

REFERENCE TITLE: audits; accountants; reciprocity privilege

State of Arizona
House of Representatives
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HB 2448

Introduced by
Representatives Mitchell, Borrelli, Cardenas: Friese, Lawrence, Olson,
Weninger, Senator Driggs

AN ACT

AMENDING SECTIONS 6-502, 9-481, 41-725, 41-1511, 41-1512, 43-1507 AND
43-1605, ARIZONA REVISED STATUTES; RELATING TO ACCOUNTANTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 6-502, Arizona Revised Statutes, is amended to
3 read:

4 6-502. Reports and examinations

5 A. The superintendent shall examine or cause to be examined each
6 credit union at periodic intervals as provided by section 6-122. The
7 superintendent shall forward a report of the examination to the board of
8 directors of the credit union examined within thirty days after completion of
9 the report. Within thirty days after the receipt of the report the directors
10 shall meet to consider matters contained in the report.

11 B. In lieu of the examination required by subsection A of this
12 section, the superintendent may accept an examination or audit report of the
13 condition of a credit union made by the national credit union administration
14 or by a certified public accountant WHO IS licensed in this state OR WHO HAS
15 A LIMITED RECIPROCITY PRIVILEGE PURSUANT TO SECTION 32-725 or other qualified
16 person or organization approved by the superintendent. The credit union
17 shall bear the cost of any such examination or audit. A certified public
18 accountant or other qualified person or organization making an audit to be
19 submitted in lieu of an examination by the superintendent shall obtain prior
20 approval from the superintendent before conducting ~~such~~ an audit. In
21 approving ~~such~~ an audit the superintendent may prescribe minimum requirements
22 for the audit, including the date by which the audit must be completed and a
23 copy filed with the superintendent.

24 C. Within thirty days after the end of each calendar quarter a credit
25 union shall report to the superintendent, on forms supplied by the
26 superintendent for that purpose, its financial condition and the results of
27 its operation for ~~such~~ THE quarter.

28 D. Unless excused for cause before or after the due date, a credit
29 union ~~which~~ THAT fails to file a report when due shall pay the department, as
30 assessed, up to one hundred dollars for each day of delinquency.

31 Sec. 2. Section 9-481, Arizona Revised Statutes, is amended to read:

32 9-481. Audits of cities and towns; posting; budget

33 A. The governing body of each incorporated city or town shall cause an
34 audit to be made by a certified public accountant or public accountant who is
35 currently licensed by the Arizona state board of accountancy OR WHO HAS A
36 LIMITED RECIPROCITY PRIVILEGE PURSUANT TO SECTION 32-725 and who is not an
37 employee of the city or town. Audits shall be made for each fiscal year for
38 all incorporated cities. Audits shall be made at least once for every two
39 fiscal years for all incorporated towns, and the audit shall include
40 financial transactions during both fiscal years.

41 B. The audit and the audit report shall include all of the accounts
42 and funds of the city or town, including operating, special, utility, debt,
43 trust and pension, and all other money or property for which the city or
44 town, or any department or officer of the city or town, is responsible either
45 directly or indirectly. The audits shall be made in accordance with

1 generally accepted auditing standards. The consequent audit report shall
2 contain financial statements that are in conformity with generally accepted
3 municipal accounting principles and shall set forth the financial position
4 and results of the operations for each fund and account of the city or town.
5 The audit report shall also include the following:

6 1. The professional opinion of the accountant or accountants with
7 respect to the financial statements or, if an opinion cannot be expressed, a
8 declaration of the reasons an opinion cannot be expressed.

9 2. A determination as to whether highway user revenue fund monies
10 received by the city or town pursuant to title 28, chapter 18, article 2 and
11 any other dedicated state transportation revenues received by the city or
12 town are being used solely for the authorized transportation purposes.

13 C. The audit shall begin as soon as possible after the close of the
14 fiscal year, although interim auditing may be performed during the year or
15 years under audit. The audit shall be completed and the final audit report
16 shall be submitted within six months after the close of the fiscal year or
17 years audited.

18 D. At least ~~four~~ THREE copies of the audit report shall be signed by
19 the auditor and filed with the city or town. The city or town shall
20 immediately do the following:

21 1. Make one copy of the report a public record that is open to the
22 public for inspection.

23 2. File one copy of the report with the auditor general pursuant to
24 section 41-1279.07, subsection C.

25 3. Submit one copy of the report to the secretary of state.

26 E. The financial statements required to be filed with the auditor
27 general pursuant to section 41-1279.07, including the audit report, must be
28 posted in a prominent location on the official website of the city or town no
29 later than seven business days after the date of filing the financial
30 statements with the auditor general. The financial statements must be
31 retained and accessible in a prominent location on the official website for
32 at least sixty months. If the financial statements are not filed pursuant to
33 section 41-1279.07, the form as prescribed by subsection F of this section
34 shall be posted on the website of the city or town in place of the financial
35 statements until the financial statements are filed.

36 F. If the financial statements for a city or town are not completed
37 and filed as prescribed by section 41-1279.07 on or before the adoption of
38 the city or town budget in the subsequent fiscal year, the governing body
39 shall include a form, as prescribed by the auditor general, in the published
40 budget in the subsequent fiscal year pursuant to sections 42-17103 and
41 42-17105 stating that the financial statements required to be filed with the
42 auditor general pursuant to section 41-1279.07 are pending, the reasons for
43 the delay and the estimated date of completion.

44 G. If the governing body of a city or town is required to complete the
45 form as prescribed by subsection F of this section, the governing body shall

1 send a copy of the form to the auditor general, the speaker of the house of
2 representatives and the president of the senate.

3 Sec. 3. Section 41-725, Arizona Revised Statutes, is amended to read:

4 41-725. Comprehensive database of receipts and expenditures of
5 state monies; local reporting; definition

6 A. The department shall establish and maintain an official internet
7 website that is electronically searchable by the public at no cost and that
8 contains a comprehensive database of receipts and expenditures of state
9 monies. The database shall include the information as prescribed in the
10 comprehensive annual financial report of a budget unit that has been made by
11 a certified public accountant or public accountant who is currently licensed
12 by the Arizona state board of accountancy **OR WHO HAS A LIMITED RECIPROCITY**
13 **PRIVILEGE PURSUANT TO SECTION 32-725** and who is not an employee of the
14 department. The report shall be made in accordance with generally accepted
15 auditing standards and shall contain financial statements that are in
16 conformity with generally accepted accounting principles. If the department
17 has a comprehensive annual financial report of a budget unit that has been
18 presented with a certificate of achievement for excellence in financial
19 reporting by the governmental finance officers association, the department
20 may post such a financial report to satisfy the requirements of this
21 subsection.

22 B. The department must present information in the database in a manner
23 that is intuitive to members of the general public, including graphical
24 representations. The database must allow users to:

25 1. Search and aggregate payments by individual budget units and
26 programs.

27 2. Search and aggregate payments by individual vendors, including the
28 total amount of state funding awarded by all budget units to individual
29 vendors.

30 3. Download information yielded by a search of the database.

31 4. Access electronic versions of contracts that relate to
32 expenditures.

33 C. The database shall include the following information:

34 1. Annual receipts of revenues, including:

35 (a) Receipts or deposits by each state budget unit into funds
36 established in the state treasury.

37 (b) Taxes.

38 (c) Earnings by each budget unit, including amounts collected for
39 merchandise sold, services performed and licenses, certifications and permits
40 issued.

41 (d) Revenue from the use of publicly owned money or property,
42 including leases and licenses.

43 (e) Gifts, donations and grants received, including amounts received
44 from the federal government.

- 1 (f) Any other type of public revenue, however denominated or derived,
2 deposited into the state treasury.
- 3 2. Annual expenditures and disbursements of state revenues by each
4 state budget unit from funds established in the state treasury, as
5 applicable, including:
- 6 (a) Bond payments, debt service and redemption charges and fees.
7 (b) Contractual services and cooperative agreements.
8 (c) Commodities.
9 (d) Capital outlay.
10 (e) Revenue sharing and other aid to other levels of government,
11 including tribal governments.
12 (f) Any other expenditure or disbursement of state revenue from the
13 state treasury, however denominated or structured.
- 14 D. Expenditure data shall list:
- 15 1. The manner of payment, including check or warrant or credit, debit
16 or other purchase card.
17 2. The funding source, including categorical codes and the state
18 accounts the expenditure is appropriated from.
19 3. A standardized descriptive title of the type and purpose of the
20 transaction.
21 4. The date and amount of each payment.
22 5. The state agency or budget unit making the payment.
23 6. The name of the person or entity receiving the payment, including
24 to the extent ~~practical~~ PRACTICABLE a parent entity of the recipient if the
25 recipient is owned by another entity.
26 7. The primary location of performance under the contract, including
27 the county, city or town and legislative district.
- 28 E. The database shall not include:
- 29 1. Tax payment or refund data that include confidential taxpayer
30 information.
31 2. Data relating to payments of state assistance to individual
32 recipients.
33 3. Payees' addresses or telephone numbers, but the department may
34 allow public access in the database to information identifying the county in
35 which the payee is located.
36 4. Work product in anticipation of litigation or information subject
37 to attorney-client privilege.
38 5. Any other information that is designated by law as confidential or
39 preapproved as confidential by the department pursuant to rule. The
40 department and any officer or employee of the department:
- 41 (a) May rely on a determination made by a budget unit regarding
42 confidentiality of information relating to the budget unit's expenditures.
43 (b) Are immune from civil liability for posting confidential
44 information under this section if the posting is in reliance on the budget
45 unit's determination relating to confidentiality.

1 F. Each budget unit shall cooperate with the department as necessary
2 to implement and administer this section. Each budget unit shall provide to
3 the department any additional data in a manner and schedule prescribed by the
4 department that are required to be included in the database. The database
5 shall be updated within thirty days after the end of each fiscal year and may
6 be updated as new data become available. The data shall be retained in the
7 database for at least ten full fiscal years.

8 G. The governor, secretary of state, state treasurer and legislature
9 shall include a link to the database under this section in their individual
10 official websites. Each budget unit that maintains a generally accessible
11 internet website, or for which a generally accessible website is maintained,
12 shall include a link on that website to the database under this section.

13 H. ~~On or before January 1, 2013,~~ Each local government shall establish
14 and maintain an official internet website that is accessible to the public at
15 no cost and that contains a comprehensive reporting of all revenues and
16 expenditures over five thousand dollars of local monies in as nearly as
17 practicable the same manner and consistent with ~~the provisions of~~ subsections
18 B through E **OF THIS SECTION**. The database shall include the information as
19 prescribed in the comprehensive annual financial report of a budget unit that
20 has been made by a certified public accountant or public accountant who is
21 currently licensed by the Arizona state board of accountancy **OR WHO HAS A**
22 **LIMITED RECIPROCITY PRIVILEGE PURSUANT TO SECTION 32-725** and who is not an
23 employee of the local government. The report shall be made in accordance
24 with generally accepted auditing standards and shall contain financial
25 statements that are in conformity with generally accepted accounting
26 principles. If a local government has a comprehensive annual financial
27 report of a budget unit that has been presented with a certificate of
28 achievement for excellence in financial reporting by the governmental finance
29 officers association, the local government may post such a financial report
30 to satisfy the requirements of this subsection. A link to this data shall be
31 displayed in a prominent place on the local government's official internet
32 website or on a website of an association of cities and towns for cities and
33 towns that do not have official websites and on the department's official
34 internet website as prescribed in this section. The data shall be updated no
35 less frequently than every three months and may be updated as new data
36 becomes available. The data shall be retained and accessible online for at
37 least three fiscal years.

38 I. For the purposes of this section "local government" means:

- 39 1. A county, city or town with a population of more than twenty-five
40 hundred persons.
- 41 2. Any community college district and school district having a student
42 count of more than six hundred pupils.
- 43 3. A state university.

1 (e) Agrees to allow site visits and audits to verify the applicant's
2 continuing qualification and the accuracy of information submitted to the
3 authority.

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

6 9. Letters of good standing from the department of revenue and the
7 county treasurer of the county in which the project is located stating that
8 the applicant is in good standing and is not delinquent in the payment of
9 taxes.

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

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

16 (a) At least fifty-one ~~per-cent~~ PERCENT of the net new full-time
17 employment positions at the renewable energy operation pay a wage that equals
18 or exceeds one hundred twenty-five ~~per-cent~~ PERCENT of the median annual wage
19 in this state, as determined by the most recent annual Arizona commerce
20 authority occupational wage and employment estimates issued before the
21 preapproval is issued pursuant to subsection I of this section.

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

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

32 (a) At least one hundred twenty-five, but less than two hundred, ~~per~~
33 ~~cent~~ PERCENT of the median annual wage in this state, as determined by the
34 most recent annual Arizona commerce authority occupational wage and
35 employment estimates issued before the preapproval is issued pursuant to
36 subsection I of this section, the property may be classified as class six for
37 ten tax years.

38 (b) At least two hundred ~~per-cent~~ PERCENT of the median annual wage in
39 this state, as determined by the most recent annual Arizona commerce
40 authority occupational wage and employment estimates issued before the
41 preapproval is issued pursuant to subsection I of this section, the property
42 may be classified as class six for fifteen tax years.

43 D. Final eligibility for the tax incentives is subject to any
44 additional requirements prescribed by sections 42-12006, 43-1083.01 and
45 43-1164.01, as applicable.

- 1 E. An applicant may separately apply and qualify with respect to
2 investments for:
- 3 1. Renewable energy operations in separate locations.
 - 4 2. Separate expansions of a renewable energy operation.
- 5 F. To determine the amount of income tax credit to be preapproved to a
6 qualifying applicant, the authority shall use one of the following
7 computations:
- 8 1. Ten ~~per-cent~~ PERCENT of the amount the applicant has projected in
9 total qualifying investment in renewable energy operations meeting the
10 following minimum employment requirements:
 - 11 (a) For renewable energy manufacturing operations, at least one and
12 one-half new full-time employment positions projected by the applicant for
13 each five hundred thousand dollar increment of capital investment.
 - 14 (b) For renewable energy business headquarters, at least one new
15 full-time employment position projected by the applicant for each two hundred
16 thousand dollar increment of capital investment.
 - 17 2. For other qualifying renewable energy investment, ten ~~per-cent~~
18 PERCENT of the amount computed as follows:
 - 19 (a) Five hundred thousand dollars for each one and one-half new
20 full-time employment positions projected by the applicant in new renewable
21 energy manufacturing operations.
 - 22 (b) Two hundred thousand dollars for each new full-time employment
23 position projected by the applicant at a new renewable energy business
24 headquarters.
- 25 G. Beginning with income tax credits allocated for 2010, an approved
26 income tax credit:
- 27 1. Must be claimed on a timely filed original income tax return,
28 including extensions.
 - 29 2. Must be claimed in five equal installments as provided in section
30 43-1083.01 or 43-1164.01.
- 31 H. The authority shall establish a process for qualifying and
32 preapproving applicants for the tax incentives. The authority shall not
33 preapprove an applicant as qualifying for tax incentives under this section
34 for taxable years beginning from and after December 31, 2019. Preapproval is
35 based on:
- 36 1. Priority placement established by the date that the applicant files
37 its initial application with the authority.
 - 38 2. The availability of income tax credit capacity under the dollar
39 limit prescribed by subsection J of this section.
- 40 I. Within thirty days after receiving a complete and correct
41 application, the authority shall review the application to determine whether
42 the applicant satisfies all of the criteria prescribed by this section and
43 either preapprove the project as qualifying for the purposes of the tax
44 incentives or provide reasons for its denial. The authority shall send

1 copies of the preapproval to the department of revenue and the applicable
2 county assessor.

3 J. The authority shall not preapprove income tax credits under this
4 section and section 41-1512 that combined would exceed seventy million
5 dollars in any calendar year, except as provided by this subsection and
6 subsection K of this section. The authority shall not preapprove income tax
7 credits under this section for any one taxpayer in excess of thirty million
8 dollars in any calendar year. A preapproved amount applies against the
9 dollar limit for the year in which the application was submitted regardless
10 of whether the initial preapproval period extends into the following year or
11 years. If, at the end of any year, an unused balance occurs under the dollar
12 limit prescribed by this subsection:

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

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

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

23 K. The authority shall reallocate the amount of income tax credits
24 that are voluntarily relinquished under subsection L of this section, that
25 lapse under subsection M of this section or that lapse under subsection P of
26 this section. The reallocation shall be to other businesses that applied
27 under this section or section 41-1512 in the original credit year based on
28 priority placement. Once reallocated, the amount of the credit applies
29 against the dollar limit of the original credit year regardless of the year
30 in which the reallocation occurs.

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

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

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

1 0. Before an applicant applies for postapproval under subsection P of
2 this section, the applicant must enter into a written managed review
3 agreement with the chief executive officer of the authority that establishes
4 the requirements of a managed review to be conducted under this subsection at
5 the applicant's expense. The managed review must be conducted by a certified
6 public accountant who is selected by the applicant, who is licensed in this
7 state OR WHO HAS A LIMITED RECIPROCITY PRIVILEGE PURSUANT TO SECTION 32-725
8 and who is approved by the chief executive officer. The certified public
9 accountant and the firm the certified public accountant is affiliated with
10 shall not regularly perform services for the applicant or its affiliates.
11 The managed review shall include an analysis of the applicant's invoices,
12 checks, accounting records and other documents and information to verify its
13 base investment and other requirements prescribed by section 42-12006,
14 43-1083.01 or 43-1164.01 to confirm the amount of credit or property tax
15 incentive. The certified public accountant shall furnish written findings of
16 the managed review to the chief executive officer. The chief executive
17 officer shall review the findings and may examine records and perform other
18 reviews that the chief executive officer considers necessary to verify that
19 the managed review substantially conforms to the terms of the managed review
20 agreement. The chief executive officer shall accept or reject the findings
21 of the managed review. If the chief executive officer rejects all or part of
22 the managed review, the chief executive officer shall provide written reasons
23 for the rejection.

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

- 42 1. A headquarters facility opens for public business.
43 2. A manufacturing facility begins producing commercial quantities of
44 usable products.

1 Q. The authority may rescind the business' postapproval if the
2 business no longer meets the terms and conditions required for qualifying for
3 the tax incentives. The authority may give special consideration, or allow
4 temporary exemption from recapture of tax benefits, in the case of
5 extraordinary hardship due to factors beyond the control of the qualifying
6 business.

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

15 S. Preapproval and postapproval of a business for the purposes of tax
16 incentives under this section do not constitute or imply compliance with any
17 other provision of law or any regulatory rule, order, procedure, permit or
18 other measure required by law. To maintain qualification for tax incentives
19 under this section, a business must separately comply with all environmental,
20 employment and other regulatory measures.

21 T. For five years after postapproval for tax incentives under this
22 section, in any action involving the liquidation of the business assets or
23 relocation out of state, this state claims the position of a secured creditor
24 of the business in the amount of income tax credits and property tax
25 incentives the business received pursuant to section 42-12006, 43-1083.01 or
26 43-1164.01.

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

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

34 2. The amount of credits postapproved with respect to each qualifying
35 investment.

36 V. The authority shall:

37 1. Keep annual records of the information provided on applications for
38 renewable energy businesses. These records shall reflect a percentage
39 comparison of the annual amount of monies exempted or credited to qualifying
40 renewable energy businesses to the estimated amount of monies spent in this
41 state in the form of qualifying investments.

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

44 3. Not later than April 30 of each year, prepare and publish a report
45 summarizing the information collected pursuant to this subsection. The

1 authority shall make copies of the annual report available to the public on
2 request.

3 W. The authority shall adopt rules and prescribe forms and procedures
4 as necessary for the purposes of this section. The authority and the
5 department of revenue shall collaborate in adopting rules as necessary to
6 avoid duplication and inconsistencies while accomplishing the intent and
7 purposes of this section.

8 X. For the purposes of this section:

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

12 2. "Headquarters" means a principal central administrative office
13 where primary headquarters related functions and services are performed,
14 including financial, personnel, administrative, legal, planning and similar
15 business functions.

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

20 4. "Primarily engaged" means that more than fifty ~~per-cent~~ PERCENT of
21 a company's business activity at a particular facility directly involves
22 renewable energy operations, measured by revenues received, expenses
23 incurred, square footage or the number of individuals employed.

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

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

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

37 8. "Renewable energy business" means a person primarily engaged in the
38 business of renewable energy manufacturing operations or renewable energy
39 headquarters operations.

40 9. "Renewable energy operations" are limited to manufacturers of, and
41 headquarters for, systems and components that are used or useful in
42 manufacturing renewable energy equipment for the generation, storage, testing
43 and research and development, transmission or distribution of electricity
44 from renewable resources, including specialized crates necessary to package

1 the renewable energy equipment manufactured at the qualifying renewable
2 energy operation.

3 10. "Renewable energy resource" means a resource that is replaced by
4 natural and assisted processes at a rate that is comparable to or faster than
5 the rate of natural depletion and consumption by humans.

6 Sec. 5. Section 41-1512, Arizona Revised Statutes, is amended to read:
7 41-1512. Qualified facility income tax credits; qualification;
8 definitions

9 A. For taxable years beginning from and after December 31, 2012,
10 income tax credits are allowed for expanding or locating a qualified facility
11 in this state pursuant to sections 43-1083.03 and 43-1164.04. Only capital
12 investments in a qualified facility that are made on or after July 1, 2012
13 are included in the computation of the credit.

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

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

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

21 3. The address of the site where the qualified facility will be
22 located.

23 4. A detailed description of the qualified facility and fixed capital
24 assets.

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

27 (a) A schedule of qualifying investments.

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

32 6. A nonrefundable processing fee in an amount determined by the
33 authority.

34 7. Other information as required by the authority to determine
35 eligibility for the income tax credits and the amount of income tax credits,
36 as prescribed by this section.

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

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

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

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

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

4 (e) Agrees to allow site visits and audits to verify the applicant's
5 continuing qualification and the accuracy of information submitted to the
6 authority.

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

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

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

13 1. The applicant makes new capital investment in this state after June
14 30, 2012 in a qualified facility that is completed in a taxable year
15 beginning from and after December 31, 2012.

16 2. At least fifty-one ~~per-cent~~ PERCENT of the net new full-time
17 employment positions at the qualified facility pay a wage that equals or
18 exceeds one hundred twenty-five ~~per-cent~~ PERCENT of the median annual wage in
19 this state, as determined by the most recent annual Arizona commerce
20 authority occupational wage and employment estimates issued before the
21 preapproval is issued pursuant to subsection I of this section.

22 3. All net new full-time employment positions include health insurance
23 coverage for the employees for which the applicant pays at least eighty ~~per~~
24 ~~cent~~ PERCENT of the premium or membership cost.

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

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

30 F. The amount of the income tax credit to be preapproved by the
31 authority to a qualifying applicant is ten ~~per-cent~~ PERCENT of the lesser of:

32 1. The amount the applicant has projected in total qualifying
33 investment in the qualified facility.

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

36 G. Beginning with income tax credits allocated for 2013, an approved
37 credit:

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

40 2. Must be claimed in five equal installments as provided by section
41 43-1083.03 or 43-1164.04.

42 H. The authority shall establish a process for qualifying and
43 preapproving applicants for the income tax credits. The authority shall not
44 preapprove applicants as qualifying for credits under this section for any

1 taxable year beginning from and after December 31, 2019. Preapproval is
2 based on:

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

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

7 I. Within thirty days after receiving a complete and correct
8 application, the authority shall review the application to determine whether
9 the applicant satisfies all of the criteria prescribed by this section and
10 either preapprove the project as qualifying for the purposes of an income tax
11 credit or provide reasons for its denial. The authority shall send copies of
12 each preapproval to the department of revenue.

13 J. The authority shall not preapprove income tax credits under this
14 section and section 41-1511 that combined would exceed the limits prescribed
15 by section 41-1511, subsection J. A preapproved amount applies against the
16 dollar limit for the year in which the application was submitted regardless
17 of whether the initial preapproval period extends into the following year or
18 years. A business shall not be preapproved for credits under both this
19 section and section 41-1511 for the same capital investment. The authority
20 shall not preapprove income tax credits under this section for any taxpayer
21 in excess of thirty million dollars in any calendar year.

22 K. The authority shall reallocate the amount of income tax credits
23 that are voluntarily relinquished under subsection L of this section, that
24 lapse under subsection M of this section or that lapse under subsection P of
25 this section. The reallocation shall be to other businesses that applied
26 under this section or section 41-1511 in the original credit year based on
27 priority placement. Once reallocated, the amount of the credit applies
28 against the dollar limit of the original credit year regardless of the year
29 in which the reallocation occurs.

30 L. A taxpayer may voluntarily relinquish unused credit amounts in
31 writing to the authority.

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

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

1 0. Before an applicant applies for postapproval under subsection P of
 2 this section, the applicant must enter into a written managed review
 3 agreement with the chief executive officer of the authority that establishes
 4 the requirements of a managed review to be conducted under this subsection at
 5 the applicant's expense. The managed review must be conducted by a certified
 6 public accountant who is selected by the applicant, who is licensed in this
 7 state OR WHO HAS A LIMITED RECIPROCITY PRIVILEGE PURSUANT TO SECTION 32-725
 8 and who is approved by the chief executive officer. The certified public
 9 accountant and the firm the certified public accountant is affiliated with
 10 shall not regularly perform services for the applicant or its affiliates.
 11 The managed review shall include an analysis of the applicant's invoices,
 12 checks, accounting records and other documents and information to verify its
 13 base investment and other requirements prescribed by section 43-1083.03 or
 14 43-1164.04 to confirm the amount of credit. The certified public accountant
 15 shall furnish written findings of the managed review to the chief executive
 16 officer. The chief executive officer shall review the findings and may
 17 examine records and perform other reviews that the chief executive officer
 18 considers necessary to verify that the managed review substantially conforms
 19 to the terms of the managed review agreement. The chief executive officer
 20 shall accept or reject the findings of the managed review. If the chief
 21 executive officer rejects all or part of the managed review, the chief
 22 executive officer shall provide written reasons for the rejection.

23 P. When the qualified facility begins operations, a business that was
 24 preapproved for income tax credits under this section shall apply to the
 25 authority in writing for postapproval of the credits and submit documentation
 26 certifying the total amount and dates of the qualifying investments and
 27 identifying the fixed capital assets associated with the qualified facility
 28 incurred after June 30, 2012 through the date of application for
 29 postapproval. For taxable years beginning from and after December 31, 2012,
 30 the authority shall provide postapproval to a business that has met the
 31 eligibility requirements of this section and shall notify the department of
 32 revenue that the business may claim an income tax credit pursuant to section
 33 43-1083.03 or 43-1164.04. If the amount of qualifying investment actually
 34 spent is less than the amount preapproved for income tax credits, the
 35 preapproved amount not incurred lapses and does not apply against the dollar
 36 limit prescribed by section 41-1511, subsection J for that year. The
 37 department of revenue shall not allow an income tax credit under section
 38 43-1083.03 or 43-1164.04 that exceeds the amount of the postapproval for the
 39 project under this subsection. For the purposes of this subsection, "begins
 40 operations" means the qualified facility opens for public business.

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

1 R. If the authority rescinds an applicant's preapproval or
2 postapproval under subsection Q of this section, it shall notify the
3 department of revenue of the action and the conditions of noncompliance. If
4 the department of revenue obtains information indicating a possible failure
5 to qualify and comply, it shall provide that information to the authority.
6 The department of revenue may require the business to file appropriate
7 amended tax returns reflecting any recapture of the credit under section
8 43-1083.03 or 43-1164.04.

9 S. Preapproval and postapproval of an applicant for the purposes of
10 income tax credits under this section do not constitute or imply compliance
11 with any other provision of law or any regulatory rule, order, procedure,
12 permit or other measure required by law. To maintain qualification for a
13 credit under this section, a business must separately comply with all
14 environmental, employment and other regulatory measures.

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

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

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

29 2. The amount of income tax credits postapproved with respect to each
30 qualifying investment.

31 V. The authority shall:

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

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

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

42 W. The authority shall adopt rules and prescribe forms and procedures
43 as necessary for the purposes of this section. The authority and the
44 department of revenue shall collaborate in adopting rules as necessary to

1 avoid duplication and inconsistencies while accomplishing the intent and
2 purposes of this section.

3 X. For the purposes of this section:

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

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

12 3. "Headquarters" means a principal central administrative office
13 where primary headquarters related functions and services are performed,
14 including financial, personnel, administrative, legal, planning and similar
15 business functions.

16 4. "Manufacturing" means fabricating, producing or manufacturing raw
17 or prepared materials into usable products, imparting new forms, qualities,
18 properties and combinations. Manufacturing does not include generating
19 electricity.

20 5. "Qualified facility" means a facility in this state that devotes at
21 least eighty ~~per-cent~~ PERCENT of the property and payroll at the facility to
22 one or more of the following:

23 (a) Qualified manufacturing.

24 (b) Qualified headquarters.

25 (c) Qualified research.

26 6. "Qualified headquarters" means a global, national or regional
27 headquarters for a taxpayer that is involved in manufacturing and that
28 derives at least sixty-five ~~per-cent~~ PERCENT of its revenue from out-of-state
29 sales.

30 7. "Qualified manufacturing" means manufacturing tangible products in
31 this state if at least sixty-five ~~per-cent~~ PERCENT of the product will be
32 sold out-of-state.

33 8. "Qualified research" has the same meaning prescribed by section
34 41(d) of the internal revenue code, as defined by section 43-105, except that
35 the research must be conducted by a taxpayer involved in manufacturing that
36 derives at least sixty-five ~~per-cent~~ PERCENT of its revenue from out-of-state
37 sales.

38 9. "Qualifying investment" means investment in land, buildings,
39 machinery, equipment and fixtures for expansion of an existing qualified
40 facility or establishment of a new qualified facility in this state after
41 June 30, 2012 for a facility completed in a taxable year beginning from and
42 after December 31, 2012. Qualifying investment does not include relocating
43 an existing qualified facility in this state to another location in this
44 state without additional capital investment of at least two hundred fifty
45 thousand dollars.

1 Sec. 6. Section 43-1507, Arizona Revised Statutes, is amended to read:
2 43-1507. Audits and financial reviews

3 A. On or before September 30 of each year, each school tuition
4 organization that received one million dollars or more in total donations in
5 the previous fiscal year shall provide for a financial audit of the
6 organization. The audit must be conducted in accordance with generally
7 accepted auditing standards and must evaluate the organization's compliance
8 with section 43-1503, subsection B, paragraph 1. The audit must be conducted
9 by an independent certified public accountant WHO IS licensed in this state
10 OR WHO HAS A LIMITED RECIPROCITY PRIVILEGE PURSUANT TO SECTION 32-725. The
11 certified public accountant and the firm the certified public accountant is
12 affiliated with shall be independent with respect to the organization, its
13 officers and directors, services performed and all other independent
14 relationships prescribed by generally accepted auditing standards.

15 B. On or before September 30 of each year, each school tuition
16 organization that received less than one million dollars in total donations
17 in the previous fiscal year shall provide for a financial review of the
18 organization. The review must be conducted in accordance with standards for
19 accounting and review services and must evaluate the organization's
20 compliance with the fiscal requirements of this article. The review must be
21 conducted by an independent certified public accountant WHO IS licensed in
22 this state OR WHO HAS A LIMITED RECIPROCITY PRIVILEGE PURSUANT TO SECTION
23 32-725. The certified public accountant and the firm the certified public
24 accountant is affiliated with shall be independent with respect to the
25 organization, its officers and directors, services performed and all other
26 independent relationships prescribed by generally accepted auditing
27 standards.

28 C. Within five days after receiving the audit or financial review, the
29 school tuition organization shall file a signed copy of the audit or
30 financial review with the department.

31 D. The school tuition organization shall pay the fees and costs of the
32 certified public accountant under this section from the organization's
33 operating monies. The fees and costs shall be excluded from the calculation
34 of total revenues spent on scholarships and tuition grants.

35 Sec. 7. Section 43-1605, Arizona Revised Statutes, is amended to read:
36 43-1605. Audits and financial reviews

37 A. On or before September 30 of each year, each school tuition
38 organization that received one million dollars or more in total donations in
39 the previous fiscal year shall provide for a financial audit of the
40 organization. The audit must be conducted in accordance with generally
41 accepted auditing standards and must evaluate the organization's compliance
42 with section 43-1603, subsection B, paragraph 1. The audit must be conducted
43 by an independent certified public accountant WHO IS licensed in this state
44 OR WHO HAS A LIMITED RECIPROCITY PRIVILEGE PURSUANT TO SECTION 32-725. The
45 certified public accountant and the firm the certified public accountant is

1 affiliated with shall be independent with respect to the organization, its
2 officers and directors, services performed and all other independent
3 relationships prescribed by generally accepted auditing standards.

4 B. On or before September 30 of each year, each school tuition
5 organization that received less than one million dollars in total donations
6 in the previous fiscal year shall provide for a financial review of the
7 organization. The review must be conducted in accordance with standards for
8 accounting and review services and must evaluate the organization's
9 compliance with the fiscal requirements of this article. The review must be
10 conducted by an independent certified public accountant WHO IS licensed in
11 this state OR WHO HAS A LIMITED RECIPROCITY PRIVILEGE PURSUANT TO SECTION
12 32-725. The certified public accountant and the firm the certified public
13 accountant is affiliated with shall be independent with respect to the
14 organization, its officers and directors, services performed and all other
15 independent relationships prescribed by generally accepted auditing
16 standards.

17 C. Within five days after receiving the audit or financial review the
18 school tuition organization shall file a signed copy of the audit or
19 financial review with the department.

20 D. The school tuition organization shall pay the fees and costs of the
21 certified public accountant under this section from the organization's
22 operating monies. The fees and costs shall be excluded from the calculation
23 of total revenues spent on scholarships and tuition grants.