

State of Arizona
House of Representatives
Fifty-fourth Legislature
Second Regular Session
2020

HOUSE BILL 2771

AN ACT

AMENDING SECTIONS 41-1512, 41-1520, 43-1083.03, 43-1164.04, 43-1164.05 AND 43-1168, ARIZONA REVISED STATUTES; AMENDING LAWS 2016, CHAPTER 372, SECTION 68; 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 41-1512, Arizona Revised Statutes, is amended to
3 read:

4 41-1512. Qualified facility income tax credits:
5 qualification; definitions

6 A. For taxable years beginning from and after December 31, 2012,
7 income tax credits are allowed for expanding or locating a qualified
8 facility in this state pursuant to sections 43-1083.03 and 43-1164.04.
9 Only capital investments in a qualified facility that are made ~~on or after~~
10 ~~July 1, 2012~~ NOT MORE THAN THIRTY-SIX MONTHS BEFORE SUBMITTING AN
11 APPLICATION FOR PREAPPROVAL are included in the computation of the credit.

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

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

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

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

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

24 5. An estimate of the capital investment and number of employment
25 positions ~~at~~ WITH JOB DUTIES ASSOCIATED WITH the qualified facility,
26 including:

27 (a) A schedule of qualifying investments.

28 (b) A list of full-time employment positions, the estimated number
29 of employees to be hired for the positions each year during the first five
30 years of operation and the annual wages for each position, calculated
31 without 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
36 credits, as prescribed by this section.

37 8. An affirmation, signed by an authorized executive representing
38 the 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
42 full calendar years after postapproval for the credit, other than for
43 reasons 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
2 to the authority pursuant to section 42-2003 for the purpose of
3 determining any inconsistency in information furnished by the applicant.

4 (e) Agrees to allow site visits and audits to verify the
5 applicant's continuing qualification and the accuracy of information
6 submitted to the 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~~ PAYING 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
14 June 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 percent of the net new full-time employment
17 positions ~~at~~ WITH JOB DUTIES ASSOCIATED WITH the qualified facility pay a
18 wage that equals or exceeds one hundred twenty-five percent, or one
19 hundred percent in the case of a qualified facility in a rural location,
20 of the median annual wage for production occupations in this state, as
21 determined by the most recent annual Arizona commerce authority
22 occupational wage and employment estimates issued before the preapproval
23 is issued pursuant to subsection I of this section.

24 3. All net new full-time employment positions include health
25 insurance coverage for the employees for which the applicant pays at least
26 sixty-five percent of the premium or membership cost.

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

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

32 F. The amount of the income tax credit to be preapproved by the
33 authority to a qualifying applicant is ten percent of the lesser of:

34 1. The amount the applicant has projected in total qualifying
35 investment in the qualified facility.

36 2. ~~Two hundred thousand dollars~~ \$200,000 for each net new full-time
37 employment position projected by the applicant ~~at~~ THAT HAS JOB DUTIES
38 ASSOCIATED WITH a qualified facility.

39 G. Beginning with income tax credits allocated for 2013, an
40 approved credit:

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

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

1 H. The authority shall establish a process for qualifying and
2 preapproving applicants for the income tax credits. The authority shall
3 not preapprove applicants as qualifying for credits under this section for
4 any taxable year beginning from and after December 31, ~~2022~~ 2030.
5 Preapproval is based on:

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

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

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

16 J. The authority shall not preapprove income tax credits under this
17 section that combined would exceed ~~seventy million dollars~~ \$70,000,000 in
18 any calendar year, except as provided by this subsection and subsection K
19 of this section. A preapproved amount applies against the dollar limit
20 for the year in which the application was submitted regardless of whether
21 the initial preapproval period extends into the following year or years.
22 The authority shall not preapprove income tax credits under this section
23 for any taxpayer in excess of ~~thirty million dollars~~ \$30,000,000 in any
24 calendar year.

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

33 L. A taxpayer may voluntarily relinquish unused credit amounts in
34 writing to the authority.

35 M. Preapproval under this section lapses, the application is void
36 and the amount of the preapproved income tax credits does not apply
37 against the dollar limit prescribed by subsection J of this section if,
38 within twelve months after preapproval, the business fails to provide to
39 the authority documentation of its expenditure of ~~two hundred fifty~~
40 ~~thousand dollars~~ \$250,000 in qualifying investment or, if the period over
41 which the qualifying investment will be made exceeds twelve months,
42 documentation of additional expenditures as required in this subsection
43 for each twelve-month period.

44 N. After October 31 of each year, if the authority has preapproved
45 the maximum calendar year income tax credit amount pursuant to subsection

1 J of this section, the authority may accept initial applications for the
2 next calendar year, but the preapproval of any application pursuant to
3 this subsection shall not be effective before the first business day of
4 the following calendar year.

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

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

1 this subsection, "begins operations" means the qualified facility opens
2 for public business.

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

9 R. If the authority rescinds an applicant's preapproval or
10 postapproval under subsection Q of this section, ~~it~~ THE AUTHORITY shall
11 notify the department of revenue of the action and the conditions of
12 noncompliance. If the department of revenue obtains information
13 indicating a possible failure to qualify and comply, ~~it~~ THE DEPARTMENT
14 shall provide that information to the authority. The department of
15 revenue may require the business to file appropriate amended tax returns
16 reflecting any recapture of the credit under section 43-1083.03 or
17 43-1164.04.

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

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

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

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

38 2. The amount of income tax credits postapproved with respect to
39 each qualifying investment.

40 V. The authority shall:

41 1. Keep annual records of the information provided on applications
42 for qualified facilities. These records shall reflect a percentage
43 comparison of the annual amount of monies credited to qualified facilities
44 to the estimated amount of monies spent in this state in the form of
45 qualifying investments.

- 1 2. Maintain annual data on growth in this state of qualified
2 facilities and related employment and wages.
- 3 3. Not later than April 30 following each calendar year, prepare
4 and publish a report summarizing the information collected pursuant to
5 this subsection. The authority shall make copies of the annual report
6 available to the public on request.
- 7 W. The authority shall adopt rules and prescribe forms and
8 procedures as necessary for the purposes of this section. The authority
9 and the department of revenue shall collaborate in adopting rules as
10 necessary to avoid duplication and inconsistencies while accomplishing the
11 intent and purposes of this section.
- 12 X. For the purposes of this section:
- 13 1. "Capital investment" means an expenditure to acquire, lease or
14 improve property that is used in operating a business, including land,
15 buildings, machinery, equipment and fixtures.
- 16 2. "Facility" means a single parcel or contiguous parcels of owned
17 or leased land in this state, the structures and personal property
18 contained on the land or any part of the structures occupied by the owner.
19 Parcels that are separated only by a public thoroughfare or right-of-way
20 are considered to be contiguous.
- 21 3. "Headquarters" means a principal central administrative office
22 where primary headquarters related functions and services are performed,
23 including financial, personnel, administrative, legal, planning and
24 similar business functions.
- 25 4. "Manufacturing" means fabricating, producing or manufacturing
26 raw or prepared materials into usable products, imparting new forms,
27 qualities, properties and combinations. Manufacturing does not include
28 generating electricity.
- 29 5. "Qualified facility" means a facility in this state that devotes
30 at least eighty percent of the property and payroll at the facility to one
31 or more of the following:
- 32 (a) Qualified manufacturing.
33 (b) Qualified headquarters.
34 (c) Qualified research.
- 35 6. "Qualified headquarters" means a global, national or regional
36 headquarters for a taxpayer that is involved in manufacturing and that
37 derives at least sixty-five percent of its revenue from out-of-state
38 sales.
- 39 7. "Qualified manufacturing" means manufacturing tangible products
40 in this state if at least sixty-five percent of the product will be sold
41 out of state.
- 42 8. "Qualified research" has the same meaning prescribed by section
43 41(d) of the internal revenue code, as defined by section 43-105, except
44 that the research must be conducted by a taxpayer involved in

1 manufacturing that derives at least sixty-five percent of its revenue from
2 out-of-state sales.

3 9. "Qualifying investment" means investment in land, buildings,
4 machinery, equipment and fixtures for expansion of an existing qualified
5 facility or establishment of a new qualified facility in this state after
6 June 30, 2012 for a facility completed in a taxable year beginning from
7 and after December 31, 2012. If the qualified facility is a build-to-suit
8 facility leased to the taxpayer, qualifying investment includes the costs
9 prescribed in this paragraph that are spent by the third-party developer
10 with respect to the qualified facility. Qualifying investment does not
11 include relocating an existing qualified facility in this state to another
12 location in this state without additional capital investment of at least
13 ~~two hundred fifty thousand dollars~~ \$250,000.

14 10. "Rural location" means a location that is within the boundaries
15 of tribal lands or a city or town with a population of less than fifty
16 thousand persons or a county with a population of less than eight hundred
17 thousand persons.

18 Sec. 2. Section 41-1520, Arizona Revised Statutes, is amended to
19 read:

20 41-1520. International operations center; utility relief;
21 certification; revocation; definitions

22 A. Utility relief is allowed for the owner or operator of an
23 international operations center that is certified pursuant to this
24 section.

25 B. To qualify for the utility relief, the owner or operator must
26 submit to the authority an application in a form prescribed by the
27 authority that includes all of the following:

28 1. The owner's or operator's name, address and telephone number.

29 2. The address of the site where the facility is or will be
30 located, including, if applicable, information sufficient to identify the
31 specific portion or portions of the facility comprising the international
32 operations center.

33 C. Within sixty days after receiving a complete and correct
34 application, the authority shall review the application and either issue a
35 written certification that the international operations center qualifies
36 for the utility relief or provide written reasons for its denial. A
37 failure to approve or deny the application within sixty days after the
38 date of submittal constitutes certification of the international
39 operations center, and the authority shall issue written certification to
40 the owner or operator within fourteen days. The authority shall send a
41 copy of the certification to the department of revenue.

42 D. The owner or operator of the international operations center
43 must achieve both of the following investment requirements after taking
44 into account the combined investments made by the owner or operator:

1 1. A minimum annual investment of \$100,000,000 in new capital
2 assets, including costs of land, buildings and international operations
3 center equipment in each of ten consecutive taxable years of the owner or
4 operator. Investments greater than \$100,000,000 in any taxable year may
5 be carried forward as a credit toward the investment requirement in future
6 years.

7 2. On or before the tenth anniversary of certification, a minimum
8 investment of at least \$1,250,000,000 in new capital assets, including
9 costs of land, buildings and international operations center equipment.

10 E. Within thirty days after the end of each taxable year following
11 certification, and within thirty days after the tenth anniversary of
12 certification, the owner or operator shall furnish the authority written
13 information demonstrating whether the certified international operations
14 center has or has not satisfied the investment requirements prescribed in
15 subsection D of this section. Until the investment requirements
16 prescribed in subsection D of this section are met, the owner or operator
17 shall keep detailed records of all capital investment in the international
18 operations center, including costs of land, buildings and international
19 operations center equipment, and all utility relief directly received by
20 the owner or operator.

21 F. If the authority determines that the requirements of this
22 section have not been satisfied, the authority may revoke the
23 certification of the international operations center and notify the
24 department of revenue in writing. The owner or operator may appeal the
25 revocation. The authority may give special consideration or allow a
26 temporary exception if there is extraordinary hardship due to factors
27 beyond the owner's or operator's control. If certification is revoked,
28 the department of revenue shall order the owner or operator to forfeit
29 further entitlement to utility relief. If the owner or operator fails to
30 make a minimum capital investment of \$100,000,000 in a taxable year,
31 taking into account any excess investment amounts carried forward from
32 previous years, the owner or operator may avoid revocation of its
33 certification by paying to the department of revenue within sixty days
34 after the end of the taxable year the amount of the utility relief
35 provided pursuant to this section in that year.

36 G. The authority and the department of revenue shall prescribe
37 forms and procedures as necessary for the purposes of this section.

38 H. Proprietary business information contained in the application
39 form described in subsection B of this section and the written notice
40 described in subsection F of this section are confidential and may not be
41 disclosed to the public, except that the information shall be transmitted
42 to the department of revenue. The authority or the department of revenue
43 may disclose the name of an international operations center that has been
44 certified pursuant to this section.

1 I. Except as provided in subsection F of this section, on
2 certification, the international operations center remains certified
3 unless ownership of the international operations center is sold, conveyed,
4 transferred or otherwise directly or indirectly disposed of to another
5 entity in which the original owner holds less than a controlling interest.
6 For the purposes of this subsection, "controlling interest" means at least
7 eighty percent of the voting shares of a corporation or of the interests
8 in a noncorporate entity.

9 J. An owner or operator may be composed of a single entity or
10 affiliated entities.

11 K. For the purposes of this section:

12 1. "International operations center" means a facility **OR CONNECTED**
13 **FACILITIES UNDER THE SAME OWNERSHIP** that ~~is~~ **ARE** subject to the investment
14 thresholds under subsection D of this section and that ~~self-consumes~~
15 **SELF-CONSUME** renewable energy from a qualified facility pursuant to
16 section 43-1164.05, subsection ~~C~~ **B**.

17 2. "Utility relief" means the mitigation of the tax burden on the
18 retail purchaser of electricity or natural gas through the application of
19 section 42-5063, subsection C, paragraph 7, section 42-5159, subsection G,
20 paragraph 2 and section 42-6012, paragraph 2.

21 Sec. 3. Section 43-1083.03, Arizona Revised Statutes, is amended to
22 read:

23 **43-1083.03. Credit for qualified facilities**

24 A. For taxable years beginning from and after December 31, 2012
25 through December 31, ~~2022~~ **2030**, a credit is allowed against the taxes
26 imposed by this title for qualifying investment and employment in
27 expanding or locating a qualified facility in this state. To qualify for
28 the credit, after June 30, 2012 the taxpayer must invest in a new
29 qualified facility or expand an existing qualified facility in this state
30 and produce new full-time employment positions where the job duties are
31 ~~performed at~~ **ASSOCIATED WITH** the location of the qualifying investment.
32 The taxpayer must meet the employee compensation and employee health
33 benefit requirements prescribed by section 41-1512.

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

35 1. Ten percent of the lesser of:

36 (a) The total qualifying investment in the qualified facility.

37 (b) ~~Two hundred thousand dollars~~ **\$200,000** for each net new
38 full-time employment position ~~at~~ **THAT HAS DUTIES ASSOCIATED WITH** the
39 qualified facility.

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

43 3. Subject to subsections G and J of this section:

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

4 (b) The taxpayer may claim all five annual installments of a credit
5 that was preapproved before January 1, ~~2023~~ 2031 by the Arizona commerce
6 authority notwithstanding any intervening repeal or other termination of
7 the credit.

8 C. To claim the credit the taxpayer must:

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

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

12 3. Submit to the department a copy of a current and valid
13 certification of qualification issued to the taxpayer by the Arizona
14 commerce authority.

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

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

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

43 G. Except as provided by subsection H of this section, if, within
44 five taxable years after first receiving a credit pursuant to this
45 section, the certification of qualification of a business is terminated or

1 revoked under section 41-1512, other than for reasons beyond the control
2 of the business as determined by the Arizona commerce authority, the
3 taxpayer is disqualified from credits under this section in subsequent
4 taxable years. On a determination that the taxpayer has committed fraud
5 or relocated outside of this state within five taxable years after first
6 receiving a credit pursuant to this section, the credits allowed the
7 taxpayer in all taxable years pursuant to this section are subject to
8 recapture pursuant to this subsection. This subsection applies only in
9 the case of the termination or revocation of a certification of
10 qualification under section 41-1512. This subsection does not apply if,
11 in any taxable year, a taxpayer otherwise does not qualify for or fails to
12 claim the credit under this section. The recapture of credits is computed
13 by increasing the amount of taxes imposed in the year following the year
14 of termination or revocation by the full amount of all credits previously
15 allowed under this section.

16 H. A taxpayer who claims a credit under section 43-1074 may not
17 claim a credit under this section with respect to the same full-time
18 employment positions.

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

24 J. Each taxable year after the postapproval of the credit under
25 section 41-1512, subsection P, when the taxpayer files the taxpayer's
26 income tax return, the taxpayer shall:

27 1. Notify the department, on a form prescribed by the department,
28 of any full-time employment position for which a credit was claimed under
29 this section and that was vacant for more than one hundred fifty days ~~from~~
30 ~~AFTER~~ the date the full-time employment position was originally filled to
31 the end of that taxable year. The period that a full-time employment
32 position was vacant may not include the period before the full-time
33 employment position was filled for the first time.

34 2. Reduce the portion of the credit claimed for the taxable year
35 pursuant to subsection B, paragraph 3 of this section by ~~four thousand~~
36 ~~dollars~~ \$4,000 for each full-time employment position reported pursuant to
37 paragraph 1 of this subsection.

38 Sec. 4. Section 43-1164.04, Arizona Revised Statutes, is amended to
39 read:

40 43-1164.04. Credit for qualified facilities

41 A. For taxable years beginning from and after December 31, 2012
42 through December 31, ~~2022~~ 2030, a credit is allowed against the taxes
43 imposed by this title for qualifying investment and employment in
44 expanding or locating a qualified facility in this state. To qualify for
45 the credit, after June 30, 2012 the taxpayer must invest in a new

1 qualified facility or expand an existing qualified facility in this state
2 and produce new full-time employment positions where the job duties are
3 ~~performed at~~ ASSOCIATED WITH the location of the qualifying investment.
4 The taxpayer must meet the employee compensation and employee health
5 benefit requirements prescribed by section 41-1512.

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

7 1. Ten percent of the lesser of:

8 (a) The total qualifying investment in the qualified facility.

9 (b) ~~Two hundred thousand dollars~~ \$200,000 for each net new
10 full-time employment position ~~at~~ THAT HAS JOB DUTIES ASSOCIATED WITH the
11 qualified facility.

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

15 3. Subject to subsections G and J of this section:

16 (a) The credit amount computed under paragraph 1 of this subsection
17 is apportioned, and the taxpayer shall claim the credit in five equal
18 annual installments in each of five consecutive taxable years.

19 (b) The taxpayer may claim all five annual installments of a credit
20 that was preapproved before January 1, ~~2023~~ 2031 by the Arizona commerce
21 authority notwithstanding any intervening repeal or other termination of
22 the credit.

23 C. To claim the credit the taxpayer must:

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

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

27 3. Submit to the department a copy of a current and valid
28 certification of qualification issued to the taxpayer by the Arizona
29 commerce authority.

30 D. To be counted for the purposes of the credit, an employee must
31 have been employed ~~at~~ WITH JOB DUTIES ASSOCIATED WITH the qualified
32 facility for at least ninety days during the taxable year in a permanent
33 full-time employment position of at least one thousand seven hundred fifty
34 hours per year. An employee who is hired during the last ninety days of
35 the taxable year shall be considered a new employee during the next
36 taxable year. To be counted for the purposes of the credit during the
37 first taxable year of employment, the employee must not have been
38 previously employed by the taxpayer within twelve months before the
39 current date of hire. The terms of employment must comply in all cases
40 with the requirements of section 41-1512 and be certified by the Arizona
41 commerce authority.

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

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

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

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

30 H. A taxpayer ~~who~~ THAT claims a credit under section 43-1161 may
31 not claim a credit under this section with respect to the same full-time
32 employment positions.

33 I. The department of revenue shall adopt rules and prescribe forms
34 and procedures as necessary for the purposes of this section. The
35 department of revenue and the Arizona commerce authority shall collaborate
36 in adopting rules as necessary to avoid duplication and contradictory
37 requirements while accomplishing the intent and purposes of this section.

38 J. Each taxable year after the postapproval of the credit under
39 section 41-1512, subsection P, when the taxpayer files the taxpayer's
40 income tax return, the taxpayer shall:

41 1. Notify the department, on a form prescribed by the department,
42 of any full-time employment position for which a credit was claimed under
43 this section and that was vacant for more than one hundred fifty days ~~from~~
44 AFTER the date the full-time employment position was originally filled to
45 the end of that taxable year. The period that a full-time employment

1 position was vacant may not include the period before the full-time
2 employment position was filled for the first time.

3 2. Reduce the portion of the credit claimed for the taxable year
4 pursuant to subsection B, paragraph 3 of this section by ~~four thousand~~
5 ~~dollars~~ \$4,000 for each full-time employment position reported pursuant to
6 paragraph 1 of this subsection.

7 Sec. 5. Section 43-1164.05, Arizona Revised Statutes, is amended to
8 read:

9 43-1164.05. Credit for renewable energy investment and
10 production for self-consumption by
11 international operations centers; definitions

12 A. A credit is allowed against the taxes imposed by this title for
13 investment in new renewable energy facilities that produce energy for
14 self-consumption using renewable energy resources if the power will be
15 used primarily for an international operations center.

16 B. The taxpayer is eligible for the credit if all of the following
17 apply:

18 1. The taxpayer invests at least \$100,000,000 in one or more new
19 renewable energy facilities in this state that produce energy for
20 self-consumption using renewable energy resources. The minimum investment
21 must be completed within a three-year period beginning on the date the
22 initial application is received or by December 31, ~~2018~~ 2030, whichever is
23 earlier.

24 2. A portion of the energy produced at each renewable energy
25 facility is used for self-consumption in this state. By the fifth year a
26 renewable energy facility is in operation, at least fifty-one percent of
27 the energy produced must be used for self-consumption in this state.
28 Self-consumption includes the power used by related entities if the
29 related entities are directly or indirectly under the same ownership
30 interests that collectively own more than eighty percent. Power that a
31 renewable energy facility transfers to a utility qualifies as
32 self-consumption if the utility is the same utility that provides power to
33 the owner's international operations center in this state.

34 3. The power that is used for self-consumption under paragraph 2 of
35 this subsection is used for an international operations center in this
36 state. A lessor of an international operations center facility that uses
37 power for self-consumption under paragraph 2 of this subsection satisfies
38 the requirements of this paragraph if the lessee is an international
39 operations center and the power is transferred as part of the lease to the
40 lessee.

41 C. Subject to subsection F of this section, the credit authorized
42 by this section is \$5,000,000 per year for five years for each renewable
43 energy facility. The maximum credit allowed per taxpayer per year
44 is \$5,000,000. The taxpayer, including all affiliates of the taxpayer,
45 may not cumulate tax credits under this section over different taxable

1 years exceeding, in the aggregate, \$25,000,000. The initial credit for
2 each facility is claimed in the year that the facility becomes
3 operational. A credit, other than carryovers allowed under subsection M
4 of this section, may not be claimed for any taxable year beginning after
5 December 31, 2025. **AN INTERNATIONAL OPERATIONS CENTER THAT IS INITIALLY
6 CERTIFIED PURSUANT TO SECTION 41-1520, SUBSECTION C AFTER DECEMBER 31,
7 2018 MAY NOT CLAIM THE TAX CREDIT AUTHORIZED BY THIS SECTION.**

8 D. To qualify as a separate renewable energy facility for the
9 purposes of this section, a facility must be located at least one mile
10 from any other renewable energy facility for which the taxpayer is
11 claiming a credit under this section.

12 E. To be eligible for the credit under this section, the taxpayer
13 must apply to the department for certification of the credit on a form
14 prescribed by the department. The application shall include:

15 1. The name, address and social security number or federal employer
16 identification number of the applicant.

17 2. An estimate of the total investment the taxpayer will make, over
18 a three-year period beginning on the date the application is received, in
19 new renewable energy facilities in this state that produce energy for
20 self-consumption using renewable energy resources.

21 3. The expected location of each of the taxpayer's facilities that
22 comprise the total investment in paragraph 2 of this subsection and the
23 earliest date that each facility is expected to be operational.

24 4. A statement that the portion of the power generated by each
25 facility, as required by subsection B, paragraph 2 of this section, shall
26 be for self-consumption and shall be used for international operations
27 center use.

28 5. Any additional information that the department requires.

29 F. The department shall review each application under subsection E
30 of this section and preapprove the taxpayer for a specified amount of
31 credit that is authorized. Credits are allowed under this section on a
32 first-come, first-served basis. The department may not authorize tax
33 credits under this section that exceed in the aggregate a total of
34 \$10,000,000 for any calendar year. The portion of each year's limit that
35 is reserved for each taxpayer must be based on the year that each credit
36 is expected to be claimed using the dates provided in subsection E,
37 paragraph 3 of this section. If the year a facility is completed is
38 different from the estimated completion date provided in subsection E,
39 paragraph 3 of this section, the taxpayer must amend the application with
40 the new dates. If an application is received that, if authorized, would
41 require the department to exceed the \$10,000,000 limit, the department
42 shall grant the applicant only the remaining credit amount that would not
43 exceed the \$10,000,000 limit. After the department authorizes \$10,000,000
44 in tax credits, the department shall deny any subsequent applications that
45 are received for that calendar year. The department may not authorize any

1 additional tax credits that exceed the \$10,000,000 limit even if the
2 amounts that have been certified to any taxpayer are not claimed or a
3 taxpayer otherwise fails to meet the requirements to claim the additional
4 credit.

5 G. If a taxpayer fails to start construction within six months
6 after submitting the application under subsection E of this section, the
7 preapproval issued under subsection F of this section is void and all
8 monies reserved from the limits specified in subsection F of this section
9 revert back to the limit for the year for which they were reserved.

10 H. Each year after initial preapproval, on or before the
11 anniversary date of the application specified in subsection E of this
12 section, the taxpayer must submit to the department:

13 1. Documentation of the taxpayer's progress toward the investment
14 required by subsection B, paragraph 1 of this section. This documentation
15 is not required after the department receives a report stating that the
16 required investment threshold has been reached.

17 2. Documentation for each facility that demonstrates that the
18 required portion of the power generated by each renewable energy facility
19 is for self-consumption as required by subsection B, paragraph 2 of this
20 section.

21 3. If applicable, certification from the Arizona commerce authority
22 pursuant to section 41-1520.

23 I. The taxpayer must submit a request for final certification to
24 the department within thirty days after each of the renewable energy
25 facilities for which an authorization was given under subsection F of this
26 section becomes operational. Within thirty days after receiving a
27 completed request under this subsection, the department shall review the
28 request and either issue a final certification of the credit to the
29 taxpayer or issue a denial of the credit if it is determined that the
30 requirements of this section have not been met. Every final certification
31 issued under this subsection must include a facility code issued by the
32 department that is unique to each facility. To show that the facility has
33 been certified, the taxpayer shall include with the tax return the
34 facility code for each facility for which a credit is claimed. If the
35 taxpayer is the owner or operator of an international operations center,
36 the taxpayer must submit the request for final certification for each of
37 the renewable energy facilities for which capital investment will be
38 claimed towards the required investment threshold and must submit
39 additional evidence to the department within sixty days after the end of
40 the fifth year of operation of each facility that the requirements of
41 subsection B, paragraph 2 of this section have been met.

42 J. If the taxpayer fails to make the required investment in
43 renewable energy facilities within the time period required by subsection
44 B, paragraph 1 of this section or if the certification of an international
45 operations center has been revoked under section 41-1520 due to a failure

1 to make a \$1,250,000,000 investment in the center within ten years after
2 certification or if the taxpayer fails to receive final certification of
3 the credit under subsection I of this section, the taxpayer is not
4 eligible and must cease claiming any further credits under this section
5 and shall reimburse the amount of all credits previously received under
6 this section. The reimbursement must be made on the taxpayer's income tax
7 return for the taxable year in which it is first known that the required
8 investment would not be made within the required time or the taxable year
9 in which the certification was revoked. The department may give special
10 consideration or allow a temporary exemption from reimbursement if there
11 is extraordinary hardship due to factors beyond the taxpayer's control.
12 If the reimbursement is due to revocation of the certification of an
13 international operations center due to a failure to invest \$1,250,000,000
14 in the center within ten years after certification, the credits shall be
15 reimbursed in inverse proportion to the total capital investment made in
16 the international operations center divided by \$1,250,000,000. The
17 department may require reimbursement before the tenth anniversary of
18 certification of an international operations center if the facility has
19 been closed or relocated or the taxpayer has otherwise demonstrated that
20 the \$1,250,000,000 investment will not be timely made.

21 K. If a particular facility ceases to meet the requirements of this
22 section or if the facility is sold, the taxpayer may not claim any future
23 credits related to that facility.

24 L. Co-owners of a business, including corporate partners in a
25 partnership and corporate members of a limited liability company treated
26 as a partnership, may each claim the pro rata share of the credit allowed
27 under this section based on ownership interest. Only co-owners that are
28 corporations may claim a share of the credit allowed under this section.
29 The total of the credits allowed all the owners of the business may not
30 exceed the amount that would have been allowed for a sole owner of the
31 business.

32 M. If the allowable tax credit for a taxpayer exceeds the taxes
33 otherwise due under this title on the claimant's income, or if there are
34 no taxes due under this title, the amount of the claim not used to offset
35 taxes under this title may be carried forward for not more than five
36 consecutive taxable years as a credit against subsequent years' income tax
37 liability.

38 N. A taxpayer may not claim a credit under this section and section
39 43-1164.03 regarding the same facilities.

40 O. The department shall adopt rules and publish and prescribe forms
41 and procedures as necessary to effectuate the purposes of this section.

42 P. For the purposes of this section:

43 1. "Biomass" means organic material that is available on a
44 renewable or recurring basis, including:

1 (a) Forest-related materials, including mill residues, logging
2 residues, forest thinnings, slash, brush, low-commercial value materials
3 or undesirable species, salt cedar and other phreatophyte or woody
4 vegetation removed from river basins or watersheds and woody material
5 harvested for the purpose of forest fire fuel reduction or forest health
6 and watershed improvement.

7 (b) Agricultural-related materials, including orchard trees,
8 vineyard, grain or crop residues, including straws and stover, aquatic
9 plants and agricultural processed coproducts and waste products, including
10 fats, oils, greases, whey and lactose.

11 (c) Animal waste, including manure and slaughterhouse and other
12 processing waste.

13 (d) Solid woody waste materials, including landscape or
14 right-of-way tree trimmings, rangeland maintenance residues, waste
15 pallets, crates and manufacturing, construction and demolition wood wastes
16 but excluding pressure-treated, chemically treated or painted wood wastes
17 and wood contaminated with plastic.

18 (e) Crops and trees planted for the purpose of being used to
19 produce energy.

20 (f) Landfill gas, wastewater treatment gas and biosolids, including
21 organic waste by-products generated during the wastewater treatment
22 process.

23 2. "International operations center" means a facility that is
24 certified by the Arizona commerce authority pursuant to section 41-1520.

25 3. "Renewable energy facility" means a facility in which the
26 taxpayer invested at least \$30,000,000, that has at least twenty megawatts
27 generating capacity or a minimum typical annual generation of forty
28 thousand megawatt hours, that is located on land in this state owned or
29 leased by the taxpayer and that produces electricity using a renewable
30 energy resource.

31 4. "Renewable energy resource" means a resource that generates
32 electricity through the use of only the following energy sources:

33 (a) Solar light.

34 (b) Solar heat.

35 (c) Wind.

36 (d) Biomass, including fuel cells supplied directly or indirectly
37 with biomass generated fuels.

38 Sec. 6. Section 43-1168, Arizona Revised Statutes, is amended to
39 read:

40 43-1168. Credit for increased research activity

41 A. A credit is allowed against the taxes imposed by this title in
42 an amount determined pursuant to section 41 of the internal revenue code,
43 except that:

44 1. The amount of the credit is computed as follows:

45 (a) Add:

1 (i) The excess, if any, of the qualified research expenses for the
2 taxable year over the base amount as defined in section 41(c) of the
3 internal revenue code.

4 (ii) The basic research payments determined under section
5 41(e)(1)(A) of the internal revenue code.

6 (b) If the sum computed under subdivision (a) of this paragraph is
7 ~~two million five hundred thousand dollars~~ \$2,500,000 or less:

8 (i) For taxable years beginning before December 31, ~~2021~~ 2030, the
9 credit is equal to twenty-four percent of that amount.

10 (ii) For taxable years beginning from and after December 31,
11 ~~2021~~ 2030, the credit is equal to twenty percent of that amount.

12 (c) If the sum computed under subdivision (a) of this paragraph is
13 over ~~two million five hundred thousand dollars~~ \$2,500,000:

14 (i) For taxable years beginning before December 31, ~~2021~~ 2030, the
15 credit is equal to ~~six hundred thousand dollars~~ \$600,000 plus fifteen
16 percent of any amount exceeding ~~two million five hundred thousand dollars~~
17 \$2,500,000.

18 (ii) For taxable years beginning from and after December 31, ~~2021~~
19 2030, the credit is equal to ~~five hundred thousand dollars~~ \$500,000 plus
20 eleven percent of any amount exceeding ~~two million five hundred thousand~~
21 ~~dollars~~ \$2,500,000.

22 (d) For taxable years beginning from and after December 31, 2011,
23 an additional credit amount is allowed if the taxpayer made basic research
24 payments during the taxable year to a university under the jurisdiction of
25 the Arizona board of regents. The additional credit amount is equal to
26 ten percent of the excess, if any, of the basic research payments over the
27 qualified organization base period amount for the taxable year. The
28 department shall not allow credit amounts under this subdivision and
29 section 43-1074.01, subsection A, paragraph 1, subdivision (c) that
30 exceed, in the aggregate, a combined total of ~~ten million dollars~~
31 \$10,000,000 in any calendar year. Subject to that limit, on application
32 by the taxpayer, the department shall certify credit amounts under this
33 subdivision and section 43-1074.01, subsection A, paragraph 1, subdivision
34 (c) based on priority placement established by the date that the taxpayer
35 filed the application. For taxable years beginning from and after
36 December 31, 2014, any basic research payments used to determine the
37 additional credit under this subdivision must first receive certification
38 from the Arizona commerce authority pursuant to section 41-1507.01. The
39 additional credit amount under this subdivision shall not exceed the
40 amount allowed based on actual basic research payments or the department's
41 certification, whichever is less. If an application, if certified in
42 full, would exceed the ~~ten million dollar~~ \$10,000,000 limit, the
43 department shall certify only an amount within that limit. After the
44 limit is attained, the department shall deny any subsequent applications
45 regardless of whether other certified amounts are not actually claimed as

1 a credit or other taxpayers fail to qualify to actually claim certified
2 amounts. Notwithstanding subsections B and D of this section, any amount
3 of the additional credit under this subdivision that exceeds the taxes
4 otherwise due under this title is not refundable, but may be carried
5 forward to the next five consecutive taxable years. For the purposes of
6 this subdivision, "basic research payments" and "qualified organization
7 base period amount" have the same meanings prescribed by section 41(e) of
8 the internal revenue code.

9 2. Qualified research includes only research conducted in this
10 state, including research conducted at a university in this state and paid
11 for by the taxpayer.

12 3. If two or more taxpayers, including corporate partners in a
13 partnership, share in the eligible expenses, each taxpayer is eligible to
14 receive a proportionate share of the credit.

15 4. The credit under this section applies only to expenses incurred
16 from and after December 31, 1993.

17 5. The termination provisions of section 41 of the internal revenue
18 code do not apply.

19 B. Except as provided by subsection D of this section, if the
20 allowable credit under this section exceeds the taxes otherwise due under
21 this title on the claimant's income, or if there are no taxes due under
22 this title, the amount of the credit CLAIMED FOR TAXABLE YEARS BEGINNING
23 BEFORE JANUARY 1, 2022 not used to offset taxes may be carried forward to
24 the next fifteen consecutive taxable years, AND THE AMOUNT OF THE CREDIT
25 CLAIMED FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2021 NOT
26 USED TO OFFSET TAXES MAY BE CARRIED FORWARD TO THE NEXT TEN CONSECUTIVE
27 TAXABLE YEARS. The amount of credit carryforward from taxable years
28 beginning from and after December 31, 2000 through December 31, 2002 that
29 may be used under this subsection in any taxable year may not exceed the
30 taxpayer's tax liability under this title or ~~five hundred thousand dollars~~
31 \$500,000, whichever is less, minus the credit under this section for the
32 current taxable year's qualified research expenses. The amount of credit
33 carryforward from taxable years beginning from and after December 31, 2002
34 that may be used under this subsection in any taxable year may not exceed
35 the taxpayer's tax liability under this title minus the credit under this
36 section for the current taxable year's qualified research expenses. A
37 taxpayer that carries forward any amount of credit under this subsection
38 may not thereafter claim a refund of any amount of the credit under
39 subsection D of this section.

40 C. If a taxpayer has qualified research expenses that are carried
41 forward from taxable years beginning before January 1, 2001, the amount of
42 the expenses carried forward shall be converted to a credit carryforward
43 by multiplying the amount of the qualified expenses carried forward by
44 twenty percent. A credit carryforward determined under this subsection
45 FROM TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 2022 may be carried forward

1 to not more than fifteen years from the year in which the expenses were
2 incurred. A CREDIT CARRYFORWARD DETERMINED UNDER THIS SUBSECTION FROM
3 TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2021 MAY BE CARRIED
4 FORWARD TO NOT MORE THAN TEN YEARS FROM THE YEAR IN WHICH THE EXPENSES
5 WERE INCURRED. The amount of credit carryforward from taxable years
6 beginning before January 1, 2001 that may be used under this subsection in
7 any taxable year may not exceed the taxpayer's tax liability under this
8 title or ~~five hundred thousand dollars~~ \$500,000, whichever is less, minus
9 the credit under this section for the current taxable year's qualified
10 research expenses. The total amount of credit carryforward from taxable
11 years beginning before January 1, 2003 that may be used in any taxable
12 year under subsection B and this subsection may not exceed the taxpayer's
13 tax liability under this title or ~~five hundred thousand dollars~~ \$500,000,
14 whichever is less, minus the credit under this section for the current
15 taxable year's qualified research expenses.

16 D. For taxable years beginning from and after December 31, 2009, if
17 a taxpayer that claims a credit under this section employs fewer than one
18 hundred fifty persons in the taxpayer's trade or business and if the
19 allowable credit under this section exceeds the taxes otherwise due under
20 this title on the claimant's income, or if there are no taxes due under
21 this title, in lieu of carrying the excess amount of credit forward to
22 subsequent taxable years under subsection B of this section, the taxpayer
23 may elect to receive a refund as follows:

24 1. The taxpayer must apply to the Arizona commerce authority for
25 qualification for the refund pursuant to section 41-1507 and submit a copy
26 of the authority's certificate of qualification to the department of
27 revenue with the taxpayer's income tax return.

28 2. The amount of the refund is limited to seventy-five percent of
29 the amount by which the allowable credit under this section exceeds the
30 taxpayer's tax liability under this title for the taxable year. The
31 remainder of the excess amount of the credit is waived.

32 3. The refund shall be paid in the manner prescribed by section
33 42-1118.

34 4. The refund is subject to setoff under section 42-1122.

35 5. If the department determines that a credit refunded pursuant to
36 this subsection is incorrect or invalid, the excess credit issued may be
37 treated as a tax deficiency pursuant to section 42-1108.

38 Sec. 7. Laws 2016, chapter 372, section 68 is amended to read:

39 Sec. 68. Delayed repeal

40 Sections 41-1512, 43-1083.03 and 43-1164.04, Arizona Revised
41 Statutes, as amended by this act, are repealed from and after December 31,
42 ~~2023~~ 2031.