no taxes due under this title, the
44 amount of the claim not used to offset the taxes under this title may be

1 carried forward to the next three consecutive taxable years as a credit
2 against subsequent years' income tax liability.

3 E. Individuals who are co-owners of a business, including partners in
4 a partnership and shareholders of an S corporation as defined in section 1361
5 of the internal revenue code, may each claim only their individual pro rata
6 shares of the credit allowed under this section based on their ownership
7 interests. The total of the credits allowed all such owners may not exceed
8 the amount that would have been allowed a sole owner.

9 F. If the department of revenue determines that there has been a
10 misrepresentation on an application submitted to the Arizona commerce
11 authority under section 41-1518, the department of revenue shall deny the
12 credit if the misrepresentation relates to whether the applicant was a
13 qualified investor or made a qualified investment. If the misrepresentation
14 relates to whether the investment was made to:

15 1. A qualified small business, the department of revenue shall deny
16 the credit only if the applicant knew or should have known at any time before
17 the certification that the representation was false.

18 2. A bioscience enterprise or a business that maintains its principal
19 place of business in a rural county in this state, the department of revenue
20 shall decrease the amount of the credit that would have been allowed only if
21 the applicant knew or should have known at any time before the certification
22 that the representation was false.

23 Sec. 5. Section 43-1161, Arizona Revised Statutes, is amended to read:
24 43-1161. Credit for new employment

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

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

32 1. Three thousand dollars for each full-time employee hired in a
33 qualified employment position in the first year or partial year of
34 employment. Employees hired in the last ninety days of the taxable year are
35 excluded for that taxable year and are considered to be new employees in the
36 following taxable year.

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

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

43 C. The capital investment and the new qualified employment positions
44 requirements of section 41-1525, subsection B must be accomplished within
45 twelve months after the start of the required capital investment. No credit

1 may be claimed until both requirements are met. A business that meets the
2 requirements of section 41-1525, subsection B for a location is eligible to
3 claim first year credits for three years beginning with the taxable year in
4 which those requirements are completed. Employees hired at the location
5 before the beginning of the taxable year but during the twelve-month period
6 allowed in this subsection are considered to be new employees for the taxable
7 year in which all of those requirements are completed. The employees that
8 are considered to be new employees for the taxable year under this subsection
9 shall not be included in the average number of full-time employees during the
10 immediately preceding taxable year until the taxable year in which all of the
11 requirements of section 41-1525, subsection B are completed. An employee
12 working at a temporary work site in this state while the designated location
13 is under construction is considered to be working at the designated location
14 if all of the following occur:

15 1. The employee is hired after the start of the required investment at
16 the designated location.

17 2. The employee is hired to work at the designated location after it
18 is completed.

19 3. The payroll for the employees destined for the designated location
20 is segregated from other employees.

21 4. The employee is moved to the designated location within thirty days
22 after its completion.

23 D. To qualify for a credit under this section, the taxpayer and the
24 employment positions must meet the requirements prescribed by section
25 41-1525.

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

29 F. The net increase in the number of qualified employment positions is
30 the lesser of the total number of filled qualified employment positions
31 created at the designated location or locations during the taxable year or
32 the difference between the average number of full-time employees in this
33 state in the current taxable year and the average number of full-time
34 employees in this state during the immediately preceding taxable year. The
35 net increase in the number of qualified employment positions computed under
36 this subsection may not exceed the difference between the average number of
37 full-time employees in this state in the current taxable year and the average
38 number of full-time employees in this state during the immediately preceding
39 taxable year.

40 G. A taxpayer ~~who~~ THAT claims a credit under section 43-1164.01 or
41 43-1167 shall not claim a credit under this section with respect to the same
42 employment positions.

43 H. If the allowable tax credit exceeds the income taxes otherwise due
44 on the claimant's income, or if there are no state income taxes due on the
45 claimant's income, the amount of the claim not used as an offset against the

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

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

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

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

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

25 M. FOR THE PURPOSES OF SUBSECTION B, PARAGRAPHS 2 AND 3 OF THIS
26 SECTION, IF A FULL-TIME EMPLOYEE IN THE QUALIFIED EMPLOYMENT POSITION LEAVES
27 DURING THE TAXABLE YEAR, THE EMPLOYEE MAY BE REPLACED WITH ANOTHER NEW
28 FULL-TIME EMPLOYEE IN THE SAME EMPLOYMENT POSITION AND THE NEW EMPLOYEE WILL
29 BE TREATED AS BEING IN THEIR SECOND OR THIRD FULL YEAR OF CONTINUOUS
30 EMPLOYMENT FOR THE PURPOSES OF THE CREDIT UNDER THIS SECTION IF:

31 1. THE TOTAL TIME THE POSITION WAS VACANT FROM THE DATE THE EMPLOYMENT
32 POSITION WAS ORIGINALLY FILLED TO THE END OF THE CURRENT TAX YEAR TOTALS
33 NINETY DAYS OR LESS.

34 2. THE NEW EMPLOYEE MEETS ALL OF THE SAME REQUIREMENTS AS THE ORIGINAL
35 EMPLOYEE WAS REQUIRED TO MEET.

36 Sec. 6. Retroactivity

37 Sections 20-224.03, 43-1074 and 43-1161, Arizona Revised Statutes, as
38 amended by this act, are effective retroactively to from and after December
39 31, 2013.