

REFERENCE TITLE: **repeal; tax credits; grants; reporting**

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2271

Introduced by
Representative Cano

AN ACT

AMENDING SECTIONS 41-1512, 41-1545.03, 43-222 AND 43-1021, ARIZONA REVISED STATUTES; REPEALING SECTION 43-1081.01, ARIZONA REVISED STATUTES; AMENDING SECTION 43-1084, 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; 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 not more
10 than thirty-six months before submitting an application for preapproval
11 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 email address of a
19 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 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 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 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. Either:

37 (a) If the total qualifying investment is less than \$2,000,000,000,
38 \$200,000 for each net new full-time employment position projected by the
39 applicant that has job duties associated with a qualified facility.

40 (b) If the total qualifying investment is \$2,000,000,000 or more,
41 \$300,000 for each net new full-time employment position projected by the
42 applicant that has job duties associated with a qualified facility.

1 G. Beginning with income tax credits allocated for 2013, an
2 approved credit:

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

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

7 H. The authority shall establish a process for qualifying and
8 preapproving applicants for the income tax credits. The authority shall
9 not preapprove applicants as qualifying for credits under this section for
10 any taxable year beginning from and after December 31, 2030. Preapproval
11 is based on:

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

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

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

22 J. The authority shall not preapprove income tax credits under this
23 section that combined would exceed \$125,000,000 in any calendar year,
24 except as provided by this subsection and subsection K of this section. A
25 preapproved amount applies against the dollar limit for the year in which
26 the application was submitted regardless of whether the initial
27 preapproval period extends into the following year or years. The
28 authority shall not preapprove income tax credits under this section for
29 any taxpayer in excess of \$30,000,000 in any calendar year.

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

38 L. A taxpayer may voluntarily relinquish unused credit amounts in
39 writing to the authority.

40 M. Preapproval under this section lapses, the application is void
41 and the amount of the preapproved income tax credits does not apply
42 against the dollar limit prescribed by subsection J of this section if,
43 within twelve months after preapproval, the business fails to provide to
44 the authority documentation of its expenditure of \$250,000 in qualifying
45 investment or, if the period over which the qualifying investment will be

1 made exceeds twelve months, documentation of additional expenditures as
 2 required in this subsection for each twelve-month period.

3 N. After October 31 of each year, if the authority has preapproved
 4 the maximum calendar year income tax credit amount pursuant to subsection
 5 J of this section, the authority may accept initial applications for the
 6 next calendar year, but the preapproval of any application pursuant to
 7 this subsection shall not be effective before the first business day of
 8 the following calendar year.

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

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

1 against the dollar limit prescribed by subsection J of this section for
2 that year. The department of revenue shall not allow an income tax credit
3 under section 43-1083.03 or 43-1164.04 that exceeds the amount of the
4 postapproval for the project under this subsection. For the purposes of
5 this subsection, "begins operations" means the qualified facility opens
6 for public business.

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

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

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

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

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

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

41 2. The amount of income tax credits postapproved with respect to
42 each qualifying investment.

43 V. The authority shall:

44 1. Keep annual records of the information provided on applications
45 for qualified facilities. These records shall reflect a percentage

1 comparison of the annual amount of monies credited to qualified facilities
2 to the estimated amount of monies spent in this state in the form of
3 qualifying investments.

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

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

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

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

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

19 2. THE COMPENSATION AND BENEFIT INFORMATION, INCLUDING THE MEDIAN
20 ANNUAL WAGE FOR EACH JOB CLASSIFICATION, FOR EACH FULL-TIME EMPLOYMENT
21 POSITION CREATED PURSUANT TO SUBSECTION C OF THIS SECTION FOR TAX CREDIT
22 PURPOSES.

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

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

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

30 2. THE COMPENSATION AND BENEFIT INFORMATION, INCLUDING THE MEDIAN
31 ANNUAL WAGE FOR EACH JOB CLASSIFICATION, FOR EACH FULL-TIME EMPLOYMENT
32 POSITION EACH QUALIFIED FACILITY CREATED PURSUANT TO SUBSECTION C OF THIS
33 SECTION FOR TAX CREDIT PURPOSES.

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

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

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

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

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

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

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

12 (a) Qualified manufacturing.

13 (b) Qualified headquarters.

14 (c) Qualified research.

15 6. "Qualified headquarters" means a global, national or regional
16 headquarters for a taxpayer that derives at least sixty-five percent of
17 its revenue from out-of-state sales.

18 7. "Qualified manufacturing" means manufacturing tangible products
19 in this state if at least sixty-five percent of the product is at least
20 one of the following:

21 (a) Directly sold out of state.

22 (b) Directly sold to one or more qualified facilities, regardless
23 of whether the qualified facilities are preapproved by the authority
24 pursuant to this section.

25 8. "Qualified research" has the same meaning prescribed by section
26 41(d) of the internal revenue code, as defined by section 43-105, except
27 that the research must be conducted by a taxpayer involved in
28 manufacturing that derives at least sixty-five percent of its revenue from
29 out-of-state sales.

30 9. "Qualifying investment" means investment in land, buildings,
31 machinery, equipment and fixtures for expansion of an existing qualified
32 facility or establishment of a new qualified facility in this state after
33 June 30, 2012 for a facility completed in a taxable year beginning from
34 and after December 31, 2012. If the qualified facility is a build-to-suit
35 facility leased to the taxpayer, qualifying investment includes the costs
36 prescribed in this paragraph that are spent by the third-party developer
37 with respect to the qualified facility. Qualifying investment does not
38 include relocating an existing qualified facility in this state to another
39 location in this state without additional capital investment of at least
40 \$250,000.

41 10. "Rural location" means a location that is within the boundaries
42 of tribal lands or a city or town with a population of less than fifty
43 thousand persons or a county with a population of less than eight hundred
44 thousand persons.

1 Sec. 2. Section 41-1545.03, Arizona Revised Statutes, is amended to
2 read:

3 41-1545.03. Annual report by grant recipient

4 On or before December 31 of each year, each entity that receives a
5 grant under this article shall submit to the chief executive officer a
6 progress report containing the **FOLLOWING**:

7 1. Information compiled during the preceding calendar year
8 regarding the attainment of each of the performance targets in the grant
9 agreement.

10 2. **COMPENSATION AND BENEFIT INFORMATION, INCLUDING THE MEDIAN**
11 **ANNUAL WAGE FOR EACH JOB CLASSIFICATION, FOR EACH EMPLOYMENT POSITION**
12 **REQUIRED FOR ELIGIBILITY PURSUANT TO SECTION 41-1545.02, SUBSECTION B.**

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

15 43-222. Income tax credit review schedule

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

18 1. For years ending in 0 and 5, sections 43-1079.01, 43-1088,
19 43-1089.04, 43-1167.01 and 43-1175.

20 2. For years ending in 1 and 6, sections 43-1072.02, 43-1074.02,
21 43-1075, 43-1076.01, 43-1077, 43-1078, 43-1083, 43-1083.02, 43-1162,
22 43-1164.03 and 43-1183.

23 3. For years ending in 2 and 7, sections 43-1073, 43-1082, 43-1085,
24 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1089.03, 43-1164,
25 43-1165, and 43-1181.

26 4. For years ending in 3 and 8, sections 43-1074.01, 43-1168,
27 43-1170 and 43-1178.

28 5. For years ending in 4 and 9, sections 43-1073.01, ~~43-1081.01,~~
29 43-1083.03, 43-1084, 43-1164.04, 43-1164.05 and 43-1184.

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

32 43-1021. Addition to Arizona gross income

33 In computing Arizona adjusted gross income, the following amounts
34 shall be added to Arizona gross income:

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

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

42 3. The amount of interest income received on obligations of any
43 state, territory or possession of the United States, or any political
44 subdivision thereof, located outside of this state, reduced, for taxable
45 years beginning from and after December 31, 1996, by the amount of any

- 1 interest on indebtedness and other related expenses that were incurred or
2 continued to purchase or carry those obligations and that are not
3 otherwise deducted or subtracted in arriving at Arizona gross income.
- 4 4. The excess of a partner's share of partnership taxable income
5 required to be included under chapter 14, article 2 of this title over the
6 income required to be reported under section 702(a)(8) of the internal
7 revenue code.
- 8 5. The excess of a partner's share of partnership losses determined
9 pursuant to section 702(a)(8) of the internal revenue code over the losses
10 allowable under chapter 14, article 2 of this title.
- 11 6. Any amount of agricultural water conservation expenses that were
12 deducted pursuant to the internal revenue code for which a credit is
13 claimed under section 43-1084.
- 14 7. The amount by which the depreciation or amortization computed
15 under the internal revenue code with respect to property **THAT IS**
16 **AGRICULTURAL POLLUTION CONTROL EQUIPMENT** for which a credit was taken
17 ~~under section 43-1081.01~~ **BEFORE TAXABLE YEAR 2023** or that is pollution
18 control equipment for which a credit was taken before taxable year 2022
19 exceeds the amount of depreciation or amortization computed pursuant to
20 the internal revenue code on the Arizona adjusted basis of the property.
- 21 8. The amount by which the adjusted basis computed under the
22 internal revenue code with respect to property for which a credit was
23 claimed under section 43-1074.02 ~~or 43-1081.01~~ or **THAT IS AGRICULTURAL**
24 **POLLUTION CONTROL EQUIPMENT FOR WHICH A CREDIT WAS TAKEN BEFORE TAXABLE**
25 **YEAR 2023 OR** that is pollution control equipment for which a credit was
26 taken before taxable year 2022 and that is sold or otherwise disposed of
27 during the taxable year exceeds the adjusted basis of the property
28 computed under section 43-1074.02 ~~or 43-1081.01~~ or for **AGRICULTURAL**
29 **POLLUTION CONTROL EQUIPMENT AND** pollution control equipment, the section
30 in which the credit was taken, as applicable.
- 31 9. The deduction referred to in section 1341(a)(4) of the internal
32 revenue code for restoration of a substantial amount held under a claim of
33 right.
- 34 10. The amount by which a net operating loss carryover or capital
35 loss carryover allowable pursuant to section 1341(b)(5) of the internal
36 revenue code exceeds the net operating loss carryover or capital loss
37 carryover allowable pursuant to section 43-1029, subsection F.
- 38 11. The amount of any depreciation allowance allowed pursuant to
39 section 167(a) of the internal revenue code to the extent not previously
40 added.
- 41 12. The amount of a nonqualified withdrawal, as defined in section
42 15-1871, from a college savings plan established pursuant to section 529
43 of the internal revenue code that is made to a distributee to the extent
44 the amount is not included in computing federal adjusted gross income,
45 except that the amount added under this paragraph shall not exceed the

1 difference between the amount subtracted under section 43-1022 in prior
2 taxable years and the amount added under this section in any prior taxable
3 years.

4 13. If a subtraction is or has been taken by the taxpayer under
5 section 43-1024, in the current or a prior taxable year for the full
6 amount of eligible access expenditures paid or incurred to comply with the
7 requirements of the Americans with disabilities act of 1990 (P.L. 101-336)
8 or title 41, chapter 9, article 8, any amount of eligible access
9 expenditures that is recognized under the internal revenue code, including
10 any amount that is amortized according to federal amortization schedules,
11 and that is included in computing taxable income for the current taxable
12 year.

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

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

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

22 15. For taxable years beginning from and after December 31, 2021,
23 the amount deducted by the partnership or S corporation pursuant to the
24 internal revenue code for the amount paid to this state under section
25 43-1014 and for taxes that the department determines are substantially
26 similar to the tax imposed under section 43-1014. This amount shall be
27 reflected in the partner's or shareholder's Arizona gross income and the
28 partnership's or S corporation's Arizona taxable income.

29 16. The amount of any motion picture production costs that was
30 deducted pursuant to the internal revenue code for which a tax credit is
31 claimed under section 43-1082.

32 Sec. 5. Repeal

33 Section 43-1081.01, Arizona Revised Statutes, is repealed.

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

36 43-1084. Credit for agricultural water conservation system

37 A. A credit is allowed against the taxes imposed by this title for
38 expenses that the taxpayer incurred during the taxable year to purchase
39 and install an agricultural water conservation system in this state. The
40 amount of the credit is equal to seventy-five percent of the qualifying
41 expenses.

42 B. To qualify for the credit under this section:

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

- 1 (a) Produce crops, fruits or other agricultural products.
- 2 (b) Raise, harvest or grow trees.
- 3 (c) Sustain livestock.

4 2. The expense must be consistent with a conservation plan that the
5 taxpayer has filed with the United States department of agriculture,
6 natural resources conservation service, or a natural resource conservation
7 district in this state established pursuant to title 37, chapter 6.

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

15 D. If the allowable tax credit exceeds the taxes otherwise due
16 under this title on the claimant's income, or if there are no taxes due
17 under this title, the taxpayer may carry the amount of the claim not used
18 to offset the taxes under this title forward for not more than five
19 taxable years' income tax liability.

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

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

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

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

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

32 Sec. 7. Short title

33 This act may be cited as the "Tax Incentive Accountability and
34 Reporting Act (TIARA)".

35 Sec. 8. Requirements for enactment; two-thirds vote

36 Pursuant to article IX, section 22, Constitution of Arizona, this
37 act is effective only on the affirmative vote of at least two-thirds of
38 the members of each house of the legislature and is effective immediately
39 on the signature of the governor or, if the governor vetoes this act, on
40 the subsequent affirmative vote of at least three-fourths of the members
41 of each house of the legislature.