

REFERENCE TITLE: income tax credits; repeal

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

## HB 2873

Introduced by  
Representatives Cano: Epstein, Lieberman, Sierra, Teller

### AN ACT

AMENDING SECTIONS 41-1512, 41-1516, 43-222 AND 43-1021, ARIZONA REVISED STATUTES; REPEALING SECTIONS 43-1076 AND 43-1081.01, ARIZONA REVISED STATUTES; AMENDING SECTIONS 43-1084 AND 43-1121, ARIZONA REVISED STATUTES; REPEALING SECTIONS 43-1162 AND 43-1170.01, ARIZONA REVISED STATUTES; RELATING TO TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-1512, Arizona Revised Statutes, is amended to  
3 read:

4 41-1512. Qualified facility income tax credits:  
5 qualification; reporting requirements; 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 are included in the computation of the credit.

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

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

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

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

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

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

25 (a) A schedule of qualifying investments.

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

30 6. A nonrefundable processing fee in an amount determined by the  
31 authority.

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

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

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

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

42 (c) Agrees to furnish to the authority information regarding the  
43 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 the qualified facility pay a wage that equals or exceeds one  
18 hundred twenty-five percent, or one hundred percent in the case of a  
19 qualified facility in a rural location, of the median annual wage for  
20 production occupations in this state, as determined by the most recent  
21 annual Arizona commerce authority occupational wage and employment  
22 estimates issued before the preapproval is issued pursuant to subsection I  
23 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 a qualified facility.

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

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

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

44 H. The authority shall establish a process for qualifying and  
45 preapproving applicants for the income tax credits. The authority shall

1 not preapprove applicants as qualifying for credits under this section for  
2 any taxable year beginning from and after December 31, 2022. Preapproval  
3 is based on:

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

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

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

14 J. The authority shall not preapprove income tax credits under this  
15 section that combined would exceed ~~seventy million dollars~~ \$70,000,000 in  
16 any calendar year, except as provided by this subsection and subsection K  
17 of this section. A preapproved amount applies against the dollar limit  
18 for the year in which the application was submitted regardless of whether  
19 the initial preapproval period extends into the following year or years.  
20 The authority shall not preapprove income tax credits under this section  
21 for any taxpayer in excess of ~~thirty million dollars~~ \$30,000,000 in any  
22 calendar 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  
26 of this section. The reallocation shall be to other businesses that  
27 applied under this section in the original credit year based on priority  
28 placement. Once reallocated, the amount of the credit applies against the  
29 dollar limit of the original credit year regardless of the year in which  
30 the reallocation occurs.

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

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

42 N. After October 31 of each year, if the authority has preapproved  
43 the maximum calendar year income tax credit amount pursuant to subsection  
44 J of this section, the authority may accept initial applications for the  
45 next calendar year, but the preapproval of any application pursuant to

1 this subsection shall not be effective before the first business day of  
2 the following calendar year.

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

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

1 Q. The authority may rescind an applicant's postapproval if the  
2 business no longer meets the terms and conditions required for qualifying  
3 for the credit. The authority may give special consideration, or allow  
4 temporary exemption from recapture of the credit, 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~~ THE AUTHORITY shall  
9 notify the department of revenue of the action and the conditions of  
10 noncompliance. If the department of revenue obtains information  
11 indicating a possible failure to qualify and comply, ~~it~~ THE DEPARTMENT  
12 shall provide that information to the authority. The department of revenue  
13 may require the business to file appropriate amended tax returns  
14 reflecting any recapture of the credit under section 43-1083.03 or  
15 43-1164.04.

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

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

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

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

36 2. The amount of income tax credits postapproved with respect to  
37 each qualifying investment.

38 V. The authority shall:

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

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

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

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

X. ON OR BEFORE MARCH 1 EACH YEAR, EACH QUALIFIED FACILITY SHALL REPORT TO THE AUTHORITY THE FOLLOWING:

1. THE NUMBER OF FULL-TIME EMPLOYEES THE QUALIFIED FACILITY HIRED IN THIS STATE IN THE PRECEDING CALENDAR YEAR.

2. THE TOTAL CAPITAL EXPENDITURES THE QUALIFIED FACILITY INVESTED IN THIS STATE AS A RESULT OF THE TAX CREDIT FOR QUALIFIED FACILITIES ALLOWED UNDER SECTION 43-1083.03 OR 43-1164.04.

Y. ON OR BEFORE MAY 1 EACH YEAR, THE AUTHORITY SHALL REPORT TO THE JOINT LEGISLATIVE BUDGET COMMITTEE THE FOLLOWING:

1. THE NUMBER OF FULL-TIME EMPLOYEES EACH QUALIFIED FACILITY HIRED IN THIS STATE IN THE PRECEDING CALENDAR YEAR.

2. THE TOTAL CAPITAL EXPENDITURES EACH QUALIFIED FACILITY INVESTED IN THIS STATE AS A RESULT OF THE TAX CREDIT FOR QUALIFIED FACILITIES ALLOWED UNDER SECTION 43-1083.03 OR 43-1164.04.

~~Z.~~ Z. For the purposes of this section:

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

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

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

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

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

(a) Qualified manufacturing.

(b) Qualified headquarters.

1 (c) Qualified research.

2 6. "Qualified headquarters" means a global, national or regional  
3 headquarters for a taxpayer that is involved in manufacturing and that  
4 derives at least sixty-five percent of its revenue from out-of-state  
5 sales.

6 7. "Qualified manufacturing" means manufacturing tangible products  
7 in this state if at least sixty-five percent of the product will be sold  
8 out of state.

9 8. "Qualified research" has the same meaning prescribed by section  
10 41(d) of the internal revenue code, as defined by section 43-105, except  
11 that the research must be conducted by a taxpayer involved in  
12 manufacturing that derives at least sixty-five percent of its revenue from  
13 out-of-state sales.

14 9. "Qualifying investment" means investment in land, buildings,  
15 machinery, equipment and fixtures for expansion of an existing qualified  
16 facility or establishment of a new qualified facility in this state after  
17 June 30, 2012 for a facility completed in a taxable year beginning from  
18 and after December 31, 2012. If the qualified facility is a build-to-suit  
19 facility leased to the taxpayer, qualifying investment includes the costs  
20 prescribed in this paragraph that are spent by the third-party developer  
21 with respect to the qualified facility. Qualifying investment does not  
22 include relocating an existing qualified facility in this state to another  
23 location in this state without additional capital investment of at least  
24 two hundred fifty thousand dollars.

25 10. "Rural location" means a location that is within the boundaries  
26 of tribal lands or a city or town with a population of less than fifty  
27 thousand persons or a county with a population of less than eight hundred  
28 thousand persons.

29 Sec. 2. Section 41-1516, Arizona Revised Statutes, is amended to  
30 read:

31 41-1516. Healthy forest enterprise incentives; definitions

32 A. The Arizona commerce authority shall:

33 1. Implement a program to encourage counties, cities and towns to  
34 provide local incentives to economic enterprises that promote forest  
35 health in this state.

36 2. Identify and certify to the department of revenue the names of  
37 and relevant information relating to qualified businesses for the purposes  
38 of available state tax incentives for economic enterprises that promote  
39 forest health in this state.

40 B. To qualify for state tax incentives pursuant to this section, a  
41 business:

42 1. Must be primarily engaged in a qualifying project. The business  
43 shall submit to the authority evidence that it is engaged in a qualifying  
44 project as follows:



(a) The business operation must enhance or sustain forest health, sustain or recover watershed or improve public safety.

(b) If the qualifying forest product is on federal land, the business shall submit a letter from the federal agency administering the land, or official records or documents produced in connection with the project, stating that the business is primarily engaged in the business of harvesting or processing qualifying forest products for commercial use as follows:

(i) At least seventy ~~per cent~~ PERCENT of the harvested or processed products, measured by weight, must be qualifying forest products.

(ii) At least seventy-five ~~per cent~~ PERCENT of the qualifying forest products, measured by weight, must be harvested from sources in this state.

(c) If the qualifying forest product is not on federal land, the business shall submit a letter from the state forester stating that the business is primarily engaged in the business of harvesting or processing qualifying forest products for commercial use as follows:

(i) At least seventy ~~per cent~~ PERCENT of the harvested or processed products must be qualifying forest products.

(ii) At least seventy-five ~~per cent~~ PERCENT of the harvested or processed products must be from areas in this state.

(d) If the business is engaged in transporting qualifying forest products, it must submit a letter from the state forester or United States forest service, or official records or documents produced in connection with the project, stating that all of the qualifying forest products it transports are harvested from areas in this state. In addition, the business must submit evidence to the authority that at least seventy-five ~~per cent~~ PERCENT of the mileage traveled by its units each year are for transporting qualifying forest products from or to qualifying projects described in subdivision (b) or (c) of this paragraph, unless a lower mileage is due to forest closures or weather conditions that are beyond the control of the business.

2. Must employ at least one permanent full-time employee.

3. Must agree to furnish to the authority information relating to the amount of state tax benefits that the business receives each year.

4. Must enter into a memorandum of understanding with the authority containing:

(a) Employment goals. Each year the business must report in writing to the authority its performance in achieving the goals.

(b) A commitment to continue in business and use the qualifying equipment primarily on qualifying projects in this state as described in paragraph 1 of this subsection, other than for reasons beyond the control of the business. The authority shall consult with the department of revenue in designing the memorandum of understanding to incorporate the legal qualifications for the available tax incentives and shall include

1 the requirement that any qualifying equipment that is purchased or leased  
2 free of transaction privilege or use tax must continue to be used in this  
3 state for the term of the memorandum of understanding or the duration of  
4 its operational life, whichever is shorter.

5 (c) Provisions considered necessary by the authority to ensure the  
6 competency and responsibility of businesses that qualify under this  
7 section, including registration or other accreditation with trade and  
8 professional organizations and compliance with best management and  
9 operational practices used by governmental agencies in awarding forestry  
10 contracts.

11 (d) The authorization for the authority to terminate, adjust or  
12 recapture all or part of the tax benefits provided to the business on  
13 noncompliance with the law, noncompliance with the terms of the memorandum  
14 or violation of the terms of any contracts with the federal or state  
15 government relating to the qualifying project. The authority shall notify  
16 the department of revenue of the conditions of noncompliance. The  
17 department of revenue may also terminate the certification if it obtains  
18 information indicating a failure to qualify and comply. The department of  
19 revenue may require the business to file appropriate amended tax returns  
20 or to file appropriate use tax returns reflecting the recapture of the  
21 direct or indirect tax benefits.

22 5. Must submit a copy of the certification to the department of  
23 revenue for approval before using the certification for purposes of any  
24 tax incentive. The department of revenue shall review and approve the  
25 certification in a timely manner if the business is in good standing with  
26 the department and is not delinquent in the payment of any tax collected  
27 by the department. A failure to approve or deny the certification within  
28 sixty days after the date the business submits it to the department  
29 constitutes approval of the certification.

30 C. For the purposes of section 42-5075, subsection B, paragraph 18,  
31 the authority shall certify prime contractors that contract for the  
32 construction of any building, or other structure, project, development or  
33 improvement owned by a qualified business for purposes of a qualifying  
34 project described in subsection B, paragraph 1 of this section.

35 D. To obtain and maintain certification under this section, a  
36 business must:

37 1. Apply to the authority.

38 2. Submit and retain copies of all required information, including  
39 information relating to the actual or projected number of employees in  
40 this state.

41 3. Allow inspections and audits to verify the qualification and  
42 accuracy of information submitted to the authority.

43 E. Certification under this section is valid for sixty calendar  
44 months from the date of issuance. A business must apply for  
45 recertification at least thirty days before the current certification

1 expires. The application for recertification shall be in a form  
 2 prescribed by the authority and shall confirm that the business is  
 3 continuing in a qualifying project and is in compliance with all  
 4 requirements prescribed for certification.

5 F. Within sixty days after receiving a complete and correct  
 6 application and all required information as prescribed by this section,  
 7 the authority shall grant or deny certification and give written notice by  
 8 certified mail to the applicant. The applicant is certified as a  
 9 qualified business on the date the notice of certification is delivered to  
 10 the applicant. A failure to respond within sixty days after receiving a  
 11 complete and correct application constitutes approval of the application.

12 G. The certification shall state an effective date with respect to  
 13 each authorized tax incentive, which, in each case, must be at the start  
 14 of a taxable year or taxable period.

15 H. On or before March 1 of each year, each qualifying business  
 16 shall make a report to the authority on all business activity in the  
 17 preceding calendar year. Business information contained in the reports is  
 18 confidential and shall not be disclosed to the public except as provided  
 19 by this section and except that a copy of the report shall be transmitted  
 20 to the department of revenue. The report shall be in a form prescribed by  
 21 the authority and include:

22 1. Information prescribed by the authority with respect to both  
 23 qualifying projects and other projects and business activity that do not  
 24 qualify for purposes of this section.

25 ~~2. Employment information necessary to confirm eligibility for~~  
 26 ~~income tax credits as prescribed by sections 43-1076 and 43-1162.~~

27 ~~3.~~ 2. The quantity, measured by weight, of qualifying forest  
 28 products harvested, transported or processed.

29 I. On or before May 1 of each year, the authority shall report to  
 30 the joint legislative budget committee:

31 ~~1.~~ the quantity, measured by weight, of qualifying forest products  
 32 reported by harvesters, by transporters and by processors in the preceding  
 33 calendar year.

34 ~~2. The number of new full-time employees hired in qualified~~  
 35 ~~employment positions in this state in the preceding calendar year and~~  
 36 ~~reported for tax credit purposes.~~

37 ~~3. The total number of all full-time employees employed in~~  
 38 ~~qualified employment positions in this state in the preceding calendar~~  
 39 ~~year and reported for tax credit purposes.~~

40 J. For THE purposes of administering and ensuring compliance with  
 41 this section, agents of the authority may enter, and a qualified business  
 42 shall allow access to, a qualifying project site at reasonable times and  
 43 on reasonable notice to:

44 1. Inspect the facilities at the site.

1           2. Obtain factual data and records pertinent to and required by law  
2 to be kept for purposes of tax incentives.

3           3. Otherwise ascertain compliance with law and the terms of the  
4 memorandum of understanding.

5           K. The authority shall revoke the business' certification and  
6 notify the department of revenue and county assessor if either:

7           1. Within thirty days after a formal request from the authority or  
8 the department of revenue, the business fails or refuses to provide the  
9 information or access for inspections required by this section.

10          2. The business no longer meets the terms and conditions required  
11 for qualification for the applicable tax incentives.

12          L. For the purposes of this section:

13          1. "Forest health" means the degree to which the integrity of the  
14 forest is sustained, including reducing the risk of catastrophic wildfire  
15 and destructive insect infestation, benefiting wildland habitats,  
16 watersheds and communities.

17          2. "Harvesting" means all operations relating to felling or  
18 otherwise removing trees and other forest plant growth and preparing them  
19 for transport for subsequent processing.

20          3. "Processing" means:

21           (a) Any change in the physical structure of qualifying forest  
22 products removed from a qualifying project into a marketable commercial  
23 product or component of a product that has commercial value to a consumer  
24 or purchaser and that is ready to be used with or without further altering  
25 its form.

26           (b) Burning qualifying forest products in the process of commercial  
27 electrical generation or commercial thermal energy production for heating  
28 or cooling, regardless of the physical structure of the forest product  
29 before burning.

30          4. "Qualifying equipment" means equipment used directly in  
31 harvesting or processing qualifying forest products removed from a  
32 qualifying project. Qualifying equipment does not include self-propelled  
33 vehicles required to be licensed by this state, but may include other  
34 licensed vehicles as provided by this paragraph. Qualifying equipment  
35 includes:

36           (a) Forest thinning and residue removal equipment, including  
37 mulching and masticating equipment, feller-bunchers, skidders, log  
38 loaders, portable chippers and grinders, slash bundlers, delimbers, log  
39 trailers, chip trailers and other trailers that are uniquely designed for  
40 handling forest products and that are licensed for operation on public  
41 highways.

42           (b) Forest residue receiving and handling equipment, including  
43 truck dumpers, log unloaders, scales, log decking facilities and equipment  
44 and chip pile facilities.

(c) Sorting and processing equipment, including portable and stationary log loaders, ~~front-end~~ FRONT-END loaders, ~~fork lifts~~ FORKLIFTS and cranes, chippers and grinders, screens, decks and debarkers, saws and sawmill equipment, firewood processing, wood residue baling and bagging equipment, kilns, planing and molding equipment and laminating and joining equipment.

(d) Forest waste and residue disposal and processing equipment, including:

(i) Processing and sizing equipment, hogs, chippers, screens, pelletizers and wood splitters.

(ii) Transporting and handling equipment, including loaders, conveyors, blowers, receiving hoppers, truck dumpers and dozers.

(iii) Waste use equipment, including fuel feed, storage bins, boilers and combustors.

(iv) Waste project use equipment, including generators, switchgear and substations and on-site distribution systems.

(v) Generated waste disposal equipment, including ash silos and wastewater treatment and disposal equipment.

(vi) Shop and maintenance equipment and major spares having a value of more than ~~five thousand dollars~~ \$5,000 each.

5. "Qualifying forest products" means dead standing and fallen timber, and forest thinnings associated with the harvest of small diameter timber, slash, wood chips, peelings, brush and other woody vegetation, removed from federal, state and other public forest land and from private forest land.

6. "Qualifying project" means harvesting, transporting or processing qualifying forest products as required for certification pursuant to this section.

Sec. 3. Section 43-222, Arizona Revised Statutes, is amended to read:

43-222. Income tax credit review schedule

The joint legislative income tax credit review committee shall review the following income tax credits:

1. For years ending in 0 and 5, sections 43-1079.01, 43-1087, 43-1088, 43-1089.04, 43-1167.01 and 43-1175.

2. For years ending in 1 and 6, sections 43-1072.02, 43-1074.02, 43-1083, 43-1083.02, 43-1164.03 and 43-1183.

3. For years ending in 2 and 7, sections 43-1073, 43-1080, 43-1085, 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1089.03, 43-1164, 43-1169 and 43-1181.

4. For years ending in 3 and 8, sections 43-1074.01, 43-1081, 43-1168, 43-1170 and 43-1178.

5. For years ending in 4 and 9, sections 43-1073.01, ~~43-1076,~~ ~~43-1081.01,~~ 43-1083.03, 43-1084, ~~43-1162,~~ 43-1164.04, 43-1164.05,

1 ~~43-1170.01~~ and 43-1184 ~~and, beginning in 2019, sections 43-1083.03 and~~  
2 ~~43-1164.04.~~

3 Sec. 4. Section 43-1021, Arizona Revised Statutes, is amended to  
4 read:

5 43-1021. Addition to Arizona gross income

6 In computing Arizona adjusted gross income, the following amounts  
7 shall be added to Arizona gross income:

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

11 2. An amount equal to the ordinary income portion of a lump sum  
12 distribution that was excluded from federal adjusted gross income pursuant  
13 to the special rule for individuals who attained fifty years of age before  
14 January 1, 1986 under Public Law 99-514, section 1122(h)(3).

15 3. The amount of interest income received on obligations of any  
16 state, territory or possession of the United States, or any political  
17 subdivision thereof, located outside the state of Arizona, reduced, for  
18 taxable years beginning from and after December 31, 1996, by the amount of  
19 any interest on indebtedness and other related expenses that were incurred  
20 or continued to purchase or carry those obligations and that are not  
21 otherwise deducted or subtracted in arriving at Arizona gross income.

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

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

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

32 7. The amount by which the depreciation or amortization computed  
33 under the internal revenue code with respect to property for which a  
34 credit was taken under section 43-1080 exceeds the amount of depreciation  
35 or amortization computed pursuant to the internal revenue code on the  
36 Arizona adjusted basis of the property.

37 8. The amount by which the adjusted basis computed under the  
38 internal revenue code with respect to property for which a credit was  
39 claimed under section 43-1080 and that is sold or otherwise disposed of  
40 during the taxable year exceeds the adjusted basis of the property  
41 computed under section 43-1080.

42 9. The amount by which the depreciation or amortization computed  
43 under the internal revenue code with respect to property for which a  
44 credit was taken under ~~either~~ section 43-1081 ~~or 43-1081.01~~ exceeds the

1 amount of depreciation or amortization computed pursuant to the internal  
2 revenue code on the Arizona adjusted basis of the property.

3 10. The amount by which the adjusted basis computed under the  
4 internal revenue code with respect to property for which a credit was  
5 claimed under section 43-1074.02, ~~OR~~ 43-1081 ~~or 43-1081.01~~ and that is  
6 sold or otherwise disposed of during the taxable year exceeds the adjusted  
7 basis of the property computed under section 43-1074.02, ~~OR~~ 43-1081 ~~or~~  
8 ~~43-1081.01~~, as applicable.

9 11. The deduction referred to in section 1341(a)(4) of the internal  
10 revenue code for restoration of a substantial amount held under a claim of  
11 right.

12 12. The amount by which a net operating loss carryover or capital  
13 loss carryover allowable pursuant to section 1341(b)(5) of the internal  
14 revenue code exceeds the net operating loss carryover or capital loss  
15 carryover allowable pursuant to section 43-1029, subsection F.

16 13. Any wage expenses deducted pursuant to the internal revenue  
17 code for which a credit is claimed under section 43-1087 and representing  
18 net increases in qualified employment positions for employment of  
19 temporary assistance for needy families recipients.

20 14. The amount of any depreciation allowance allowed pursuant to  
21 section 167(a) of the internal revenue code to the extent not previously  
22 added.

23 15. The amount of a nonqualified withdrawal, as defined in section  
24 15-1871, from a college savings plan established pursuant to section 529  
25 of the internal revenue code that is made to a distributee to the extent  
26 the amount is not included in computing federal adjusted gross income,  
27 except that the amount added under this paragraph shall not exceed the  
28 difference between the amount subtracted under section 43-1022 in prior  
29 taxable years and the amount added under this section in any prior taxable  
30 years.

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

36 17. The amount of any previously deferred original issue discount  
37 that was deducted in computing federal adjusted gross income in the  
38 current year pursuant to section 108(i) of the internal revenue code as  
39 added by section 1231 of the American recovery and reinvestment act of  
40 2009 (P.L. 111-5), to the extent that the amount was previously subtracted  
41 from Arizona gross income pursuant to section 43-1022, paragraph 21.

42 18. If a subtraction is or has been taken by the taxpayer under  
43 section 43-1024, in the current or a prior taxable year for the full  
44 amount of eligible access expenditures paid or incurred to comply with the  
45 requirements of the Americans with disabilities act of 1990 (P.L. 101-336)

or title 41, chapter 9, article 8, any amount of eligible access expenditures that is recognized under the internal revenue code, including any amount that is amortized according to federal amortization schedules, and that is included in computing taxable income for the current taxable year.

19. For taxable years beginning from and after December 31, 2017, the amount of any net capital loss included in Arizona gross income for the taxable year that is derived from the exchange of one kind of legal tender for another kind of legal tender. For the purposes of this paragraph:

(a) "Legal tender" means a medium of exchange, including specie, that is authorized by the United States Constitution or Congress to pay debts, public charges, taxes and dues.

(b) "Specie" means coins having precious metal content.

Sec. 5. Repeal

Sections 43-1076 and 43-1081.01, Arizona Revised Statutes, are repealed.

Sec. 6. Section 43-1084, Arizona Revised Statutes, is amended to read:

43-1084. Credit for agricultural water conservation system; reporting requirements

A. A credit is allowed against the taxes imposed by this title for expenses that the taxpayer incurred during the taxable year to purchase and install an agricultural water conservation system in this state. The amount of the credit is equal to seventy-five ~~per cent~~ PERCENT of the qualifying expenses.

B. To qualify for the credit under this section:

1. The agricultural water conservation system must be primarily designed to substantially conserve water on land that is used by the taxpayer or the taxpayer's tenant to:

(a) Produce crops, fruits or other agricultural products.

(b) Raise, harvest or grow trees.

(c) Sustain livestock.

2. The expense must be consistent with a conservation plan that the taxpayer has filed and that is in effect with the United States department of agriculture soil conservation service.

C. Co-owners of the land on which the water conservation system is installed, including partners in a partnership and shareholders of an S corporation, as defined in section 1361 of the internal revenue code, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners may not exceed the amount that would have been allowed a sole owner.

D. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due



under this title, the taxpayer may carry the amount of the claim not used to offset the taxes under this title forward for not more than five taxable years' income tax liability.

E. The credit allowed by this section is in lieu of any deduction for such expenses allowed by the internal revenue code and included under section 43-1042 in computing taxable income.

F. ON OR BEFORE MARCH 1 EACH YEAR, EACH CLAIMANT SHALL REPORT TO THE DEPARTMENT ON THE REDUCTION IN WATER USAGE AS A RESULT OF INSTALLING THE AGRICULTURAL WATER CONSERVATION SYSTEM.

G. ON OR BEFORE MAY 1 EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE JOINT LEGISLATIVE COMMITTEE ON THE FOLLOWING:

1. THE REDUCTION IN WATER USAGE AS A RESULT OF INSTALLING THE AGRICULTURAL WATER CONSERVATION SYSTEMS, AS REPORTED BY ALL CLAIMANTS.

2. THE NUMBER OF STATES WHERE TAXPAYERS RECEIVE AN INCOME TAX CREDIT THAT IS COMPARABLE TO THE TAX CREDIT ALLOWED UNDER THIS SECTION.

Sec. 7. Section 43-1121, Arizona Revised Statutes, is amended to read:

43-1121. Additions to Arizona gross income: corporations

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

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

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

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

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

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

6. The amount of any previously deferred original issue discount that was deducted in computing federal taxable income in the current year pursuant to section 108(i) of the internal revenue code as added by

1 section 1231 of the American recovery and reinvestment act of 2009  
2 (P.L. 111-5), to the extent that the amount was previously subtracted from  
3 Arizona gross income pursuant to section 43-1122, paragraph 6.

4 7. The amount of dividend income received from corporations and  
5 allowed as a deduction pursuant to sections 243, 245, 245A and  
6 250(a)(1)(B) of the internal revenue code.

7 8. Taxes that are based on income paid to states, local governments  
8 or foreign governments and that were deducted in computing federal taxable  
9 income.

10 9. Expenses and interest relating to tax-exempt income on  
11 indebtedness incurred or continued to purchase or carry obligations the  
12 interest on which is wholly exempt from the tax imposed by this title.  
13 Financial institutions, as defined in section 6-101, shall be governed by  
14 section 43-961, paragraph 2.

15 10. Commissions, rentals and other amounts paid or accrued to a  
16 domestic international sales corporation controlled by the payor  
17 corporation if the domestic international sales corporation is not  
18 required to report its taxable income to this state because its income is  
19 not derived from or attributable to sources within this state. If the  
20 domestic international sales corporation is subject to article 4 of this  
21 chapter, the department shall prescribe by rule the method of determining  
22 the portion of the commissions, rentals and other amounts that are paid or  
23 accrued to the controlled domestic international sales corporation and  
24 that shall be deducted by the payor. For the purposes of this paragraph,  
25 "control" means direct or indirect ownership or control of fifty percent  
26 or more of the voting stock of the domestic international sales  
27 corporation by the payor corporation.

28 11. The amount of net operating loss taken pursuant to section 172  
29 of the internal revenue code.

30 12. The amount of exploration expenses determined pursuant to  
31 section 617 of the internal revenue code to the extent that they exceed  
32 \$75,000 and to the extent that the election is made to defer those  
33 expenses not in excess of \$75,000.

34 13. Amortization of costs incurred to install pollution control  
35 devices and deducted pursuant to the internal revenue code or the amount  
36 of deduction for depreciation taken pursuant to the internal revenue code  
37 on pollution control devices for which an election is made pursuant to  
38 section 43-1129.

39 14. The amount of depreciation or amortization of costs of child  
40 care facilities deducted pursuant to section 167 or 188 of the internal  
41 revenue code for which an election is made to amortize pursuant to section  
42 43-1130.

43 15. The loss of an insurance company that is exempt under section  
44 43-1201 to the extent that it is included in computing Arizona gross  
45 income on a consolidated return pursuant to section 43-947.

1           16. The amount by which the depreciation or amortization computed  
2 under the internal revenue code with respect to property for which a  
3 credit was taken under section 43-1169 exceeds the amount of depreciation  
4 or amortization computed pursuant to the internal revenue code on the  
5 Arizona adjusted basis of the property.

6           17. The amount by which the adjusted basis computed under the  
7 internal revenue code with respect to property for which a credit was  
8 claimed under section 43-1169 and that is sold or otherwise disposed of  
9 during the taxable year exceeds the adjusted basis of the property  
10 computed under section 43-1169.

11           18. The amount by which the depreciation or amortization computed  
12 under the internal revenue code with respect to property for which a  
13 credit was taken under ~~either~~ section 43-1170 ~~or 43-1170.01~~ exceeds the  
14 amount of depreciation or amortization computed pursuant to the internal  
15 revenue code on the Arizona adjusted basis of the property.

16           19. The amount by which the adjusted basis computed under the  
17 internal revenue code with respect to property for which a credit was  
18 claimed under ~~either~~ section 43-1170 ~~or 43-1170.01~~ and that is sold or  
19 otherwise disposed of during the taxable year exceeds the adjusted basis  
20 of the property computed under section 43-1170 ~~or 43-1170.01, as~~  
21 ~~applicable.~~

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

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

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

32           23. Any amount of expenses that were deducted pursuant to the  
33 internal revenue code and for which a credit is claimed under section  
34 43-1178.

35           24. The amount of any deduction that is claimed in computing  
36 Arizona gross income and that represents a donation of a school site for  
37 which a credit is claimed under section 43-1181.

38           P25. Any amount deducted pursuant to section 170 of the internal  
39 revenue code representing contributions to a school tuition organization  
40 for which a credit is claimed under section 43-1183 or 43-1184.

41           26. If a subtraction is or has been taken by the taxpayer under  
42 section 43-1124, in the current or a prior taxable year for the full  
43 amount of eligible access expenditures paid or incurred to comply with the  
44 requirements of the Americans with disabilities act of 1990 (P.L. 101-336)  
45 or title 41, chapter 9, article 8, any amount of eligible access

1 expenditures that is recognized under the internal revenue code, including  
2 any amount that is amortized according to federal amortization schedules,  
3 and that is included in computing Arizona taxable income for the current  
4 taxable year.

5 27. For taxable years beginning from and after December 31, 2017,  
6 the amount of any net capital loss included in Arizona gross income for  
7 the taxable year that is derived from the exchange of one kind of legal  
8 tender for another kind of legal tender. For the purposes of this  
9 paragraph:

10 (a) "Legal tender" means a medium of exchange, including specie,  
11 that is authorized by the United States Constitution or Congress to pay  
12 debts, public charges, taxes and dues.

13 (b) "Specie" means coins having precious metal content.

14 Sec. 8. Repeal

15 Sections 43-1162 and 43-1170.01, Arizona Revised Statutes, are  
16 repealed.

17 Sec. 9. Requirements for enactment; two-thirds vote

18 Pursuant to article IX, section 22, Constitution of Arizona, this  
19 act is effective only on the affirmative vote of at least two-thirds of  
20 the members of each house of the legislature and is effective immediately  
21 on the signature of the governor or, if the governor vetoes this act, on  
22 the subsequent affirmative vote of at least three-fourths of the members  
23 of each house of the legislature.