

# AZ H 2471, Amended

Arizona

SUMMARY: Relates to rulemaking; relates to legislative approval.~SAME AS:

Changes in Bill text reflected as:

~~Text Deleted~~

*Text Added*

~~Text Vetoed~~

Current Legislative Status

01/11/2024 INTRODUCED.

01/17/2024 To HOUSE Committee on REGULATORY AFFAIRS.

01/17/2024 Additionally referred to HOUSE Committee on RULES.

01/31/2024 Motion to reconsider. Reconsideration granted.

01/31/2024 From HOUSE Committee on REGULATORY AFFAIRS: Do pass.

02/05/2024 From HOUSE Committee on RULES: Do pass constitutional and in proper form.

02/27/2024 To HOUSE Committee of the WHOLE.

02/27/2024 In HOUSE Committee of the WHOLE. Amended.

02/27/2024 From HOUSE Committee of the WHOLE. To third reading.

02/27/2024 HOUSE Engrossed. Printed.

02/28/2024 In HOUSE. Read third time. Passed HOUSE. \*\*\*\*\*To SENATE.

03/07/2024 To SENATE Committee on GOVERNMENT.

03/07/2024 Additionally referred to SENATE Committee on RULES.

03/21/2024 From SENATE Committee on GOVERNMENT: Do pass with amendment. Strike Everything.

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session: Arizona 56th Legislature - Second Regular Session

cite: 2024 AZ H 2471

Amended - Striker

March 21, 2024

McGarr

Fifty-sixth Legislature

Government

Second Regular Session

H.B. 2471

COMMITTEE ON GOVERNMENT

SENATE AMENDMENTS TO H.B. 2471

(Reference to House engrossed bill)

Strike everything after the enacting clause and insert:

**\*\*\* TEXT OMITTED, DOES NOT PERTAIN TO FILM \*\*\***

Sec. 24. Section 43-1082, Arizona Revised Statutes, is amended to read:

43-1082. Credit for motion picture production costs; qualifications; data maintenance; rules; definitions

A. For taxable years beginning from and after December 31, 2022, a tax credit is allowed against production costs paid by a motion picture production company in this state that are subject to taxation by this state and that are directly attributable to a motion picture production. The amount of the credit shall be determined as follows:

1. An amount equal to a percentage of the total amount of the qualified production costs as approved by the ~~Arizona-commerce-authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** pursuant to section 41-1517 as follows:

(a) For a motion picture production company that spends up to \$10,000,000, fifteen percent.

(b) For a motion picture production company that spends more than \$10,000,000 but less than \$35,000,000, seventeen and one-half percent.

(c) For a motion picture production company that spends more than \$35,000,000, twenty percent.

2. An additional two and one-half percent of the motion picture production company's production labor costs related to positions held by residents of this state as approved by the ~~Arizona-commerce-authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** pursuant to section 41-1517.

3. If the motion picture production company either:

(a) Uses a qualified production facility in this state to produce the motion picture production, an additional two and one-half percent of the total amount of qualified production costs as approved by the ~~Arizona-commerce-authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** pursuant to section 41-1517.

(b) Films primarily at a practical location, produces and films the motion picture production primarily in this state and performs all preproduction, postproduction and editing at a qualified production facility in this state, an additional two and one-half percent of the total qualified production costs as approved by the ~~Arizona-commerce-authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** pursuant to section 41-1517.

4. An additional two and one-half percent of the total amount of qualified production costs as approved by the ~~Arizona-commerce-authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** pursuant to section 41-1517 if the motion picture production is produced and filmed in association with a long-term tenant of a qualified production facility.

B. Tax credits under this section may not exceed the amount provided in the postapproval issued by the ~~Arizona-commerce-authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** pursuant to section 41-1517, subsection H. The taxpayer must include a copy of the postapproval with the taxpayer's income tax return for the taxable year in which the ~~Arizona-commerce-authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** issued the postapproval.

C. The department may not allow a tax credit under this section to a taxpayer who has a delinquent tax balance owed to the department under this title.

D. To qualify for a tax credit under this section, the motion picture production company must:

1. Do either of the following:

(a) Use a qualified production facility in this state to produce the motion picture production.

(b) If the motion picture production is filmed primarily at a practical location, produce and film the motion picture production primarily in this state and perform all preproduction, postproduction and editing at an industry standard facility, if such a facility for those functions is available.

2. Maintain the motion picture production company's production labor positions in this state.

3. Include in the credits for each motion picture production an acknowledgment that the **MOTION PICTURE** production was filmed in Arizona.

4. Receive preapproval and postapproval from the ~~Arizona-commerce-authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** pursuant to section 41-1517.

5. Claim the tax credit by using the form prescribed by the department and include the form with the motion picture production company's income tax return for the taxable year in which the ~~Arizona-commerce-authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** issued the postapproval.

E. Co-owners of a motion picture production company, including partners in a partnership, members of a limited

liability company and shareholders of an S corporation, as defined in section 1361 of the internal revenue code, may each claim the pro rata share of the tax credit allowed under this section based on ownership interests. The total of the tax credits allowed all such owners may not exceed the amount that would have been allowed a sole owner.

F. If the allowable tax credit for a taxable year exceeds the income taxes otherwise due on the claimant's income, or if there are no state income taxes due on the claimant's income, **THE TAXPAYER MAY CARRY** the amount of the claim not used as an offset against income taxes ~~shall be paid to the taxpayer in the same manner as a refund under section 42-1118. Refunds made pursuant to this subsection are subject to setoff under section 42-1122. If the department determines that a refund is incorrect or invalid, the excess refund may be treated as a tax deficiency pursuant to section 42-1108~~ **FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE YEARS' INCOME TAX LIABILITY** .

G. The department shall maintain annual data on the total amount of monies credited pursuant to this section and shall provide the data to the ~~Arizona commerce authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** on request.

H. The department shall adopt fees and rules and publish and prescribe forms and procedures as necessary to administer this section and provide administrative support services.

I. The tax credit allowed by this section is in lieu of any allowance for state tax purposes of a deduction of those expenses allowed by the internal revenue code.

J. For the purposes of this section:

1. "Long-term tenant" means a person that enters into a lease of at least five years for the use of a qualified production facility.
2. "Motion picture production" has the same meaning prescribed in section 41-1517.
3. "Motion picture production company" has the same meaning prescribed in section 41-1517.
4. "Practical location" has the same meaning prescribed in section 41-1517.
5. "Production costs" has the same meaning prescribed in section 41-1517.
6. "Production labor" has the same meaning prescribed in section 41-1517.
7. "Qualified production facility" has the same meaning prescribed in section 41-1517.

Sec. 25. Section 43-1083.03, Arizona Revised Statutes, is amended to read:

43-1083.03. Credit for qualified facilities

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

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

1. Ten percent of the lesser of:

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

(b) Either:

(i) If the total qualifying investment is less than \$2,000,000,000, \$200,000 for each net new full-time employment position that has duties associated with the qualified facility.

(ii) If the total qualifying investment is \$2,000,000,000 or more, \$300,000 for each net new full-time employment position that has duties associated with the qualified facility.

2. The amount of the credit shall not exceed the postapproval amount determined by the ~~Arizona commerce authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** under section 41-1512, subsection P.

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

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

(b) The taxpayer may claim all five annual installments of a credit that was preapproved before January 1, 2031 by the ~~Arizona commerce authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** notwithstanding any intervening repeal or other termination of the credit.

C. To claim the credit the taxpayer must:

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

2. Receive preapproval and postapproval from the ~~Arizona commerce authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** pursuant to section 41-1512.

3. Submit to the department a copy of a current and valid certification of qualification issued to the taxpayer by the ~~Arizona commerce authority~~ **OFFICE OF ECONOMIC OPPORTUNITY**.

D. To be counted for the purposes of the credit, an employee must have been employed with job duties associated with the qualified facility for at least ninety days during the taxable year in a permanent full-time employment position of at least one thousand seven hundred fifty hours per year. An employee who is hired during the last ninety days of the taxable year shall be considered a new employee during the next taxable year. To be counted for the purposes of the credit during the first taxable year of employment, the employee must not have been previously employed by the taxpayer within twelve months before the current date of hire. The terms of employment must comply in all cases with the requirements of section 41-1512 and be certified by the ~~Arizona commerce authority~~ **OFFICE OF ECONOMIC OPPORTUNITY**.

E. Co-owners of a business, including partners in a partnership, members of a limited liability company 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 owners of the business may not exceed the amount that would have been allowed for a sole owner of the business.

F. If the allowable tax credit for a taxable year exceeds the income taxes otherwise due on the claimant's income, or if there are no state income taxes due on the claimant's income, **THE TAXPAYER MAY CARRY** the amount of the claim not used as an offset against income taxes ~~shall be paid to the taxpayer in the same manner as a refund under section 42-1118. Refunds made pursuant to this subsection are subject to setoff under section 42-1122. If the department determines that a refund is incorrect or invalid, the excess refund may be treated as a tax deficiency pursuant to section 42-1108~~ **FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE YEARS' INCOME TAX LIABILITY**.

G. Except as provided by subsection H of this section, if, within five taxable years after first receiving a credit pursuant to this section, the certification of qualification of a business is terminated or revoked under section 41-1512, other than for reasons beyond the control of the business as determined by the ~~Arizona commerce authority~~ **OFFICE OF ECONOMIC OPPORTUNITY**, the taxpayer is disqualified from credits under this section in subsequent taxable years. On a determination that the taxpayer has committed fraud or relocated outside of this state within five taxable years after first receiving a credit pursuant to this section, the credits allowed the taxpayer in all taxable years pursuant to this section are subject to recapture pursuant to this subsection. This subsection applies only in the case of the termination or revocation of a certification of qualification under section 41-1512. This subsection does not apply if, in any taxable year, a taxpayer otherwise does not qualify for or fails to claim the credit under this section. The recapture of credits is computed by increasing the amount of taxes imposed in the year following the year of termination or revocation by the full amount of all credits previously allowed under this section.

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

I. The department of revenue shall adopt rules and prescribe forms and procedures as necessary for the purposes of this section. The department of revenue and the ~~Arizona commerce authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** shall collaborate in adopting rules as necessary to avoid duplication and contradictory requirements while accomplishing the intent and purposes of this section.

J. Each taxable year after the postapproval of the credit under section 41-1512, subsection P, when the taxpayer

files the taxpayer's income tax return, the taxpayer shall:

1. Notify the department, on a form prescribed by the department, of any full-time employment position for which a credit was claimed under this section and that was vacant for more than one hundred fifty days after the date the full-time employment position was originally filled to the end of that taxable year. The period that a full-time employment position was vacant may not include the period before the full-time employment position was filled for the first time.
2. Reduce the portion of the credit claimed for the taxable year pursuant to subsection B, paragraph 3 of this section by \$4,000 for each full-time employment position reported pursuant to paragraph 1 of this subsection.

Sec. 26. Section 43-1164.04, Arizona Revised Statutes, is amended to read:

43-1164.04. Credit for qualified facilities

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

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

1. Ten percent of the lesser of:

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

(b) Either:

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

(ii) If the total qualifying investment is \$2,000,000,000 or more, \$300,000 for each net new full-time employment position that has job duties associated with the qualified facility.

2. The amount of the credit shall not exceed the postapproval amount determined by the ~~Arizona commerce authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** under section 41-1512, subsection P.

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

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

(b) The taxpayer may claim all five annual installments of a credit that was preapproved before January 1, 2031 by the ~~Arizona commerce authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** notwithstanding any intervening repeal or other termination of the credit.

C. To claim the credit the taxpayer must:

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

2. Receive preapproval and postapproval from the ~~Arizona commerce authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** pursuant to section 41-1512.

3. Submit to the department a copy of a current and valid certification of qualification issued to the taxpayer by the ~~Arizona commerce authority~~ **OFFICE OF ECONOMIC OPPORTUNITY**.

D. To be counted for the purposes of the credit, an employee must have been employed with job duties associated with the qualified facility for at least ninety days during the taxable year in a permanent full-time employment position of at least one thousand seven hundred fifty hours per year. An employee who is hired during the last ninety days of the taxable year shall be considered a new employee during the next taxable year. To be counted for the purposes of the credit during the first taxable year of employment, the employee must not have been previously employed by the taxpayer within twelve months before the current date of hire. The terms of employment must comply in all cases with the requirements of section 41-1512 and be certified by the ~~Arizona commerce authority~~ **OFFICE OF ECONOMIC OPPORTUNITY**.

E. Co-owners of a business, including corporate partners in a partnership and members of a limited liability company, 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 owners of the business may not exceed the amount that would have been allowed for a sole owner of the business.

F. If the allowable tax credit for a taxable year exceeds the income taxes otherwise due on the claimant's income, or if there are no state income taxes due on the claimant's income, **THE TAXPAYER MAY CARRY** the amount of the claim not used as an offset against income taxes ~~shall be paid to the taxpayer in the same manner as a refund under section 42-1118. Refunds made pursuant to this subsection are subject to setoff under section 42-1122. If the department determines that a refund is incorrect or invalid, the excess refund may be treated as a tax deficiency pursuant to section 42-1108~~ **FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE YEARS' INCOME TAX LIABILITY** .

G. Except as provided by subsection H of this section, if, within five taxable years after first receiving a credit pursuant to this section, the certification of qualification of a business is terminated or revoked under section 41-1512, other than for reasons beyond the control of the business as determined by the ~~Arizona commerce authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** , the taxpayer is disqualified from credits under this section in subsequent taxable years. On a determination that the taxpayer has committed fraud or relocated outside of this state within five taxable years after first receiving a credit pursuant to this section, the credits allowed the taxpayer in all taxable years pursuant to this section are subject to recapture pursuant to this subsection. This subsection applies only in the case of the termination or revocation of a certification of qualification under section 41-1512. This subsection does not apply if, in any taxable year, a taxpayer otherwise does not qualify for or fails to claim the credit under this section. The recapture of credits is computed by increasing the amount of taxes imposed in the year following the year of termination or revocation by the full amount of all credits previously allowed under this section.

H. A taxpayer that claims a credit under section 43-1161 may not claim a credit under this section with respect to the same full-time employment positions.

I. The department of revenue shall adopt rules and prescribe forms and procedures as necessary for the purposes of this section. The department of revenue and the ~~Arizona commerce authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** shall collaborate in adopting rules as necessary to avoid duplication and contradictory requirements while accomplishing the intent and purposes of this section.

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

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

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

Sec. 27. Section 43-1165, Arizona Revised Statutes, is amended to read:

43-1165. Credit for motion picture production costs; qualifications; data maintenance; rules; definitions

A. For taxable years beginning from and after December 31, 2022, a tax credit is allowed against production costs paid by a motion picture production company in this state that are subject to taxation by this state and that are directly attributable to a motion picture production. The amount of the credit shall be determined as follows:

1. An amount equal to a percentage of the total amount of the qualified production costs as approved by the ~~Arizona commerce authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** pursuant to section 41-1517 as follows:

- (a) For a motion picture production company that spends up to \$10,000,000, fifteen percent.

- (b) For a motion picture production company that spends more than \$10,000,000 but less than \$35,000,000, seventeen and one-half percent.

- (c) For a motion picture production company that spends more than \$35,000,000, twenty percent.
2. An additional two and one-half percent of the motion picture production company's production labor costs related to positions held by residents of this state as approved by the ~~Arizona commerce authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** pursuant to section 41-1517.
3. If the motion picture production company either:
- (a) Uses a qualified production facility in this state to produce the motion picture production, an additional two and one-half percent of the total amount of qualified production costs as approved by the ~~Arizona commerce authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** pursuant to section 41-1517.
- (b) Films primarily at a practical location, produces and films the motion picture production primarily in this state and performs all preproduction, postproduction and editing at a qualified production facility in this state, an additional two and one-half percent of the total qualified production costs as approved by the ~~Arizona commerce authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** pursuant to section 41-1517.
4. An additional two and one-half percent of the total amount of qualified production costs as approved by the ~~Arizona commerce authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** pursuant to section 41-1517 if the motion picture production is produced and filmed in association with a long-term tenant of a qualified production facility.
- B. Tax credits under this section may not exceed the amount provided in the postapproval issued by the ~~Arizona commerce authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** pursuant to section 41-1517, subsection H. The taxpayer must include a copy of the postapproval with the taxpayer's income tax return for the taxable year in which the ~~Arizona commerce authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** issued the postapproval.
- C. The department may not allow a tax credit under this section to a taxpayer that has a delinquent tax balance owed to the department under this title.
- D. To qualify for a tax credit under this section, the motion picture production company must:
1. Do either of the following:
- (a) Use a qualified production facility in this state to produce the motion picture production.
- (b) If the motion picture production is filmed primarily at a practical location, produce and film the motion picture production primarily in this state and perform all preproduction, postproduction and editing at an industry standard facility, if such a facility for those functions is available.
2. Maintain the motion picture production company's production labor positions in this state.
3. Include in the credits for each motion picture production an acknowledgment that the **MOTION PICTURE** production was filmed in Arizona.
4. Receive preapproval and postapproval from the ~~Arizona commerce authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** pursuant to section 41-1517.
5. Claim the tax credit by using the form prescribed by the department and include the form with the motion picture production company's income tax return for the taxable year in which the ~~Arizona commerce authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** issued the postapproval.
- E. Co-owners of a motion picture production company, including corporate partners in a partnership, may each claim the pro rata share of the tax credit allowed under this section based on ownership interest. The total of the tax credits allowed all such owners may not exceed the amount that would have been allowed a sole owner.
- F. If the allowable tax credit for a taxable year exceeds the income taxes otherwise due on the claimant's income, or if there are no state income taxes due on the claimant's income, **THE TAXPAYER MAY CARRY** the amount of the claim not used as an offset against income taxes ~~shall be paid to the taxpayer in the same manner as a refund under section 42-1118. Refunds made pursuant to this subsection are subject to setoff under section 42-1122. If the department determines that a refund is incorrect or invalid, the excess refund may be treated as a tax deficiency pursuant to section 42-1108~~ **FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE YEARS' INCOME TAX LIABILITY** .
- G. The department shall maintain annual data on the total amount of monies credited pursuant to this section and

shall provide the data to the ~~Arizona commerce authority~~ **OFFICE OF ECONOMIC OPPORTUNITY** on request.

H. The department shall adopt fees and rules and publish and prescribe forms and procedures as necessary to administer this section and provide administrative support services.

I. The tax credit allowed by this section is in lieu of any allowance for state tax purposes of a deduction of those expenses allowed by the internal revenue code.

J. For the purposes of this section:

1. "Long-term tenant" means a person that enters into a lease of at least five years for the use of a qualified production facility.
2. "Motion picture production" has the same meaning prescribed in section 41-1517.
3. "Motion picture production company" has the same meaning prescribed in section 41-1517.
4. "Practical location" has the same meaning prescribed in section 41-1517.
5. "Production costs" has the same meaning prescribed in section 41-1517.
6. "Production labor" has the same meaning prescribed in section 41-1517.
7. "Qualified production facility" has the same meaning prescribed in section 41-1517.

**\*\*\* TEXT OMITTED, DOES NOT PERTAIN TO FILM \*\*\***