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Senate Engrossed

State of Arizona
Senate
Forty-seventh Legislature
First Regular Session
2005

SENATE BILL 1346

AN ACT

AMENDING TITLE 41, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1517; AMENDING SECTIONS 43-222 AND 43-1021, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1075; AMENDING SECTION 43-1121, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1163; RELATING TO INCOME TAX CREDITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 41, chapter 10, article 1, Arizona Revised Statutes,
3 is amended by adding section 41-1517, to read:

4 41-1517. Motion picture production investment incentives:
5 definitions

6 A. THE DEPARTMENT OF COMMERCE SHALL ESTABLISH A PROCEDURE FOR
7 IDENTIFYING MOTION PICTURE PRODUCTION PROJECTS THAT QUALIFY FOR PURPOSES OF
8 MOTION PICTURE PRODUCTION INVESTMENT INCOME TAX CREDITS UNDER SECTIONS
9 43-1075 AND 43-1163.

10 B. A MOTION PICTURE PRODUCTION COMPANY SHALL APPLY FOR CERTIFICATION
11 IN A FORM PRESCRIBED BY THE DEPARTMENT OF COMMERCE, INCLUDING:

12 1. THE NAME, ADDRESS, TELEPHONE NUMBER AND WEB SITE OF THE PRODUCTION
13 COMPANY.

14 2. THE NAME, ADDRESS AND TELEPHONE NUMBER OF A COMPANY CONTACT PERSON.

15 3. THE PROJECTED FIRST PRE-PRODUCTION DATE AND LAST PRODUCTION DATE IN
16 THIS STATE.

17 4. THE PRODUCTION OFFICE ADDRESS AND OFFICE TELEPHONE NUMBER IN THIS
18 STATE.

19 5. THE TOTAL BUDGET OF THE PRODUCTION.

20 6. THE TOTAL EXPENDITURES IN THIS STATE.

21 7. THE TOTAL PERCENTAGE OF THE PRODUCTION TAKING PLACE IN THIS STATE.

22 8. THE ESTIMATED LEVEL OF EMPLOYMENT OF RESIDENTS OF THIS STATE IN THE
23 CAST AND CREW. IN 2006, AT LEAST TWENTY-FIVE PER CENT OF THE CAST AND CREW
24 MUST BE RESIDENTS OF THIS STATE. IN 2007, AT LEAST THIRTY PER CENT OF THE
25 CAST AND CREW MUST BE RESIDENTS OF THIS STATE. BEGINNING IN 2008, AT LEAST
26 FORTY PER CENT OF THE CAST AND CREW MUST BE RESIDENTS OF THIS STATE.

27 9. A SCRIPT, INCLUDING A SYNOPSIS, THE PROPOSED DIRECTOR AND A
28 PRELIMINARY LIST OF THE CAST AND PRODUCER.

29 C. APPLICATIONS TO THE DEPARTMENT OF COMMERCE UNDER THIS SECTION ARE
30 CONFIDENTIAL AND ARE NOT SUBJECT TO PUBLIC ACCESS UNDER TITLE 39.

31 D. THE DEPARTMENT OF COMMERCE SHALL:

32 1. REVIEW AND EVALUATE THE SUBMITTED APPLICATION.

33 2. DETERMINE WITHIN THIRTY DAYS AFTER RECEIVING THE APPLICATION
34 WHETHER THE APPLICATION MEETS THE CRITERIA FOR PURPOSES OF AVAILABLE INCOME
35 TAX CREDITS.

36 3. PROVIDE ITS INITIAL CERTIFICATION OF A PROJECT TO INVESTORS AND THE
37 DEPARTMENT OF REVENUE. THE INITIAL CERTIFICATION SHALL INCLUDE A UNIQUE
38 IDENTIFYING NUMBER FOR EACH CERTIFIED PRODUCTION.

39 E. ON COMPLETION OF A CERTIFIED PRODUCTION:

40 1. THE PRODUCTION COMPANY SHALL REPORT:

41 (a) ITS TOTAL BASE INVESTMENT MADE IN THIS STATE.

42 (b) A COMPLETED EXPENDITURE QUESTIONNAIRE IN A FORM PRESCRIBED BY THE
43 DEPARTMENT OF COMMERCE.

44 (c) A FINAL CAST AND CREW LIST FOR THE PROJECT.

45 2. THE DEPARTMENT SHALL REVIEW THE PRODUCTION EXPENSES AND ISSUE A
46 CREDIT CERTIFICATE TO THE INVESTORS. THE CREDIT CERTIFICATE SHALL INCLUDE

1 THE IDENTIFYING NUMBER ASSIGNED TO THE PRODUCTION IN THE INITIAL
2 CERTIFICATION.

3 3. THE DEPARTMENT SHALL ESTABLISH A PROCEDURE TO PREAPPROVE INVESTORS
4 TO RECEIVE MOTION PICTURE PRODUCTION INVESTMENT INCOME TAX CREDITS UNDER
5 SECTIONS 43-1075 AND 43-1163.

6 4. THE DEPARTMENT SHALL NOT PREAPPROVE INVESTORS TO RECEIVE TAX
7 CREDITS IN ANY CALENDAR YEAR THAT EXCEED A TOTAL OF:

8 (a) TWENTY MILLION DOLLARS FOR 2006.

9 (b) THIRTY MILLION DOLLARS FOR 2007.

10 (c) FORTY MILLION DOLLARS FOR 2008.

11 (d) FIFTY MILLION DOLLARS FOR 2009.

12 (e) FROM AND AFTER DECEMBER 31, 2009, SIXTY MILLION DOLLARS.

13 5. THE DEPARTMENT SHALL DENY A CREDIT CERTIFICATE FOR ANY PRODUCTION
14 THAT WOULD CONSTITUTE AN OBSCENE MOTION PICTURE FILM OR OBSCENE PICTORIAL
15 PUBLICATION UNDER TITLE 12, CHAPTER 7, ARTICLE 1.1.

16 F. IF THE DEPARTMENT OF COMMERCE FINDS THAT MONIES FOR WHICH AN
17 INVESTOR RECEIVED CREDITS PURSUANT TO THIS SECTION WERE NOT INVESTED IN AND
18 SPENT WITH RESPECT TO A CERTIFIED PRODUCTION WITHIN TWENTY-FOUR MONTHS OF THE
19 DATE THE CREDITS WERE CLAIMED, THE DEPARTMENT OF COMMERCE SHALL NOTIFY THE
20 DEPARTMENT OF REVENUE, AND THE CREDITS ACTUALLY AFFORDED AGAINST INCOME TAX
21 ARE SUBJECT TO RECAPTURE AS PROVIDED BY SECTION 43-1075 OR 43-1163.

22 G. THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF REVENUE SHALL
23 COLLABORATE IN ADOPTING RULES THAT ARE NECESSARY TO CARRY OUT THE INTENT AND
24 PURPOSE OF THIS SECTION.

25 H. FOR THE PURPOSES OF THIS SECTION:

26 1. "BASE INVESTMENT" MEANS THE AMOUNT OF THE ACTUAL INVESTMENT MADE
27 AND SPENT BY A CERTIFIED PRODUCTION IN THIS STATE AS PRODUCTION-RELATED
28 COSTS.

29 2. "CERTIFIED PRODUCTION" MEANS A PRODUCTION APPROVED BY THE
30 DEPARTMENT OF COMMERCE.

31 3. "MOTION PICTURE" MEANS A SINGLE MEDIUM OR MULTIMEDIA PROGRAM,
32 INCLUDING A COMMERCIAL ADVERTISING MESSAGE, THAT:

33 (a) IS CREATED BY PRODUCTION ACTIVITIES CONDUCTED IN WHOLE OR IN PART
34 IN THIS STATE.

35 (b) CAN BE VIEWED OR REPRODUCED.

36 (c) IS INTENDED FOR COMMERCIAL DISTRIBUTION OR LICENSING IN THE
37 DELIVERY MEDIUM USED.

38 4. "MOTION PICTURE PRODUCTION COMPANY" MEANS ANY PERSON PRIMARILY
39 ENGAGED IN THE BUSINESS OF PRODUCING MOTION PICTURES AND THAT HAS A PHYSICAL
40 BUSINESS OFFICE AND BANK ACCOUNT IN THIS STATE.

41 Sec. 2. Section 43-222, Arizona Revised Statutes, is amended to read:

42 43-222. Income tax credit review schedule

43 Each year the joint legislative income tax credit review committee
44 shall review the following income tax credits:

45 1. In 2004, sections 43-1081.01, 43-1083, 43-1084 and 43-1170.01.

46 2. In 2005, sections 43-1087, 43-1088 and 43-1175.

1 3. In 2006, sections 43-1073, 43-1089, 43-1089.01, 43-1089.02,
2 43-1090, 43-1176 and 43-1181.

3 4. In 2007, sections 43-1077, 43-1078, 43-1079, 43-1080, 43-1165,
4 43-1166, 43-1167 and 43-1169.

5 5. In 2008, sections 43-1074.01, 43-1081, 43-1168, 43-1170 and
6 43-1178.

7 6. In 2009, sections 43-1076 and 43-1162.

8 7. **IN 2010, SECTIONS 43-1075 AND 43-1163.**

9 Sec. 3. Section 43-1021, Arizona Revised Statutes, is amended to read:
10 **43-1021. Additions to Arizona gross income**

11 In computing Arizona adjusted gross income, the following amounts shall
12 be added to Arizona gross income:

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

16 2. An amount equal to the "ordinary income portion" of a lump sum
17 distribution that was excluded from federal adjusted gross income pursuant to
18 section 402(d) of the internal revenue code.

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

26 4. Annuity income received during the taxable year to the extent that
27 the sum of the proceeds received from such annuity in all taxable years prior
28 to and including the current taxable year exceeds the total consideration and
29 premiums paid by the taxpayer. This paragraph applies only to those
30 annuities with respect to which the first payment was received prior to
31 December 31, 1978.

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

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

39 7. The amount by which the adjusted basis of property described in
40 this paragraph and computed pursuant to the internal revenue code exceeds the
41 adjusted basis of such property computed pursuant to this title and the
42 income tax act of 1954, as amended. This paragraph shall apply to all
43 property which is held for the production of income and which is sold or
44 otherwise disposed of during the taxable year, except depreciable property
45 used in a trade or business.

1 8. The amount of depreciation or amortization of costs of any capital
2 investment that is deducted pursuant to section 167 or 179 of the internal
3 revenue code by a qualified defense contractor with respect to which an
4 election is made to amortize pursuant to section 43-1024.

5 9. The amount of gain from the sale or other disposition of a capital
6 investment which a qualified defense contractor has elected to amortize
7 pursuant to section 43-1024.

8 10. Amounts withdrawn from the Arizona state retirement system, the
9 corrections officer retirement plan, the public safety personnel retirement
10 system, the elected officials' retirement plan or a county or city retirement
11 plan by an employee upon termination of employment before retirement to the
12 extent they were deducted in arriving at Arizona taxable income in any year.

13 11. That portion of the net operating loss included in federal adjusted
14 gross income which has already been taken as a net operating loss for Arizona
15 purposes or which is separately taken as a subtraction under the special net
16 operating loss transition rule.

17 12. Any nonitemized amount deducted pursuant to section 170 of the
18 internal revenue code representing contributions to an educational
19 institution which denies admission, enrollment or board and room
20 accommodations on the basis of race, color or ethnic background except those
21 institutions primarily established for the education of American Indians.

22 13. The amount paid as taxes on property in this state with respect to
23 which a credit is claimed under section 43-1078.

24 14. Amounts withdrawn from a medical savings account by the individual
25 during the taxable year computed pursuant to section 220(f) of the internal
26 revenue code and not included in federal adjusted gross income.

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

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

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

40 18. The amount by which the depreciation or amortization computed under
41 the internal revenue code with respect to property for which a credit was
42 taken under either section 43-1081 or 43-1081.01 exceeds the amount of
43 depreciation or amortization computed pursuant to the internal revenue code
44 on the Arizona adjusted basis of the property.

45 19. The amount by which the adjusted basis computed under the internal
46 revenue code with respect to property for which a credit was claimed under

1 either section 43-1081 or 43-1081.01 and which is sold or otherwise disposed
2 of during the taxable year exceeds the adjusted basis of the property
3 computed under section 43-1081 or 43-1081.01, as applicable.

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

7 21. The amount by which a net operating loss carryover or capital loss
8 carryover allowable pursuant to section 1341(b)(5) of the internal revenue
9 code exceeds the net operating loss carryover or capital loss carryover
10 allowable pursuant to section 43-1029, subsection F.

11 22. Any amount deducted pursuant to section 170 of the internal revenue
12 code representing contributions to a school tuition organization or a public
13 school for which a credit is claimed under section 43-1089 or 43-1089.01.

14 23. Any amount deducted in computing Arizona gross income as expenses
15 for installing solar stub outs or electric vehicle recharge outlets in this
16 state with respect to which a credit is claimed pursuant to section 43-1090.

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

21 25. Any amount deducted for conveying ownership or development rights
22 of property to an agricultural preservation district under section 48-5702
23 for which a credit is claimed under section 43-1081.02.

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

27 27. With respect to property for which an expense deduction was taken
28 pursuant to section 179 of the internal revenue code, the amount in excess of
29 twenty-five thousand dollars.

30 28. ANY AMOUNT OF EXPENSES THAT WERE DEDUCTED IN COMPUTING ARIZONA
31 GROSS INCOME THAT REPRESENTS EXPENSES RELATED TO AMOUNTS FOR WHICH A CREDIT
32 IS CLAIMED UNDER SECTION 43-1075.

33 Sec. 4. Title 43, chapter 10, article 5, Arizona Revised Statutes, is
34 amended by adding section 43-1075, to read:

35 43-1075. Credit for motion picture production investment;
36 definitions

37 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2005 UNTIL
38 DECEMBER 31, 2010, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS
39 TITLE FOR INVESTMENT IN CERTIFIED PRODUCTION OF MOTION PICTURES BY TAXPAYERS,
40 OTHER THAN MOTION PICTURE PRODUCTION COMPANIES. THE TAX CREDIT IS ALLOWED
41 FOR THE TAXABLE YEAR IN WHICH THE INVESTMENT OCCURS AND IS TWENTY PER CENT OF
42 THE ACTUAL INVESTMENT MADE BY THE TAXPAYER IF THE TOTAL BASE INVESTMENT IS
43 MORE THAN ONE HUNDRED THOUSAND DOLLARS.

44 B. MOTION PICTURE INVESTOR CREDITS UNDER THIS SECTION AND SECTION
45 43-1163 ASSOCIATED WITH ANY CERTIFIED PRODUCTION SHALL NOT EXCEED THE TOTAL
46 BASE INVESTMENT IN THAT PRODUCTION.

1 C. THE DEPARTMENT SHALL NOT ALLOW IN ANY CALENDAR YEAR TAX CREDITS
2 THAT EXCEED THE AMOUNT PRESCRIBED IN SECTION 41-1517.

3 D. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE INCOME TAXES OTHERWISE DUE
4 ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO STATE INCOME TAXES DUE ON THE
5 CLAIMANT'S INCOME, THE AMOUNT OF THE EXCESS CREDIT NOT USED TO OFFSET INCOME
6 TAXES, OR OTHER OBLIGATIONS TO THIS STATE UNDER SECTION 42-1122, AND AFTER
7 AUDIT BY THE DEPARTMENT, SHALL BE PAID IN THE SAME MANNER AS A REFUND UNDER
8 SECTION 42-1118.

9 E. CO-OWNERS OF A BUSINESS, INCLUDING PARTNERS IN A PARTNERSHIP,
10 SHAREHOLDERS OF AN S CORPORATION, AS DEFINED IN SECTION 1361 OF THE INTERNAL
11 REVENUE CODE, AND MEMBERS OF ANY OTHER PASS-THROUGH ENTITY, MAY EACH CLAIM
12 ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED UNDER THIS SECTION BASED ON THE
13 OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH OWNERS MAY NOT
14 EXCEED THE AMOUNT THAT WOULD HAVE BEEN ALLOWED A SOLE OWNER.

15 F. IF THE DEPARTMENT OF COMMERCE NOTIFIES THE DEPARTMENT OF REVENUE
16 THAT MONIES FOR WHICH AN INVESTOR RECEIVED A CREDIT PURSUANT TO THIS SECTION
17 WERE NOT INVESTED IN AND SPENT WITH RESPECT TO A CERTIFIED PRODUCTION WITHIN
18 TWENTY-FOUR MONTHS OF THE DATE THE CREDITS WERE CLAIMED, THE CREDITS ACTUALLY
19 AFFORDED AGAINST INCOME TAX ARE SUBJECT TO RECAPTURE, THROUGH ANY COLLECTION
20 METHOD PROVIDED BY TITLE 42, CHAPTER 1, WITH INTEREST AT THE RATE PRESCRIBED
21 BY SECTION 42-1123 COMPUTED FROM THE ORIGINAL DUE DATE OF THE RETURN ON WHICH
22 THE CREDIT WAS CLAIMED AND THE COSTS OF ANY AUDITS CONDUCTED CONFIRMING THE
23 DISQUALIFICATION OF THE CREDIT.

24 G. THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF REVENUE SHALL
25 COLLABORATE IN ADOPTING RULES THAT ARE NECESSARY TO CARRY OUT THE INTENT AND
26 PURPOSE OF THIS SECTION.

27 H. THE CREDIT ALLOWED BY THIS SECTION IS IN LIEU OF ANY ALLOWANCE FOR
28 STATE TAX PURPOSES OF A DEDUCTION FOR THOSE EXPENSES ALLOWED BY THE INTERNAL
29 REVENUE CODE.

30 I. FOR THE PURPOSES OF THIS SECTION:

31 1. "BASE INVESTMENT" MEANS THE AMOUNT OF THE ACTUAL INVESTMENT MADE
32 AND SPENT BY A CERTIFIED PRODUCTION IN THIS STATE AS PRODUCTION-RELATED
33 COSTS.

34 2. "CERTIFIED PRODUCTION" MEANS A PRODUCTION APPROVED BY THE
35 DEPARTMENT OF COMMERCE PURSUANT TO SECTION 41-1517.

36 3. "MOTION PICTURE" MEANS A SINGLE MEDIUM OR MULTIMEDIA PROGRAM,
37 INCLUDING A COMMERCIAL ADVERTISING MESSAGE, THAT:

38 (a) IS CREATED BY PRODUCTION ACTIVITIES CONDUCTED IN WHOLE OR IN PART
39 IN THIS STATE.

40 (b) CAN BE VIEWED OR REPRODUCED.

41 (c) IS INTENDED FOR COMMERCIAL DISTRIBUTION OR LICENSING IN THE
42 DELIVERY MEDIUM USED.

43 4. "MOTION PICTURE PRODUCTION COMPANY" MEANS ANY PERSON PRIMARILY
44 ENGAGED IN THE BUSINESS OF PRODUCING MOTION PICTURES AND THAT HAS A PHYSICAL
45 BUSINESS OFFICE AND BANK ACCOUNT IN THIS STATE.

46 Sec. 5. Section 43-1121, Arizona Revised Statutes, is amended to read:

1 43-1121. Additions to Arizona gross income: corporations

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

4 1. The amounts computed pursuant to section 43-1021, paragraphs 3
5 through 9, 12, 26 and 27.

6 2. The amount of dividend income received from corporations and
7 allowed as a deduction pursuant to sections 243, 244 and 245 of the internal
8 revenue code.

9 3. Taxes which are based on income paid to states, local governments
10 or foreign governments and which were deducted in computing federal taxable
11 income.

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

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

30 6. Federal income tax refunds received during the taxable year to the
31 extent they were deducted in arriving at Arizona taxable income in a previous
32 year.

33 7. The amount of net operating loss taken pursuant to section 172 of
34 the internal revenue code.

35 8. The amount of exploration expenses determined pursuant to section
36 617 of the internal revenue code to the extent that they exceed seventy-five
37 thousand dollars and to the extent that the election is made to defer those
38 expenses not in excess of seventy-five thousand dollars.

39 9. Amortization of costs incurred to install pollution control devices
40 and deducted pursuant to the internal revenue code or the amount of deduction
41 for depreciation taken pursuant to the internal revenue code on pollution
42 control devices for which an election is made pursuant to section 43-1129.

43 10. The amount of depreciation or amortization of costs of child care
44 facilities deducted pursuant to section 167 or 188 of the internal revenue
45 code for which an election is made to amortize pursuant to section 43-1130.

1 11. Arizona state income tax refunds received, to the extent the amount
2 of the refunds is not already included in Arizona gross income, if a tax
3 benefit was derived by deduction of this amount in a prior year.

4 12. The amount paid as taxes on property in this state by a qualified
5 defense contractor with respect to which a credit is claimed under section
6 43-1166.

7 13. The loss of an insurance company that is exempt under section
8 43-1201 to the extent that it is included in computing Arizona gross income
9 on a consolidated return pursuant to section 43-947.

10 14. The amount by which the depreciation or amortization computed under
11 the internal revenue code with respect to property for which a credit was
12 taken under section 43-1169 exceeds the amount of depreciation or
13 amortization computed pursuant to the internal revenue code on the Arizona
14 adjusted basis of the property.

15 15. The amount by which the adjusted basis computed under the internal
16 revenue code with respect to property for which a credit was claimed under
17 section 43-1169 and which is sold or otherwise disposed of during the taxable
18 year exceeds the adjusted basis of the property computed under section
19 43-1169.

20 16. The amount by which the depreciation or amortization computed under
21 the internal revenue code with respect to property for which a credit was
22 taken under either section 43-1170 or 43-1170.01 exceeds the amount of
23 depreciation or amortization computed pursuant to the internal revenue code
24 on the Arizona adjusted basis of the property.

25 17. The amount by which the adjusted basis computed under the internal
26 revenue code with respect to property for which a credit was claimed under
27 either section 43-1170 or 43-1170.01 and which is sold or otherwise disposed
28 of during the taxable year exceeds the adjusted basis of the property
29 computed under section 43-1170 or 43-1170.01, as applicable.

30 18. The deduction referred to in section 1341(a)(4) of the internal
31 revenue code for restoration of a substantial amount held under a claim of
32 right.

33 19. The amount by which a capital loss carryover allowable pursuant to
34 section 1341(b)(5) of the internal revenue code exceeds the capital loss
35 carryover allowable pursuant to section 43-1130.01, subsection F.

36 20. Any amount deducted in computing Arizona taxable income as expenses
37 for installing solar stub outs or electric vehicle recharge outlets in this
38 state with respect to which a credit is claimed pursuant to section 43-1176.

39 21. Any wage expenses deducted pursuant to the internal revenue code
40 for which a credit is claimed under section 43-1175 and representing net
41 increases in qualified employment positions for employment of temporary
42 assistance for needy families recipients.

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

1 G. THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF REVENUE SHALL
2 COLLABORATE IN ADOPTING RULES THAT ARE NECESSARY TO CARRY OUT THE INTENT AND
3 PURPOSE OF THIS SECTION.

4 H. THE CREDIT ALLOWED BY THIS SECTION IS IN LIEU OF ANY ALLOWANCE FOR
5 STATE TAX PURPOSES OF A DEDUCTION FOR THOSE EXPENSES ALLOWED BY THE INTERNAL
6 REVENUE CODE.

7 I. FOR THE PURPOSES OF THIS SECTION:

8 1. "BASE INVESTMENT" MEANS THE AMOUNT OF THE ACTUAL INVESTMENT MADE
9 AND SPENT BY A CERTIFIED PRODUCTION IN THIS STATE AS PRODUCTION-RELATED
10 COSTS.

11 2. "CERTIFIED PRODUCTION" MEANS A PRODUCTION APPROVED BY THE
12 DEPARTMENT OF COMMERCE PURSUANT TO SECTION 41-1517.

13 3. "MOTION PICTURE" MEANS A SINGLE MEDIUM OR MULTIMEDIA PROGRAM,
14 INCLUDING A COMMERCIAL ADVERTISING MESSAGE, THAT:

15 (a) IS CREATED BY PRODUCTION ACTIVITIES CONDUCTED IN WHOLE OR IN PART
16 IN THIS STATE.

17 (b) CAN BE VIEWED OR REPRODUCED.

18 (c) IS INTENDED FOR COMMERCIAL DISTRIBUTION OR LICENSING IN THE
19 DELIVERY MEDIUM USED.

20 4. "MOTION PICTURE PRODUCTION COMPANY" MEANS ANY PERSON PRIMARILY
21 ENGAGED IN THE BUSINESS OF PRODUCING MOTION PICTURES AND THAT HAS A PHYSICAL
22 BUSINESS OFFICE AND BANK ACCOUNT IN THIS STATE.

23 Sec. 7. Purpose

24 Pursuant to section 43-223, Arizona Revised Statutes, the legislature
25 enacts sections 43-1075 and 43-1163, Arizona Revised Statutes, as added by
26 this act, to encourage the development of a strong capital base for motion
27 picture production in this state and to achieve an independent and
28 economically sustainable film and video industry.

29 Sec. 8. Severability

30 If a provision of this act or its application to any person or
31 circumstance is held invalid, the invalidity does not affect other provisions
32 or applications of the act that can be given effect without the invalid
33 provision or application, and to this end the provisions of this act are
34 severable.