

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

SENATE BILL 1254

AN ACT

AMENDING TITLE 41, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1507; AMENDING SECTION 43-222, ARIZONA REVISED STATUTES; AMENDING SECTION 43-1074.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 290, SECTION 2; AMENDING SECTION 43-1074.01, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2008, CHAPTER 290, SECTION 4; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1083.02; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1164.02; AMENDING SECTION 43-1168, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 290, SECTION 5; AMENDING SECTION 43-1168, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2008, CHAPTER 290, SECTION 7; RELATING TO TAX CREDITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 41, chapter 10, article 1, Arizona Revised Statutes,
3 is amended by adding section 41-1507, to read:

4 41-1507. Tax credit for increased research activity:
5 qualification for refund or transfer

6 A. THE DEPARTMENT OF COMMERCE SHALL RECEIVE APPLICATIONS AND EVALUATE
7 AND CERTIFY TAXPAYERS WHO OTHERWISE QUALIFY FOR INCOME TAX CREDITS FOR
8 INCREASED RESEARCH ACTIVITIES TO FURTHER QUALIFY FOR INCOME TAX REFUNDS.

9 B. AN APPLICATION FOR A REFUND OF THE TAXPAYER'S CREDIT MUST INCLUDE:

10 1. THE TAXPAYER'S NAME, ADDRESS AND TAXPAYER IDENTIFICATION NUMBER AND
11 A TELEPHONE NUMBER AND E-MAIL ADDRESS OF A PERSON RESPONSIBLE FOR THE
12 APPLICATION.

13 2. A GENERAL DESCRIPTION OF THE TAXPAYER'S BUSINESS AND THE RESEARCH
14 ACTIVITIES CONDUCTED BY THE TAXPAYER.

15 3. THE NUMBER OF FULL-TIME EMPLOYEES ON THE TAXPAYER'S PAYROLL ON
16 DECEMBER 31 OF THE TAXABLE YEAR. ONLY TAXPAYERS EMPLOYING FEWER THAN ONE
17 HUNDRED FIFTY FULL-TIME EMPLOYEES QUALIFY FOR A REFUND OF THE TAXPAYER'S
18 INCOME TAX CREDIT.

19 4. THE AMOUNT OF THE TAXPAYER'S INCOME TAX CREDIT FOR THE TAXABLE
20 YEAR.

21 5. ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

22 C. EACH APPLICATION SHALL INCLUDE A PROCESSING FEE EQUAL TO ONE PER
23 CENT OF THE TAXPAYER'S TAX CREDIT BEING REFUNDED.

24 D. THE DEPARTMENT SHALL PROCESS AND EVALUATE EACH APPLICATION AND
25 WITHIN THIRTY DAYS AFTER RECEIVING THE APPLICATION EITHER:

26 1. ISSUE TO THE APPLICANT A CERTIFICATE OF QUALIFICATION FOR THE
27 REFUND.

28 2. NOTIFY THE APPLICANT OF DENIAL OF THE APPLICATION WITH SPECIFIC
29 REASONS FOR THE DENIAL. A DENIAL OF THE APPLICATION DOES NOT PRECLUDE A
30 SUBSEQUENT APPLICATION IF THE APPLICANT IS ABLE TO CORRECT ANY ERROR OR
31 DEFICIENCY.

32 E. THE DEPARTMENT SHALL NOT APPROVE REFUNDS EXCEEDING A TOTAL OF FIVE
33 MILLION DOLLARS IN ANY CALENDAR YEAR. REFUNDS ARE ALLOWED ON A FIRST COME,
34 FIRST SERVED BASIS, ACCORDING TO THE DATE OF APPLICATION. AN APPROVED AMOUNT
35 APPLIES AGAINST THE DOLLAR LIMIT FOR THE YEAR IN WHICH THE APPLICATION WAS
36 SUBMITTED. IF, AT THE END OF ANY YEAR, AN UNUSED BALANCE OCCURS UNDER THE
37 DOLLAR LIMIT PRESCRIBED BY THIS SUBSECTION, THE BALANCE SHALL BE REALLOCATED
38 FOR THE PURPOSES OF THIS SECTION IN THE FOLLOWING YEAR.

39 F. THE DEPARTMENT OF COMMERCE, WITH THE COOPERATION OF THE DEPARTMENT
40 OF REVENUE, SHALL ADOPT RULES AND PUBLISH AND PRESCRIBE FORMS AND PROCEDURES
41 AS NECESSARY TO EFFECTUATE THE PURPOSES OF THIS SECTION.

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

43 43-222. Income tax credit review schedule

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

1 1. For years ending in 0 and 5, sections 43-1075, 43-1075.01,
2 43-1079.01, 43-1087, 43-1088, 43-1090.01, 43-1163, 43-1163.01, 43-1167.01,
3 43-1175 and 43-1182.

4 2. For years ending in 1 and 6, sections 43-1074.02, 43-1083,
5 43-1083.02, 43-1085, 43-1164, 43-1164.02 and 43-1183.

6 3. For years ending in 2 and 7, sections 43-1073, 43-1079, 43-1080,
7 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1090, 43-1167, 43-1169, 43-1176
8 and 43-1181.

9 4. For years ending in 3 and 8, sections 43-1074.01, 43-1081, 43-1168,
10 43-1170 and 43-1178.

11 5. For years ending in 4 and 9, sections 43-1076, 43-1081.01,
12 43-1083.01, 43-1084, 43-1162, 43-1164.01, ~~and~~ 43-1170.01 **AND** 43-1184.

13 Sec. 3. Section 43-1074.01, Arizona Revised Statutes, as amended by
14 Laws 2008, chapter 290, section 2, is amended to read:

15 43-1074.01. Credit for increased research activities

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

19 1. The amount of the credit is based on the excess, if any, of the
20 qualified research expenses for the taxable year over the base amount as
21 defined in section 41(c) of the internal revenue code and is computed as
22 follows:

23 (a) If the excess is two million five hundred thousand dollars or
24 less, the credit is equal to twenty-four per cent of that amount.

25 (b) If the excess is over two million five hundred thousand dollars,
26 the credit is equal to six hundred thousand dollars plus fifteen per cent of
27 any amount exceeding two million five hundred thousand dollars, except that:

28 (i) For taxable years beginning from and after December 31, 2000
29 through December 31, 2001, the credit shall not exceed one million five
30 hundred thousand dollars.

31 (ii) For taxable years beginning from and after December 31, 2001
32 through December 31, 2002, the credit shall not exceed two million five
33 hundred thousand dollars.

34 2. Qualified research includes only research conducted in this state
35 including research conducted at a university in this state and paid for by
36 the taxpayer.

37 3. If two or more taxpayers, including partners in a partnership and
38 shareholders of an S corporation, as defined in section 1361 of the internal
39 revenue code, share in the eligible expenses, each taxpayer is eligible to
40 receive a proportionate share of the credit.

41 4. The credit under this section applies only to expenses incurred
42 from and after December 31, 2000.

43 5. The termination provisions of section 41 of the internal revenue
44 code do not apply.

1 B. EXCEPT AS PROVIDED BY SUBSECTION C OF THIS SECTION, if the
2 allowable credit under this section exceeds the taxes otherwise due under
3 this title on the claimant's income, or if there are no taxes due under this
4 title, the amount of the credit not used to offset taxes may be carried
5 forward to the next fifteen consecutive taxable years. The amount of credit
6 carryforward from taxable years beginning from and after December 31, 2000
7 through December 31, 2002 that may be used in any taxable year may not exceed
8 the taxpayer's tax liability under this title or five hundred thousand
9 dollars, whichever is less, minus the credit under this section for the
10 current taxable year's qualified research expenses. The amount of credit
11 carryforward from taxable years beginning from and after December 31, 2002
12 that may be used in any taxable year may not exceed the taxpayer's tax
13 liability under this title minus the credit under this section for the
14 current taxable year's qualified research expenses. A TAXPAYER WHO CARRIES
15 FORWARD ANY AMOUNT OF CREDIT UNDER THIS SUBSECTION MAY NOT THEREAFTER CLAIM A
16 REFUND OF ANY AMOUNT OF THE CREDIT UNDER SUBSECTION C OF THIS SECTION.

17 C. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2009, IF A
18 TAXPAYER WHO CLAIMS A CREDIT UNDER THIS SECTION EMPLOYS FEWER THAN ONE
19 HUNDRED FIFTY PERSONS IN THE TAXPAYER'S TRADE OR BUSINESS AND IF THE
20 ALLOWABLE CREDIT UNDER THIS SECTION EXCEEDS THE TAXES OTHERWISE DUE UNDER
21 THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS
22 TITLE, IN LIEU OF CARRYING THE EXCESS AMOUNT OF CREDIT FORWARD TO SUBSEQUENT
23 TAXABLE YEARS UNDER SUBSECTION B OF THIS SECTION, THE TAXPAYER MAY ELECT TO
24 RECEIVE A REFUND AS FOLLOWS:

25 1. THE TAXPAYER MUST APPLY TO THE DEPARTMENT OF COMMERCE FOR
26 QUALIFICATION FOR THE REFUND PURSUANT TO SECTION 41-1507 AND SUBMIT A COPY OF
27 THE DEPARTMENT OF COMMERCE'S CERTIFICATE OF QUALIFICATION TO THE DEPARTMENT
28 OF REVENUE WITH THE TAXPAYER'S INCOME TAX RETURN.

29 2. THE AMOUNT OF THE REFUND IS LIMITED TO SEVENTY-FIVE PER CENT OF THE
30 AMOUNT BY WHICH THE ALLOWABLE CREDIT UNDER THIS SECTION EXCEEDS THE
31 TAXPAYER'S TAX LIABILITY UNDER THIS TITLE FOR THE TAXABLE YEAR. THE
32 REMAINDER OF THE EXCESS AMOUNT OF THE CREDIT IS WAIVED.

33 3. THE REFUND SHALL BE PAID IN THE MANNER PRESCRIBED BY SECTION
34 42-1118.

35 4. THE REFUND IS SUBJECT TO SETOFF UNDER SECTION 42-1122.

36 5. IF THE DEPARTMENT DETERMINES THAT A CREDIT REFUNDED PURSUANT TO
37 THIS SUBSECTION IS INCORRECT OR INVALID, THE EXCESS CREDIT ISSUED MAY BE
38 TREATED AS A TAX DEFICIENCY PURSUANT TO SECTION 42-1108.

39 Sec. 4. Section 43-1074.01, Arizona Revised Statutes, as added by Laws
40 2008, chapter 290, section 4, is amended to read:

41 43-1074.01. Credit for increased research activities

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

1 1. The amount of the credit is based on the excess, if any, of the
2 qualified research expenses for the taxable year over the base amount as
3 defined in section 41(c) of the internal revenue code and is computed as
4 follows:

5 (a) If the excess is two million five hundred thousand dollars or
6 less, the credit is equal to twenty per cent of that amount.

7 (b) If the excess is over two million five hundred thousand dollars,
8 the credit is equal to five hundred thousand dollars plus eleven per cent of
9 any amount exceeding two million five hundred thousand dollars, except that:

10 (i) For taxable years beginning from and after December 31, 2000
11 through December 31, 2001, the credit shall not exceed one million five
12 hundred thousand dollars.

13 (ii) For taxable years beginning from and after December 31, 2001
14 through December 31, 2002, the credit shall not exceed two million five
15 hundred thousand dollars.

16 2. Qualified research includes only research conducted in this state
17 including research conducted at a university in this state and paid for by
18 the taxpayer.

19 3. If two or more taxpayers, including partners in a partnership and
20 shareholders of an S corporation, as defined in section 1361 of the internal
21 revenue code, share in the eligible expenses, each taxpayer is eligible to
22 receive a proportionate share of the credit.

23 4. The credit under this section applies only to expenses incurred
24 from and after December 31, 2000.

25 5. The termination provisions of section 41 of the internal revenue
26 code do not apply.

27 B. EXCEPT AS PROVIDED BY SUBSECTION C OF THIS SECTION, if the
28 allowable credit under this section exceeds the taxes otherwise due under
29 this title on the claimant's income, or if there are no taxes due under this
30 title, the amount of the credit not used to offset taxes may be carried
31 forward to the next fifteen consecutive taxable years. The amount of credit
32 carryforward from taxable years beginning from and after December 31, 2000
33 through December 31, 2002 that may be used in any taxable year may not exceed
34 the taxpayer's tax liability under this title or five hundred thousand
35 dollars, whichever is less, minus the credit under this section for the
36 current taxable year's qualified research expenses. The amount of credit
37 carryforward from taxable years beginning from and after December 31, 2002
38 that may be used in any taxable year may not exceed the taxpayer's tax
39 liability under this title minus the credit under this section for the
40 current taxable year's qualified research expenses. A TAXPAYER WHO CARRIES
41 FORWARD ANY AMOUNT OF CREDIT UNDER THIS SUBSECTION MAY NOT THEREAFTER CLAIM A
42 REFUND OF ANY AMOUNT OF THE CREDIT UNDER SUBSECTION C OF THIS SECTION.

43 C. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2009, IF A
44 TAXPAYER WHO CLAIMS A CREDIT UNDER THIS SECTION EMPLOYS FEWER THAN ONE
45 HUNDRED FIFTY PERSONS IN THE TAXPAYER'S TRADE OR BUSINESS AND IF THE

1 ALLOWABLE CREDIT UNDER THIS SECTION EXCEEDS THE TAXES OTHERWISE DUE UNDER
2 THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS
3 TITLE, IN LIEU OF CARRYING THE EXCESS AMOUNT OF CREDIT FORWARD TO SUBSEQUENT
4 TAXABLE YEARS UNDER SUBSECTION B OF THIS SECTION, THE TAXPAYER MAY ELECT TO
5 RECEIVE A REFUND AS FOLLOWS:

6 1. THE TAXPAYER MUST APPLY TO THE DEPARTMENT OF COMMERCE FOR
7 QUALIFICATION FOR THE REFUND PURSUANT TO SECTION 41-1507 AND SUBMIT A COPY OF
8 THE DEPARTMENT OF COMMERCE'S CERTIFICATE OF QUALIFICATION TO THE DEPARTMENT
9 OF REVENUE WITH THE TAXPAYER'S INCOME TAX RETURN.

10 2. THE AMOUNT OF THE REFUND IS LIMITED TO SEVENTY-FIVE PER CENT OF THE
11 AMOUNT BY WHICH THE ALLOWABLE CREDIT UNDER THIS SECTION EXCEEDS THE
12 TAXPAYER'S TAX LIABILITY UNDER THIS TITLE FOR THE TAXABLE YEAR. THE
13 REMAINDER OF THE EXCESS AMOUNT OF THE CREDIT IS WAIVED.

14 3. THE REFUND SHALL BE PAID IN THE MANNER PRESCRIBED BY SECTION
15 42-1118.

16 4. THE REFUND IS SUBJECT TO SETOFF UNDER SECTION 42-1122.

17 5. IF THE DEPARTMENT DETERMINES THAT A CREDIT REFUNDED PURSUANT TO
18 THIS SUBSECTION IS INCORRECT OR INVALID, THE EXCESS CREDIT ISSUED MAY BE
19 TREATED AS A TAX DEFICIENCY PURSUANT TO SECTION 42-1108.

20 Sec. 5. Title 43, chapter 10, article 5, Arizona Revised Statutes, is
21 amended by adding section 43-1083.02, to read:

22 43-1083.02. Renewable energy production tax credit; definitions

23 A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR THE
24 PRODUCTION OF ELECTRICITY USING RENEWABLE ENERGY RESOURCES.

25 B. THE TAXPAYER IS ELIGIBLE FOR THE CREDIT:

26 1. IF THE TAXPAYER HOLDS TITLE TO A QUALIFIED ENERGY GENERATOR THAT
27 FIRST PRODUCES ELECTRICITY FROM AND AFTER DECEMBER 31, 2010 AND BEFORE
28 JANUARY 1, 2021.

29 2. FOR TEN CONSECUTIVE CALENDAR YEARS BEGINNING WITH THE CALENDAR YEAR
30 IN WHICH THE QUALIFIED ENERGY GENERATOR BEGINS PRODUCING ELECTRICITY THAT IS
31 TRANSMITTED THROUGH A TRANSMISSION FACILITY TO A GRID CONNECTION WITH A
32 PUBLIC OR PRIVATE ELECTRIC TRANSMISSION OR DISTRIBUTION UTILITY SYSTEM. THAT
33 SAME DATE APPLIES WITH RESPECT TO THAT GENERATOR UNTIL THE EXPIRATION OF THE
34 TEN-YEAR PERIOD REGARDLESS OF WHETHER THE GENERATOR IS SOLD TO ANOTHER
35 TAXPAYER OR GOES OUT OF PRODUCTION BEFORE THE EXPIRATION OF THE TEN-YEAR
36 PERIOD.

37 C. THE CREDIT AUTHORIZED BY THIS SECTION IS BASED ON THE ELECTRICITY
38 THAT IS GENERATED BY A QUALIFIED ENERGY GENERATOR DURING A CALENDAR YEAR.
39 FOR A TAXPAYER THAT FILES ON A FISCAL YEAR BASIS, THE CREDIT SHALL BE CLAIMED
40 ON THE RETURN FOR THE TAXABLE YEAR IN WHICH THE CALENDAR YEAR ENDS.

41 D. SUBJECT TO SUBSECTION G OF THIS SECTION, THE AMOUNT OF THE CREDIT
42 IS:

43 1. ONE CENT PER KILOWATT-HOUR OF THE FIRST TWO HUNDRED THOUSAND
44 MEGAWATT-HOURS OF ELECTRICITY PRODUCED BY A QUALIFIED ENERGY GENERATOR IN THE
45 CALENDAR YEAR USING A WIND OR BIOMASS DERIVED QUALIFIED ENERGY RESOURCE.

1 2. THE FOLLOWING AMOUNTS FOR ELECTRICITY PRODUCED BY A QUALIFIED
2 ENERGY GENERATOR USING A SOLAR LIGHT DERIVED OR SOLAR HEAT DERIVED QUALIFIED
3 ENERGY RESOURCE:

4 (a) FOUR CENTS PER KILOWATT-HOUR IN THE FIRST CALENDAR YEAR IN WHICH
5 THE QUALIFIED ENERGY GENERATOR PRODUCES ELECTRICITY.

6 (b) FOUR CENTS PER KILOWATT-HOUR IN THE SECOND CALENDAR YEAR IN WHICH
7 THE QUALIFIED ENERGY GENERATOR PRODUCES ELECTRICITY.

8 (c) THREE AND ONE-HALF CENTS PER KILOWATT-HOUR IN THE THIRD CALENDAR
9 YEAR IN WHICH THE QUALIFIED ENERGY GENERATOR PRODUCES ELECTRICITY.

10 (d) THREE AND ONE-HALF CENTS PER KILOWATT-HOUR IN THE FOURTH CALENDAR
11 YEAR IN WHICH THE QUALIFIED ENERGY GENERATOR PRODUCES ELECTRICITY.

12 (e) THREE CENTS PER KILOWATT-HOUR IN THE FIFTH CALENDAR YEAR IN WHICH
13 THE QUALIFIED ENERGY GENERATOR PRODUCES ELECTRICITY.

14 (f) THREE CENTS PER KILOWATT-HOUR IN THE SIXTH CALENDAR YEAR IN WHICH
15 THE QUALIFIED ENERGY GENERATOR PRODUCES ELECTRICITY.

16 (g) TWO CENTS PER KILOWATT-HOUR IN THE SEVENTH CALENDAR YEAR IN WHICH
17 THE QUALIFIED ENERGY GENERATOR PRODUCES ELECTRICITY.

18 (h) TWO CENTS PER KILOWATT-HOUR IN THE EIGHTH CALENDAR YEAR IN WHICH
19 THE QUALIFIED ENERGY GENERATOR PRODUCES ELECTRICITY.

20 (i) ONE AND ONE-HALF CENTS PER KILOWATT-HOUR IN THE NINTH CALENDAR
21 YEAR IN WHICH THE QUALIFIED ENERGY GENERATOR PRODUCES ELECTRICITY.

22 (j) ONE CENT PER KILOWATT-HOUR IN THE TENTH CALENDAR YEAR IN WHICH THE
23 QUALIFIED ENERGY GENERATOR PRODUCES ELECTRICITY.

24 E. TO QUALIFY FOR THE PURPOSES OF THIS SECTION, AN ENERGY GENERATOR
25 MAY BE LOCATED WITHIN ONE MILE OF AN EXISTING QUALIFIED ENERGY GENERATOR ONLY
26 IF THE OWNER OF THE ENERGY GENERATOR OR THE OWNER'S CORPORATE AFFILIATES ARE
27 NOT THE OWNER OF OR THE CORPORATE AFFILIATE OF THE OWNER OF THE EXISTING
28 QUALIFIED ENERGY GENERATOR.

29 F. TO BE ELIGIBLE FOR THE CREDIT UNDER THIS SECTION, THE TAXPAYER MUST
30 APPLY TO THE DEPARTMENT, ON A FORM PRESCRIBED BY THE DEPARTMENT, FOR
31 CERTIFICATION OF THE CREDIT. THE DEPARTMENT SHALL ONLY ACCEPT APPLICATIONS
32 BEGINNING JANUARY 2 THROUGH JANUARY 31 OF THE YEAR FOLLOWING THE CALENDAR
33 YEAR FOR WHICH THE CREDIT IS BEING REQUESTED. THE APPLICATION SHALL INCLUDE:

34 1. THE NAME, ADDRESS AND SOCIAL SECURITY NUMBER OR FEDERAL EMPLOYER
35 IDENTIFICATION NUMBER OF THE APPLICANT.

36 2. THE LOCATION OF THE TAXPAYER'S FACILITY THAT PRODUCES ELECTRICITY
37 USING RENEWABLE ENERGY RESOURCES FOR WHICH THE CREDIT IS CLAIMED.

38 3. THE AMOUNT OF THE CREDIT THAT IS CLAIMED.

39 4. THE DATE THE QUALIFIED ENERGY GENERATOR BEGAN PRODUCING
40 COMMERCIALY MARKETABLE AMOUNTS OF ELECTRICITY.

41 5. ANY ADDITIONAL INFORMATION THAT THE DEPARTMENT REQUIRES.

42 G. THE DEPARTMENT SHALL REVIEW EACH APPLICATION UNDER SUBSECTION F OF
43 THIS SECTION AND CERTIFY TO THE TAXPAYER THE AMOUNT OF THE CREDIT THAT IS
44 AUTHORIZED. THE AMOUNT OF THE CREDIT FOR ANY CALENDAR YEAR SHALL NOT EXCEED
45 TWO MILLION DOLLARS PER FACILITY THAT PRODUCES ELECTRICITY USING RENEWABLE

1 ENERGY RESOURCES. CREDITS ARE ALLOWED UNDER THIS SECTION AND SECTION
2 43-1164.02 ON A FIRST COME, FIRST SERVED BASIS. THE DEPARTMENT SHALL NOT
3 AUTHORIZE TAX CREDITS UNDER THIS SECTION AND SECTION 43-1164.02 THAT EXCEED
4 IN THE AGGREGATE A TOTAL OF TWENTY MILLION DOLLARS FOR ANY CALENDAR YEAR.
5 THE FIRST TIME THAT A TAXPAYER SUBMITS A QUALIFIED APPLICATION FOR A
6 QUALIFIED ENERGY GENERATOR UNDER SUBSECTION F OF THIS SECTION, THE
7 DEPARTMENT SHALL ADD THE TAXPAYER'S NAME TO A CREDIT AUTHORIZATION LIST THAT
8 IS MAINTAINED IN THE ORDER IN WHICH QUALIFIED APPLICATIONS ARE FIRST RECEIVED
9 BY THE DEPARTMENT ON BEHALF OF THE QUALIFIED ENERGY GENERATOR. A TAXPAYER'S
10 POSITION ON THE CREDIT AUTHORIZATION LIST SHALL BE DETERMINED IN THE FIRST
11 YEAR THE TAXPAYER SUBMITS AN APPLICATION UNDER SUBSECTION F OF THIS SECTION
12 FOR THE QUALIFIED ENERGY GENERATOR. THE TAXPAYER'S POSITION ON THE CREDIT
13 AUTHORIZATION LIST FOR A PARTICULAR QUALIFIED ENERGY GENERATOR SHALL REMAIN
14 UNCHANGED FOR THE TEN YEARS THAT ARE SPECIFIED IN SUBSECTION B, PARAGRAPH 2
15 OF THIS SECTION OR UNTIL A YEAR IN WHICH THE TAXPAYER FAILS TO SUBMIT A
16 TIMELY APPLICATION UNDER SUBSECTION F OF THIS SECTION OR OTHERWISE FAILS TO
17 COMPLY WITH THIS SECTION. IF A TAXPAYER IS REMOVED FROM THE CREDIT
18 AUTHORIZATION LIST FOR A QUALIFIED ENERGY GENERATOR, THE TAXPAYER MAY
19 ESTABLISH A NEW POSITION ON THE CREDIT AUTHORIZATION LIST IN A SUBSEQUENT
20 YEAR BY FILING A TIMELY APPLICATION FOR A QUALIFIED ENERGY GENERATOR THAT
21 QUALIFIES FOR THE CREDIT. IF AN APPLICATION IS RECEIVED THAT, IF AUTHORIZED,
22 WOULD REQUIRE THE DEPARTMENT TO EXCEED THE TWENTY MILLION DOLLAR LIMIT, THE
23 DEPARTMENT SHALL GRANT THE APPLICANT ONLY THE REMAINING CREDIT AMOUNT THAT
24 WOULD NOT EXCEED THE TWENTY MILLION DOLLAR LIMIT. AFTER THE DEPARTMENT
25 AUTHORIZES TWENTY MILLION DOLLARS IN TAX CREDITS, THE DEPARTMENT SHALL DENY
26 ANY SUBSEQUENT APPLICATIONS THAT ARE RECEIVED FOR THAT CALENDAR YEAR. THE
27 DEPARTMENT SHALL NOT AUTHORIZE ANY ADDITIONAL TAX CREDITS THAT EXCEED THE
28 TWENTY MILLION DOLLAR LIMIT EVEN IF THE AMOUNTS THAT HAVE BEEN CERTIFIED TO
29 ANY TAXPAYER WERE NOT CLAIMED OR A TAXPAYER OTHERWISE FAILS TO MEET THE
30 REQUIREMENTS TO CLAIM THE ADDITIONAL CREDIT.

31 H. CO-OWNERS OF A QUALIFIED ENERGY GENERATOR, INCLUDING PARTNERS IN A
32 PARTNERSHIP, MEMBERS OF A LIMITED LIABILITY COMPANY AND SHAREHOLDERS OF AN S
33 CORPORATION AS DEFINED IN SECTION 1361 OF THE INTERNAL REVENUE CODE, MAY EACH
34 CLAIM THE PRO RATA SHARE OF THE CREDIT ALLOWED UNDER THIS SECTION BASED ON
35 OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH OWNERS OF THE
36 QUALIFIED ENERGY GENERATOR MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN
37 ALLOWED FOR A SOLE OWNER OF THE GENERATOR.

38 I. IF THE ALLOWABLE TAX CREDIT FOR A TAXPAYER EXCEEDS THE TAXES
39 OTHERWISE DUE UNDER THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO
40 TAXES DUE UNDER THIS TITLE, THE AMOUNT OF THE CLAIM NOT USED TO OFFSET TAXES
41 UNDER THIS TITLE MAY BE CARRIED FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE
42 TAXABLE YEARS AS A CREDIT AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY.

43 J. THE DEPARTMENT SHALL ADOPT RULES AND PUBLISH AND PRESCRIBE FORMS
44 AND PROCEDURES AS NECESSARY TO EFFECTUATE THE PURPOSES OF THIS SECTION.

1 K. FOR THE PURPOSES OF THIS SECTION:

2 1. "BIOMASS" MEANS ORGANIC MATERIAL THAT IS AVAILABLE ON A RENEWABLE
3 OR RECURRING BASIS, INCLUDING:

4 (a) FOREST-RELATED MATERIALS, INCLUDING MILL RESIDUES, LOGGING
5 RESIDUES, FOREST THINNINGS, SLASH, BRUSH, LOW-COMMERCIAL VALUE MATERIALS OR
6 UNDESIRABLE SPECIES, SALT CEDAR AND OTHER PHREATOPHYTE OR WOODY VEGETATION
7 REMOVED FROM RIVER BASINS OR WATERSHEDS AND WOODY MATERIAL HARVESTED FOR THE
8 PURPOSE OF FOREST FIRE FUEL REDUCTION OR FOREST HEALTH AND WATERSHED
9 IMPROVEMENT.

10 (b) AGRICULTURAL-RELATED MATERIALS, INCLUDING ORCHARD TREES, VINEYARD,
11 GRAIN OR CROP RESIDUES, INCLUDING STRAWS AND STOVER, AQUATIC PLANTS AND
12 AGRICULTURAL PROCESSED COPRODUCTS AND WASTE PRODUCTS, INCLUDING FATS, OILS,
13 GREASES, WHEY AND LACTOSE.

14 (c) ANIMAL WASTE, INCLUDING MANURE AND SLAUGHTERHOUSE AND OTHER
15 PROCESSING WASTE.

16 (d) SOLID WOODY WASTE MATERIALS, INCLUDING LANDSCAPE OR RIGHT-OF-WAY
17 TREE TRIMMINGS, RANGELAND MAINTENANCE RESIDUES, WASTE PALLETS, CRATES AND
18 MANUFACTURING, CONSTRUCTION AND DEMOLITION WOOD WASTES, EXCLUDING
19 PRESSURE-TREATED, CHEMICALLY-TREATED OR PAINTED WOOD WASTES AND WOOD
20 CONTAMINATED WITH PLASTIC.

21 (e) CROPS AND TREES PLANTED FOR THE PURPOSE OF BEING USED TO PRODUCE
22 ENERGY.

23 (f) LANDFILL GAS, WASTEWATER TREATMENT GAS AND BIOSOLIDS, INCLUDING
24 ORGANIC WASTE BYPRODUCTS GENERATED DURING THE WASTEWATER TREATMENT PROCESS.

25 2. "QUALIFIED ENERGY GENERATOR" MEANS A FACILITY THAT HAS AT LEAST
26 FIVE MEGAWATTS GENERATING CAPACITY, THAT IS LOCATED ON LAND IN THIS STATE
27 OWNED OR LEASED BY THE TAXPAYER, THAT PRODUCES ELECTRICITY USING A QUALIFIED
28 ENERGY RESOURCE AND THAT SELLS THAT ELECTRICITY TO AN UNRELATED ENTITY,
29 UNLESS THE ELECTRICITY IS SOLD TO A PUBLIC SERVICE CORPORATION.

30 3. "QUALIFIED ENERGY RESOURCE" MEANS A RESOURCE THAT GENERATES
31 ELECTRICITY THROUGH THE USE OF ONLY THE FOLLOWING ENERGY SOURCES:

32 (a) SOLAR LIGHT.

33 (b) SOLAR HEAT.

34 (c) WIND.

35 (d) BIOMASS.

36 Sec. 6. Title 43, chapter 11, article 6, Arizona Revised Statutes, is
37 amended by adding section 43-1164.02, to read:

38 43-1164.02. Renewable energy production tax credit; definitions

39 A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR THE
40 PRODUCTION OF ELECTRICITY USING RENEWABLE ENERGY RESOURCES.

41 B. THE TAXPAYER IS ELIGIBLE FOR THE CREDIT:

42 1. IF THE TAXPAYER HOLDS TITLE TO A QUALIFIED ENERGY GENERATOR THAT
43 FIRST PRODUCES ELECTRICITY FROM AND AFTER DECEMBER 31, 2010 AND BEFORE
44 JANUARY 1, 2021.

1 2. FOR TEN CONSECUTIVE CALENDAR YEARS BEGINNING WITH THE CALENDAR YEAR
2 IN WHICH THE QUALIFIED ENERGY GENERATOR BEGINS PRODUCING ELECTRICITY THAT IS
3 TRANSMITTED THROUGH A TRANSMISSION FACILITY TO A GRID CONNECTION WITH A
4 PUBLIC OR PRIVATE ELECTRIC TRANSMISSION OR DISTRIBUTION UTILITY SYSTEM. THAT
5 SAME DATE APPLIES WITH RESPECT TO THAT GENERATOR UNTIL THE EXPIRATION OF THE
6 TEN-YEAR PERIOD REGARDLESS OF WHETHER THE GENERATOR IS SOLD TO ANOTHER
7 TAXPAYER OR GOES OUT OF PRODUCTION BEFORE THE EXPIRATION OF THE TEN-YEAR
8 PERIOD.

9 C. THE CREDIT AUTHORIZED BY THIS SECTION IS BASED ON THE ELECTRICITY
10 THAT IS GENERATED BY A QUALIFIED ENERGY GENERATOR DURING A CALENDAR YEAR.
11 FOR A TAXPAYER THAT FILES ON A FISCAL YEAR BASIS, THE CREDIT SHALL BE CLAIMED
12 ON THE RETURN FOR THE TAXABLE YEAR IN WHICH THE CALENDAR YEAR ENDS.

13 D. SUBJECT TO SUBSECTION G OF THIS SECTION, THE AMOUNT OF THE CREDIT
14 IS:

15 1. ONE CENT PER KILOWATT-HOUR OF THE FIRST TWO HUNDRED THOUSAND
16 MEGAWATT-HOURS OF ELECTRICITY PRODUCED BY A QUALIFIED ENERGY GENERATOR IN THE
17 CALENDAR YEAR USING A WIND OR BIOMASS DERIVED QUALIFIED ENERGY RESOURCE.

18 2. THE FOLLOWING AMOUNTS FOR ELECTRICITY PRODUCED BY A QUALIFIED
19 ENERGY GENERATOR USING A SOLAR LIGHT DERIVED OR SOLAR HEAT DERIVED QUALIFIED
20 ENERGY RESOURCE:

21 (a) FOUR CENTS PER KILOWATT-HOUR IN THE FIRST CALENDAR YEAR IN WHICH
22 THE QUALIFIED ENERGY GENERATOR PRODUCES ELECTRICITY.

23 (b) FOUR CENTS PER KILOWATT-HOUR IN THE SECOND CALENDAR YEAR IN WHICH
24 THE QUALIFIED ENERGY GENERATOR PRODUCES ELECTRICITY.

25 (c) THREE AND ONE-HALF CENTS PER KILOWATT-HOUR IN THE THIRD CALENDAR
26 YEAR IN WHICH THE QUALIFIED ENERGY GENERATOR PRODUCES ELECTRICITY.

27 (d) THREE AND ONE-HALF CENTS PER KILOWATT-HOUR IN THE FOURTH CALENDAR
28 YEAR IN WHICH THE QUALIFIED ENERGY GENERATOR PRODUCES ELECTRICITY.

29 (e) THREE CENTS PER KILOWATT-HOUR IN THE FIFTH CALENDAR YEAR IN WHICH
30 THE QUALIFIED ENERGY GENERATOR PRODUCES ELECTRICITY.

31 (f) THREE CENTS PER KILOWATT-HOUR IN THE SIXTH CALENDAR YEAR IN WHICH
32 THE QUALIFIED ENERGY GENERATOR PRODUCES ELECTRICITY.

33 (g) TWO CENTS PER KILOWATT-HOUR IN THE SEVENTH CALENDAR YEAR IN WHICH
34 THE QUALIFIED ENERGY GENERATOR PRODUCES ELECTRICITY.

35 (h) TWO CENTS PER KILOWATT-HOUR IN THE EIGHTH CALENDAR YEAR IN WHICH
36 THE QUALIFIED ENERGY GENERATOR PRODUCES ELECTRICITY.

37 (i) ONE AND ONE-HALF CENTS PER KILOWATT-HOUR IN THE NINTH CALENDAR
38 YEAR IN WHICH THE QUALIFIED ENERGY GENERATOR PRODUCES ELECTRICITY.

39 (j) ONE CENT PER KILOWATT-HOUR IN THE TENTH CALENDAR YEAR IN WHICH THE
40 QUALIFIED ENERGY GENERATOR PRODUCES ELECTRICITY.

41 E. TO QUALIFY FOR THE PURPOSES OF THIS SECTION, AN ENERGY GENERATOR
42 MAY BE LOCATED WITHIN ONE MILE OF AN EXISTING QUALIFIED ENERGY GENERATOR ONLY
43 IF THE OWNER OF THE ENERGY GENERATOR OR THE OWNER'S CORPORATE AFFILIATES ARE
44 NOT THE OWNER OF OR THE CORPORATE AFFILIATE OF THE OWNER OF THE EXISTING
45 QUALIFIED ENERGY GENERATOR.

1 F. TO BE ELIGIBLE FOR THE CREDIT UNDER THIS SECTION, THE TAXPAYER MUST
2 APPLY TO THE DEPARTMENT, ON A FORM PRESCRIBED BY THE DEPARTMENT, FOR
3 CERTIFICATION OF THE CREDIT. THE DEPARTMENT SHALL ONLY ACCEPT APPLICATIONS
4 BEGINNING JANUARY 2 THROUGH JANUARY 31 OF THE YEAR FOLLOWING THE CALENDAR
5 YEAR FOR WHICH THE CREDIT IS BEING REQUESTED. THE APPLICATION SHALL INCLUDE:

6 1. THE NAME, ADDRESS AND SOCIAL SECURITY NUMBER OR FEDERAL EMPLOYER
7 IDENTIFICATION NUMBER OF THE APPLICANT.

8 2. THE LOCATION OF THE TAXPAYER'S FACILITY THAT PRODUCES ELECTRICITY
9 USING RENEWABLE ENERGY RESOURCES FOR WHICH THE CREDIT IS CLAIMED.

10 3. THE AMOUNT OF THE CREDIT THAT IS CLAIMED.

11 4. THE DATE THE QUALIFIED ENERGY GENERATOR BEGAN PRODUCING
12 COMMERCIALY MARKETABLE AMOUNTS OF ELECTRICITY.

13 5. ANY ADDITIONAL INFORMATION THAT THE DEPARTMENT REQUIRES.

14 G. THE DEPARTMENT SHALL REVIEW EACH APPLICATION UNDER SUBSECTION F OF
15 THIS SECTION AND CERTIFY TO THE TAXPAYER THE AMOUNT OF THE CREDIT THAT IS
16 AUTHORIZED. THE AMOUNT OF THE CREDIT FOR ANY CALENDAR YEAR SHALL NOT EXCEED
17 TWO MILLION DOLLARS PER FACILITY THAT PRODUCES ELECTRICITY USING RENEWABLE
18 ENERGY RESOURCES. CREDITS ARE ALLOWED UNDER THIS SECTION AND SECTION
19 43-1083.02 ON A FIRST COME, FIRST SERVED BASIS. THE DEPARTMENT SHALL NOT
20 AUTHORIZE TAX CREDITS UNDER THIS SECTION AND SECTION 43-1083.02 THAT EXCEED
21 IN THE AGGREGATE A TOTAL OF TWENTY MILLION DOLLARS FOR ANY CALENDAR YEAR.
22 THE FIRST TIME THAT A TAXPAYER SUBMITS A QUALIFIED APPLICATION FOR A
23 QUALIFIED ENERGY GENERATOR UNDER SUBSECTION F OF THIS SECTION, THE
24 DEPARTMENT SHALL ADD THE TAXPAYER'S NAME TO A CREDIT AUTHORIZATION LIST THAT
25 IS MAINTAINED IN THE ORDER IN WHICH QUALIFIED APPLICATIONS ARE FIRST RECEIVED
26 BY THE DEPARTMENT ON BEHALF OF THE QUALIFIED ENERGY GENERATOR. A TAXPAYER'S
27 POSITION ON THE CREDIT AUTHORIZATION LIST SHALL BE DETERMINED IN THE FIRST
28 YEAR THE TAXPAYER SUBMITS AN APPLICATION UNDER SUBSECTION F OF THIS SECTION
29 FOR THE QUALIFIED ENERGY GENERATOR. THE TAXPAYER'S POSITION ON THE CREDIT
30 AUTHORIZATION LIST FOR A PARTICULAR QUALIFIED ENERGY GENERATOR SHALL REMAIN
31 UNCHANGED FOR THE TEN YEARS THAT ARE SPECIFIED IN SUBSECTION B, PARAGRAPH 2
32 OF THIS SECTION OR UNTIL A YEAR IN WHICH THE TAXPAYER FAILS TO SUBMIT A
33 TIMELY APPLICATION UNDER SUBSECTION F OF THIS SECTION OR OTHERWISE FAILS TO
34 COMPLY WITH THIS SECTION. IF A TAXPAYER IS REMOVED FROM THE CREDIT
35 AUTHORIZATION LIST FOR A QUALIFIED ENERGY GENERATOR, THE TAXPAYER MAY
36 ESTABLISH A NEW POSITION ON THE CREDIT AUTHORIZATION LIST IN A SUBSEQUENT
37 YEAR BY FILING A TIMELY APPLICATION FOR A QUALIFIED ENERGY GENERATOR THAT
38 QUALIFIES FOR THE CREDIT. IF AN APPLICATION IS RECEIVED THAT, IF AUTHORIZED,
39 WOULD REQUIRE THE DEPARTMENT TO EXCEED THE TWENTY MILLION DOLLAR LIMIT, THE
40 DEPARTMENT SHALL GRANT THE APPLICANT ONLY THE REMAINING CREDIT AMOUNT THAT
41 WOULD NOT EXCEED THE TWENTY MILLION DOLLAR LIMIT. AFTER THE DEPARTMENT
42 AUTHORIZES TWENTY MILLION DOLLARS IN TAX CREDITS, THE DEPARTMENT SHALL DENY
43 ANY SUBSEQUENT APPLICATIONS THAT ARE RECEIVED FOR THAT CALENDAR YEAR. THE
44 DEPARTMENT SHALL NOT AUTHORIZE ANY ADDITIONAL TAX CREDITS THAT EXCEED THE
45 TWENTY MILLION DOLLAR LIMIT EVEN IF THE AMOUNTS THAT HAVE BEEN CERTIFIED TO

1 ANY TAXPAYER WERE NOT CLAIMED OR A TAXPAYER OTHERWISE FAILS TO MEET THE
2 REQUIREMENTS TO CLAIM THE ADDITIONAL CREDIT.

3 H. CO-OWNERS OF A QUALIFIED ENERGY GENERATOR, INCLUDING CORPORATE
4 PARTNERS IN A PARTNERSHIP AND MEMBERS OF A LIMITED LIABILITY COMPANY, MAY
5 EACH CLAIM THE PRO RATA SHARE OF THE CREDIT ALLOWED UNDER THIS SECTION BASED
6 ON OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH OWNERS OF
7 THE QUALIFIED ENERGY GENERATOR MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN
8 ALLOWED FOR A SOLE OWNER OF THE GENERATOR.

9 I. IF THE ALLOWABLE TAX CREDIT FOR A TAXPAYER EXCEEDS THE TAXES
10 OTHERWISE DUE UNDER THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO
11 TAXES DUE UNDER THIS TITLE, THE AMOUNT OF THE CLAIM NOT USED TO OFFSET TAXES
12 UNDER THIS TITLE MAY BE CARRIED FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE
13 TAXABLE YEARS AS A CREDIT AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY.

14 J. THE DEPARTMENT SHALL ADOPT RULES AND PUBLISH AND PRESCRIBE FORMS
15 AND PROCEDURES AS NECESSARY TO EFFECTUATE THE PURPOSES OF THIS SECTION.

16 K. FOR THE PURPOSES OF THIS SECTION:

17 1. "BIOMASS" MEANS ORGANIC MATERIAL THAT IS AVAILABLE ON A RENEWABLE
18 OR RECURRING BASIS, INCLUDING:

19 (a) FOREST-RELATED MATERIALS, INCLUDING MILL RESIDUES, LOGGING
20 RESIDUES, FOREST THINNINGS, SLASH, BRUSH, LOW-COMMERCIAL VALUE MATERIALS OR
21 UNDESIRABLE SPECIES, SALT CEDAR AND OTHER PHREATOPHYTE OR WOODY VEGETATION
22 REMOVED FROM RIVER BASINS OR WATERSHEDS AND WOODY MATERIAL HARVESTED FOR THE
23 PURPOSE OF FOREST FIRE FUEL REDUCTION OR FOREST HEALTH AND WATERSHED
24 IMPROVEMENT.

25 (b) AGRICULTURAL-RELATED MATERIALS, INCLUDING ORCHARD TREES, VINEYARD,
26 GRAIN OR CROP RESIDUES, INCLUDING STRAWS AND STOVER, AQUATIC PLANTS AND
27 AGRICULTURAL PROCESSED COPRODUCTS AND WASTE PRODUCTS, INCLUDING FATS, OILS,
28 GREASES, WHEY AND LACTOSE.

29 (c) ANIMAL WASTE, INCLUDING MANURE AND SLAUGHTERHOUSE AND OTHER
30 PROCESSING WASTE.

31 (d) SOLID WOODY WASTE MATERIALS, INCLUDING LANDSCAPE OR RIGHT-OF-WAY
32 TREE TRIMMINGS, RANGELAND MAINTENANCE RESIDUES, WASTE PALLETS, CRATES AND
33 MANUFACTURING, CONSTRUCTION AND DEMOLITION WOOD WASTES, EXCLUDING
34 PRESSURE-TREATED, CHEMICALLY-TREATED OR PAINTED WOOD WASTES AND WOOD
35 CONTAMINATED WITH PLASTIC.

36 (e) CROPS AND TREES PLANTED FOR THE PURPOSE OF BEING USED TO PRODUCE
37 ENERGY.

38 (f) LANDFILL GAS, WASTEWATER TREATMENT GAS AND BIOSOLIDS, INCLUDING
39 ORGANIC WASTE BYPRODUCTS GENERATED DURING THE WASTEWATER TREATMENT PROCESS.

40 2. "QUALIFIED ENERGY GENERATOR" MEANS A FACILITY THAT HAS AT LEAST
41 FIVE MEGAWATTS GENERATING CAPACITY, THAT IS LOCATED ON LAND IN THIS STATE
42 OWNED OR LEASED BY THE TAXPAYER, THAT PRODUCES ELECTRICITY USING A QUALIFIED
43 ENERGY RESOURCE AND THAT SELLS THAT ELECTRICITY TO AN UNRELATED ENTITY,
44 UNLESS THE ELECTRICITY IS SOLD TO A PUBLIC SERVICE CORPORATION.

1 3. "QUALIFIED ENERGY RESOURCE" MEANS A RESOURCE THAT GENERATES
2 ELECTRICITY THROUGH THE USE OF ONLY THE FOLLOWING ENERGY SOURCES:

- 3 (a) SOLAR LIGHT.
- 4 (b) SOLAR HEAT.
- 5 (c) WIND.
- 6 (d) BIOMASS.

7 Sec. 7. Section 43-1168, Arizona Revised Statutes, as amended by Laws
8 2008, chapter 290, section 5, is amended to read:

9 43-1168. Credit for increased research activities

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

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

14 (a) Add:

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

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

20 (b) If the sum computed under subdivision (a) is two million five
21 hundred thousand dollars or less, the credit is equal to twenty-four per cent
22 of that amount.

23 (c) If the sum computed under subdivision (a) is over two million five
24 hundred thousand dollars, the credit is equal to six hundred thousand dollars
25 plus fifteen per cent of any amount exceeding two million five hundred
26 thousand dollars, except that:

27 (i) For taxable years beginning from and after December 31, 2000
28 through December 31, 2001, the credit shall not exceed one million five
29 hundred thousand dollars.

30 (ii) For taxable years beginning from and after December 31, 2001
31 through December 31, 2002, the credit shall not exceed two million five
32 hundred thousand dollars.

33 2. Qualified research includes only research conducted in this state
34 including research conducted at a university in this state and paid for by
35 the taxpayer.

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

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

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

43 B. EXCEPT AS PROVIDED BY SUBSECTION D OF THIS SECTION, if the
44 allowable credit under this section exceeds the taxes otherwise due under
45 this title on the claimant's income, or if there are no taxes due under this

1 title, the amount of the credit not used to offset taxes may be carried
2 forward to the next fifteen consecutive taxable years. The amount of credit
3 carryforward from taxable years beginning from and after December 31, 2000
4 through December 31, 2002 that may be used under this subsection in any
5 taxable year may not exceed the taxpayer's tax liability under this title or
6 five hundred thousand dollars, whichever is less, minus the credit under this
7 section for the current taxable year's qualified research expenses. The
8 amount of credit carryforward from taxable years beginning from and after
9 December 31, 2002 that may be used under this subsection in any taxable year
10 may not exceed the taxpayer's tax liability under this title minus the credit
11 under this section for the current taxable year's qualified research
12 expenses. **A TAXPAYER THAT CARRIES FORWARD ANY AMOUNT OF CREDIT UNDER THIS
13 SUBSECTION MAY NOT THEREAFTER CLAIM A REFUND OF ANY AMOUNT OF THE CREDIT
14 UNDER SUBSECTION D OF THIS SECTION.**

15 C. If a taxpayer has qualified research expenses that are carried
16 forward from taxable years beginning before January 1, 2001, the amount of
17 the expenses carried forward shall be converted to a credit carryforward by
18 multiplying the amount of the qualified expenses carried forward by twenty
19 per cent. A credit carryforward determined under this subsection may be
20 carried forward to not more than fifteen years from the year in which the
21 expenses were incurred. The amount of credit carryforward from taxable years
22 beginning before January 1, 2001 that may be used under this subsection in
23 any taxable year may not exceed the taxpayer's tax liability under this title
24 or five hundred thousand dollars, whichever is less, minus the credit under
25 this section for the current taxable year's qualified research expenses. The
26 total amount of credit carryforward from taxable years beginning before
27 January 1, 2003 that may be used in any taxable year under subsection B and
28 this subsection may not exceed the taxpayer's tax liability under this title
29 or five hundred thousand dollars, whichever is less, minus the credit under
30 this section for the current taxable year's qualified research expenses.

31 **D. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2009, IF A
32 TAXPAYER WHO CLAIMS A CREDIT UNDER THIS SECTION EMPLOYS FEWER THAN ONE
33 HUNDRED FIFTY PERSONS IN THE TAXPAYER'S TRADE OR BUSINESS AND IF THE
34 ALLOWABLE CREDIT UNDER THIS SECTION EXCEEDS THE TAXES OTHERWISE DUE UNDER
35 THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS
36 TITLE, IN LIEU OF CARRYING THE EXCESS AMOUNT OF CREDIT FORWARD TO SUBSEQUENT
37 TAXABLE YEARS UNDER SUBSECTION B OF THIS SECTION, THE TAXPAYER MAY ELECT TO
38 RECEIVE A REFUND AS FOLLOWS:**

39 1. **THE TAXPAYER MUST APPLY TO THE DEPARTMENT OF COMMERCE FOR
40 QUALIFICATION FOR THE REFUND PURSUANT TO SECTION 41-1507 AND SUBMIT A COPY OF
41 THE DEPARTMENT OF COMMERCE'S CERTIFICATE OF QUALIFICATION TO THE DEPARTMENT
42 OF REVENUE WITH THE TAXPAYER'S INCOME TAX RETURN.**

43 2. **THE AMOUNT OF THE REFUND IS LIMITED TO SEVENTY-FIVE PER CENT OF THE
44 AMOUNT BY WHICH THE ALLOWABLE CREDIT UNDER THIS SECTION EXCEEDS THE**

1 TAXPAYER'S TAX LIABILITY UNDER THIS TITLE FOR THE TAXABLE YEAR. THE
2 REMAINDER OF THE EXCESS AMOUNT OF THE CREDIT IS WAIVED.

3 3. THE REFUND SHALL BE PAID IN THE MANNER PRESCRIBED BY SECTION
4 42-1118.

5 4. THE REFUND IS SUBJECT TO SETOFF UNDER SECTION 42-1122.

6 5. IF THE DEPARTMENT DETERMINES THAT A CREDIT REFUNDED PURSUANT TO
7 THIS SUBSECTION IS INCORRECT OR INVALID, THE EXCESS CREDIT ISSUED MAY BE
8 TREATED AS A TAX DEFICIENCY PURSUANT TO SECTION 42-1108.

9 Sec. 8. Section 43-1168, Arizona Revised Statutes, as added by Laws
10 2008, chapter 290, section 7, is amended to read:

11 43-1168. Credit for increased research activity

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

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

16 (a) Add:

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

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

22 (b) If the sum computed under subdivision (a) is two million five
23 hundred thousand dollars or less, the credit is equal to twenty per cent of
24 that amount.

25 (c) If the sum computed under subdivision (a) is over two million five
26 hundred thousand dollars, the credit is equal to five hundred thousand
27 dollars plus eleven per cent of any amount exceeding two million five hundred
28 thousand dollars, except that:

29 (i) For taxable years beginning from and after December 31, 2000
30 through December 31, 2001, the credit shall not exceed one million five
31 hundred thousand dollars.

32 (ii) For taxable years beginning from and after December 31, 2001
33 through December 31, 2002, the credit shall not exceed two million five
34 hundred thousand dollars.

35 2. Qualified research includes only research conducted in this state
36 including research conducted at a university in this state and paid for by
37 the taxpayer.

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

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

43 5. The termination provisions of section 41 of the internal revenue
44 code do not apply.

1 B. EXCEPT AS PROVIDED BY SUBSECTION D OF THIS SECTION, if the
2 allowable credit under this section exceeds the taxes otherwise due under
3 this title on the claimant's income, or if there are no taxes due under this
4 title, the amount of the credit not used to offset taxes may be carried
5 forward to the next fifteen consecutive taxable years. The amount of credit
6 carryforward from taxable years beginning from and after December 31, 2000
7 through December 31, 2002 that may be used under this subsection in any
8 taxable year may not exceed the taxpayer's tax liability under this title or
9 five hundred thousand dollars, whichever is less, minus the credit under this
10 section for the current taxable year's qualified research expenses. The
11 amount of credit carryforward from taxable years beginning from and after
12 December 31, 2002 that may be used under this subsection in any taxable year
13 may not exceed the taxpayer's tax liability under this title minus the credit
14 under this section for the current taxable year's qualified research
15 expenses. A TAXPAYER THAT CARRIES FORWARD ANY AMOUNT OF CREDIT UNDER THIS
16 SUBSECTION MAY NOT THEREAFTER CLAIM A REFUND OF ANY AMOUNT OF THE CREDIT
17 UNDER SUBSECTION D OF THIS SECTION.

18 C. If a taxpayer has qualified research expenses that are carried
19 forward from taxable years beginning before January 1, 2001, the amount of
20 the expenses carried forward shall be converted to a credit carryforward by
21 multiplying the amount of the qualified expenses carried forward by twenty
22 per cent. A credit carryforward determined under this subsection may be
23 carried forward to not more than fifteen years from the year in which the
24 expenses were incurred. The amount of credit carryforward from taxable years
25 beginning before January 1, 2001 that may be used under this subsection in
26 any taxable year may not exceed the taxpayer's tax liability under this title
27 or five hundred thousand dollars, whichever is less, minus the credit under
28 this section for the current taxable year's qualified research expenses. The
29 total amount of credit carryforward from taxable years beginning before
30 January 1, 2003 that may be used in any taxable year under subsection B and
31 this subsection may not exceed the taxpayer's tax liability under this title
32 or five hundred thousand dollars, whichever is less, minus the credit under
33 this section for the current taxable year's qualified research expenses.

34 D. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2009, IF A
35 TAXPAYER WHO CLAIMS A CREDIT UNDER THIS SECTION EMPLOYS FEWER THAN ONE
36 HUNDRED FIFTY PERSONS IN THE TAXPAYER'S TRADE OR BUSINESS AND IF THE
37 ALLOWABLE CREDIT UNDER THIS SECTION EXCEEDS THE TAXES OTHERWISE DUE UNDER
38 THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS
39 TITLE, IN LIEU OF CARRYING THE EXCESS AMOUNT OF CREDIT FORWARD TO SUBSEQUENT
40 TAXABLE YEARS UNDER SUBSECTION B OF THIS SECTION, THE TAXPAYER MAY ELECT TO
41 RECEIVE A REFUND AS FOLLOWS:

42 1. THE TAXPAYER MUST APPLY TO THE DEPARTMENT OF COMMERCE FOR
43 QUALIFICATION FOR THE REFUND PURSUANT TO SECTION 41-1507 AND SUBMIT A COPY OF
44 THE DEPARTMENT OF COMMERCE'S CERTIFICATE OF QUALIFICATION TO THE DEPARTMENT
45 OF REVENUE WITH THE TAXPAYER'S INCOME TAX RETURN.

1 2. THE AMOUNT OF THE REFUND IS LIMITED TO SEVENTY-FIVE PER CENT OF THE
2 AMOUNT BY WHICH THE ALLOWABLE CREDIT UNDER THIS SECTION EXCEEDS THE
3 TAXPAYER'S TAX LIABILITY UNDER THIS TITLE FOR THE TAXABLE YEAR. THE
4 REMAINDER OF THE EXCESS AMOUNT OF THE CREDIT IS WAIVED.

5 3. THE REFUND SHALL BE PAID IN THE MANNER PRESCRIBED BY SECTION
6 42-1118.

7 4. THE REFUND IS SUBJECT TO SETOFF UNDER SECTION 42-1122.

8 5. IF THE DEPARTMENT DETERMINES THAT A CREDIT REFUNDED PURSUANT TO
9 THIS SUBSECTION IS INCORRECT OR INVALID, THE EXCESS CREDIT ISSUED MAY BE
10 TREATED AS A TAX DEFICIENCY PURSUANT TO SECTION 42-1108.

11 Sec. 9. Purpose

12 Pursuant to section 43-223, Arizona Revised Statutes, the income tax
13 credits enacted in sections 43-1083.02 and 43-1164.02, Arizona Revised
14 Statutes, as added by this act, are intended to promote investment in
15 renewable energy production using low-emission and zero-emission electricity
16 generation technologies.

17 Sec. 10. Retroactivity

18 A. Section 43-1074.01, Arizona Revised Statutes, as amended by Laws
19 2008, chapter 290, section 2 and amended by this act, applies retroactively
20 to taxable years beginning from and after December 31, 2009.

21 B. Section 43-1168, Arizona Revised Statutes, as amended by Laws 2008,
22 chapter 290, section 5 and amended by this act, applies retroactively to
23 taxable years beginning from and after December 31, 2009.

24 Sec. 11. Effective date

25 A. Sections 43-1083.02 and 43-1164.02, Arizona Revised Statutes, as
26 added by this act, are effective and apply to taxable years beginning from
27 and after December 31, 2010.

28 B. Section 43-1074.01, Arizona Revised Statutes, as added by Laws
29 2008, chapter 290, section 4 and amended by this act, is effective for
30 taxable years beginning from and after December 31, 2017.

31 C. Section 43-1168, Arizona Revised Statutes, as added by Laws 2008,
32 chapter 290, section 7 and amended by this act, is effective for taxable
33 years beginning from and after December 31, 2017.