

REFERENCE TITLE: tax credits; capital investments; employment

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

HB 2272

Introduced by
Representative Forese

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, THE FAILURE OF THE SAME FULL-TIME EMPLOYEE TO REMAIN EMPLOYED
16 THROUGHOUT THE ENTIRE SECOND OR THIRD YEAR DOES NOT DISQUALIFY THE TAXPAYER
17 FROM THE CREDIT FOR THE QUALIFIED EMPLOYMENT POSITION AS DEFINED IN SECTION
18 41-1525 IF A SUCCESSOR FULL-TIME EMPLOYEE IS EMPLOYED IN THE QUALIFIED
19 EMPLOYMENT POSITION AND THE POSITION IS NOT VACANT FOR MORE THAN NINETY DAYS
20 DURING THE PERIOD FROM THE FIRST DAY OF THE SECOND YEAR THROUGH THE LAST DAY
21 OF THE THIRD YEAR.

22 Sec. 2. Section 41-1518, Arizona Revised Statutes, is amended to read:
23 41-1518. Capital investment incentives; evaluation;
24 certification; definitions

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

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

34 1. The name, address and federal income tax identification number of
35 the applicant.

36 2. The name and federal employer identification number of the
37 qualified small business that received a qualified investment made by the
38 applicant.

39 3. The date the qualified investment was made.

40 4. Any additional information that the authority requires.

41 C. As part of the application, the applicant and the qualified small
42 business that receives the investment shall each provide written
43 authorization pursuant to section 42-2003 designating the authority as
44 eligible to receive tax information from the department of revenue for the
45 purpose of determining if any misrepresentations exist on the application.

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

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

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

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

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

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

1 the applicant the remaining amount of tax credits that would not exceed the
2 ~~twenty~~ FORTY million dollar limit. After the authority authorizes ~~twenty~~
3 FORTY million dollars in tax credits, the authority shall deny any subsequent
4 applications that are received. The authority shall certify to the qualified
5 investor and to the department of revenue the amount of the tax credit that
6 is authorized for purposes of section 43-1074.02 for each taxable year
7 described in subsection E of this section.

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

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

42 I. On receiving an application for a tax credit from a qualified
43 investor, or a written request for certification as a qualified small
44 business from a corporation, limited liability company, partnership or other
45 business entity, the authority shall determine whether the corporation,

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

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

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

37 2. A bioscience enterprise or a business that maintains its principal
38 place of business in a rural county in this state, the department of revenue
39 shall decrease the amount of the credit that would have been allowed under
40 subsection E, paragraph 1 of this section to the amount allowed under
41 subsection E, paragraph 2 of this section only if the applicant knew or
42 should have known at any time before the certification that the
43 representation was false.

44 K. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 Sec. 3. Section 43-1074, Arizona Revised Statutes, is amended to read:
12 43-1074. Credit for new employment

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

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

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

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

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

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

1 is under construction is considered to be working at the designated location
2 if all of the following occur:

3 1. The employee is hired after the start of the required investment at
4 the designated location.

5 2. The employee is hired to work at the designated location after it
6 is completed.

7 3. The payroll for the employees destined for the designated location
8 is segregated from other employees.

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

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

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

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

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

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

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

42 J. If the business is sold or changes ownership through
43 reorganization, stock purchase or merger, the new taxpayer may claim first
44 year credits only for the qualified employment positions that it created and
45 filled with an eligible employee after the purchase or reorganization was

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

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

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

14 M. FOR THE PURPOSES OF SUBSECTION B, PARAGRAPHS 2 AND 3 OF THIS
15 SECTION, THE FAILURE OF THE SAME FULL-TIME EMPLOYEE TO REMAIN EMPLOYED
16 THROUGHOUT THE ENTIRE SECOND OR THIRD YEAR DOES NOT DISQUALIFY THE TAXPAYER
17 FROM THE CREDIT FOR THE QUALIFIED EMPLOYMENT POSITION AS DEFINED IN SECTION
18 41-1525 IF A SUCCESSOR FULL-TIME EMPLOYEE IS EMPLOYED IN THE QUALIFIED
19 EMPLOYMENT POSITION AND THE POSITION IS NOT VACANT FOR MORE THAN NINETY DAYS
20 DURING THE PERIOD FROM THE FIRST DAY OF THE SECOND YEAR THROUGH THE LAST DAY
21 OF THE THIRD YEAR.

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

24 43-1074.02. Credit for investment in qualified small businesses

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

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

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

37 D. If the allowable tax credit exceeds the taxes due under this title
38 on the claimant's income, or if there are no taxes due under this title, the
39 amount of the claim not used to offset the taxes under this title may be
40 carried forward to the next three consecutive taxable years as a credit
41 against subsequent years' income tax liability.

42 E. Individuals who are co-owners of a business, including partners in
43 a partnership and shareholders of an S corporation as defined in section 1361
44 of the internal revenue code, may each claim only their individual pro rata
45 shares of the credit allowed under this section based on their ownership

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

3 F. If the department of revenue determines that there has been a
4 misrepresentation on an application submitted to the Arizona commerce
5 authority under section 41-1518, the department of revenue shall deny the
6 credit if the misrepresentation relates to whether the applicant was a
7 qualified investor or made a qualified investment. If the misrepresentation
8 relates to whether the investment was made to:

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

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

17 Sec. 5. Section 43-1161, Arizona Revised Statutes, is amended to read:
18 43-1161. Credit for new employment

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

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

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

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

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

37 C. The capital investment and the new qualified employment positions
38 requirements of section 41-1525, subsection B must be accomplished within
39 twelve months after the start of the required capital investment. No credit
40 may be claimed until both requirements are met. A business that meets the
41 requirements of section 41-1525, subsection B for a location is eligible to
42 claim first year credits for three years beginning with the taxable year in
43 which those requirements are completed. Employees hired at the location
44 before the beginning of the taxable year but during the twelve-month period
45 allowed in this subsection are considered to be new employees for the taxable

1 year in which all of those requirements are completed. The employees that
2 are considered to be new employees for the taxable year under this subsection
3 shall not be included in the average number of full-time employees during the
4 immediately preceding taxable year until the taxable year in which all of the
5 requirements of section 41-1525, subsection B are completed. An employee
6 working at a temporary work site in this state while the designated location
7 is under construction is considered to be working at the designated location
8 if all of the following occur:

9 1. The employee is hired after the start of the required investment at
10 the designated location.

11 2. The employee is hired to work at the designated location after it
12 is completed.

13 3. The payroll for the employees destined for the designated location
14 is segregated from other employees.

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

17 D. To qualify for a credit under this section, the taxpayer and the
18 employment positions must meet the requirements prescribed by section
19 41-1525.

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

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

34 G. A taxpayer ~~who~~ THAT claims a credit under section 43-1164.01 or
35 43-1167 shall not claim a credit under this section with respect to the same
36 employment positions.

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

42 I. Co-owners of a business, including corporate partners in a
43 partnership, may each claim only the pro rata share of the credit allowed
44 under this section based on the ownership interest. The total of the credits

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

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

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

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

20 M. FOR THE PURPOSES OF SUBSECTION B, PARAGRAPHS 2 AND 3 OF THIS
21 SECTION, THE FAILURE OF THE SAME FULL-TIME EMPLOYEE TO REMAIN EMPLOYED
22 THROUGHOUT THE ENTIRE SECOND OR THIRD YEAR DOES NOT DISQUALIFY THE TAXPAYER
23 FROM THE CREDIT FOR THE QUALIFIED EMPLOYMENT POSITION AS DEFINED IN SECTION
24 41-1525 IF A SUCCESSOR FULL-TIME EMPLOYEE IS EMPLOYED IN THE QUALIFIED
25 EMPLOYMENT POSITION AND THE POSITION IS NOT VACANT FOR MORE THAN NINETY DAYS
26 DURING THE PERIOD FROM THE FIRST DAY OF THE SECOND YEAR THROUGH THE LAST DAY
27 OF THE THIRD YEAR.