

REFERENCE TITLE: tax credit; manufacturers; renewable energy

State of Arizona
Senate
Fifty-first Legislature
Second Regular Session
2014

SB 1484

Introduced by
Senators Worsley, Pierce: McComish (with permission of Committee on Rules)

AN ACT

AMENDING SECTION 43-222, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1083.04; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1164.05; 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. Section 43-222, Arizona Revised Statutes, is amended to
3 read:

4 43-222. Income tax credit review schedule

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

7 1. For years ending in 0 and 5, sections 43-1079.01, 43-1087, 43-1088,
8 43-1090.01, 43-1167.01, 43-1175 and 43-1182.

9 2. For years ending in 1 and 6, sections 43-1074.02, 43-1083,
10 43-1083.02, 43-1085.01, 43-1164.02, 43-1164.03 and 43-1183.

11 3. For years ending in 2 and 7, sections 43-1073, 43-1079, 43-1080,
12 43-1085, 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1089.03, 43-1090,
13 43-1164, 43-1167, 43-1169, 43-1176 and 43-1181.

14 4. For years ending in 3 and 8, sections 43-1074.01, 43-1081, 43-1168,
15 43-1170 and 43-1178.

16 5. For years ending in 4 and 9, sections 43-1076, 43-1076.01,
17 43-1081.01, 43-1083.01, 43-1083.04, 43-1084, 43-1162, 43-1162.01, 43-1164.01,
18 43-1164.05, 43-1170.01 and 43-1184 and, beginning in 2019, sections
19 43-1083.03 and 43-1164.04.

20 Sec. 2. Title 43, chapter 10, article 5, Arizona Revised Statutes, is
21 amended by adding section 43-1083.04, to read:

22 43-1083.04. Credit for renewable energy investment and
23 production for self-consumption by manufacturers;
24 definitions

25 A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR
26 INVESTMENT IN NEW RENEWABLE ENERGY FACILITIES THAT PRODUCE ENERGY FOR
27 SELF-CONSUMPTION USING RENEWABLE ENERGY RESOURCES IF THE POWER WILL BE USED
28 PRIMARILY FOR MANUFACTURING.

29 B. THE TAXPAYER IS ELIGIBLE FOR THE CREDIT IF ALL OF THE FOLLOWING
30 APPLY:

31 1. THE TAXPAYER INVESTS AT LEAST THREE HUNDRED MILLION DOLLARS IN NEW
32 RENEWABLE ENERGY FACILITIES IN THIS STATE THAT PRODUCE ENERGY FOR
33 SELF-CONSUMPTION USING RENEWABLE ENERGY RESOURCES. THE MINIMUM INVESTMENT
34 MUST BE COMPLETED WITHIN A THREE-YEAR PERIOD BEGINNING ON THE DATE THE
35 INITIAL APPLICATION IS RECEIVED OR DECEMBER 31, 2017, WHICHEVER IS EARLIER.

36 2. AT LEAST NINETY PER CENT OF THE ENERGY PRODUCED AT EACH RENEWABLE
37 ENERGY FACILITY IS USED FOR SELF-CONSUMPTION IN THIS STATE. SELF-CONSUMPTION
38 INCLUDES THE POWER USED BY RELATED ENTITIES IF THE RELATED ENTITIES ARE OWNED
39 DIRECTLY OR INDIRECTLY BY THE SAME OWNERSHIP INTERESTS THAT COLLECTIVELY OWN
40 MORE THAN FIFTY PER CENT. A FACILITY THAT TRANSFERS THE POWER IT GENERATES
41 TO A UTILITY QUALIFIES UNDER THIS PARAGRAPH IF AT LEAST NINETY PER CENT OF
42 THE POWER IS TRANSFERRED BACK FOR SELF-CONSUMPTION IN THIS STATE.

43 3. THE POWER IS USED PRIMARILY FOR MANUFACTURING. A LESSOR OF A
44 MANUFACTURING FACILITY THAT IS USING POWER FOR SELF-CONSUMPTION UNDER
45 PARAGRAPH 2 OF THIS SUBSECTION QUALIFIES UNDER THIS PARAGRAPH IF THE LESSOR

1 IS A MANUFACTURER AND THE POWER IS TRANSFERRED AS PART OF THE LEASE TO THE
2 LESSOR.

3 C. SUBJECT TO SUBSECTION F OF THIS SECTION, THE CREDIT AUTHORIZED BY
4 THIS SECTION IS ONE MILLION DOLLARS PER YEAR FOR FIVE YEARS FOR EACH
5 RENEWABLE ENERGY FACILITY. THE MAXIMUM CREDIT ALLOWED PER TAXPAYER PER YEAR
6 IS FIVE MILLION DOLLARS. THE INITIAL CREDIT FOR EACH FACILITY IS CLAIMED IN
7 THE YEAR THAT THE FACILITY BECOMES OPERATIONAL. A CREDIT, OTHER THAN
8 CARRYOVERS ALLOWED UNDER SUBSECTION M OF THIS SECTION, MAY NOT BE CLAIMED FOR
9 ANY TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2025.

10 D. TO QUALIFY AS A SEPARATE RENEWABLE ENERGY FACILITY FOR THE PURPOSES
11 OF THIS SECTION, A FACILITY MUST BE LOCATED AT LEAST ONE MILE FROM ANY OTHER
12 RENEWABLE ENERGY FACILITY FOR WHICH THE TAXPAYER IS CLAIMING A CREDIT UNDER
13 THIS SECTION.

14 E. TO BE ELIGIBLE FOR THE CREDIT UNDER THIS SECTION, THE TAXPAYER MUST
15 APPLY TO THE DEPARTMENT FOR CERTIFICATION OF THE CREDIT ON A FORM PRESCRIBED
16 BY THE DEPARTMENT. THE APPLICATION SHALL INCLUDE:

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

19 2. AN ESTIMATE OF THE TOTAL INVESTMENT THE TAXPAYER WILL MAKE, OVER A
20 THREE-YEAR PERIOD BEGINNING ON THE DATE THE APPLICATION IS RECEIVED, IN NEW
21 RENEWABLE ENERGY PRODUCTION FACILITIES IN THIS STATE THAT PRODUCE ENERGY FOR
22 SELF-CONSUMPTION USING RENEWABLE ENERGY RESOURCES.

23 3. THE EXPECTED LOCATION OF EACH OF THE TAXPAYER'S FACILITIES THAT
24 COMPRISE THE TOTAL INVESTMENT IN PARAGRAPH 2 OF THIS SUBSECTION AND THE
25 EARLIEST DATE THAT EACH FACILITY IS EXPECTED TO BE OPERATIONAL.

26 4. A STATEMENT THAT AT LEAST NINETY PER CENT OF THE POWER GENERATED BY
27 EACH FACILITY SHALL BE FOR SELF-CONSUMPTION AND SHALL BE USED FOR
28 MANUFACTURING.

29 5. ANY ADDITIONAL INFORMATION THAT THE DEPARTMENT REQUIRES.

30 F. THE DEPARTMENT SHALL REVIEW EACH APPLICATION UNDER SUBSECTION E OF
31 THIS SECTION AND PREAPPROVE THE TAXPAYER FOR A SPECIFIED AMOUNT OF CREDIT
32 THAT IS AUTHORIZED. CREDITS ARE ALLOWED UNDER THIS SECTION AND SECTION
33 43-1164.05 ON A FIRST COME, FIRST SERVED BASIS. THE DEPARTMENT MAY NOT
34 AUTHORIZE TAX CREDITS UNDER THIS SECTION AND SECTION 43-1164.05 THAT EXCEED
35 IN THE AGGREGATE A TOTAL OF TEN MILLION DOLLARS FOR ANY CALENDAR YEAR. THE
36 PORTION OF EACH YEAR'S LIMIT THAT IS RESERVED FOR EACH TAXPAYER MUST BE BASED
37 ON THE YEAR THAT EACH CREDIT IS EXPECTED TO BE CLAIMED USING THE DATES
38 PROVIDED IN SUBSECTION E, PARAGRAPH 3 OF THIS SECTION. IF THE YEAR A
39 FACILITY IS COMPLETED IS DIFFERENT FROM THE ESTIMATED COMPLETION DATE
40 PROVIDED IN SUBSECTION E, PARAGRAPH 3 OF THIS SECTION, THE TAXPAYER MUST
41 AMEND THE APPLICATION WITH THE NEW DATES. IF AN APPLICATION IS RECEIVED
42 THAT, IF AUTHORIZED, WOULD REQUIRE THE DEPARTMENT TO EXCEED THE TEN MILLION
43 DOLLAR LIMIT, THE DEPARTMENT SHALL GRANT THE APPLICANT ONLY THE REMAINING
44 CREDIT AMOUNT THAT WOULD NOT EXCEED THE TEN MILLION DOLLAR LIMIT. AFTER THE
45 DEPARTMENT AUTHORIZES TEN MILLION DOLLARS IN TAX CREDITS, THE DEPARTMENT
46 SHALL DENY ANY SUBSEQUENT APPLICATIONS THAT ARE RECEIVED FOR THAT CALENDAR

1 YEAR. THE DEPARTMENT MAY NOT AUTHORIZE ANY ADDITIONAL TAX CREDITS THAT
2 EXCEED THE TEN MILLION DOLLAR LIMIT EVEN IF THE AMOUNTS THAT HAVE BEEN
3 CERTIFIED TO ANY TAXPAYER ARE NOT CLAIMED OR A TAXPAYER OTHERWISE FAILS TO
4 MEET THE REQUIREMENTS TO CLAIM THE ADDITIONAL CREDIT.

5 G. IF A TAXPAYER FAILS TO START CONSTRUCTION WITHIN SIX MONTHS AFTER
6 SUBMITTING THE APPLICATION UNDER SUBSECTION E OF THIS SECTION, THE
7 PREAPPROVAL ISSUED UNDER SUBSECTION F OF THIS SECTION IS VOID AND ALL MONIES
8 RESERVED FROM THE LIMITS SPECIFIED IN SUBSECTION F OF THIS SECTION REVERT
9 BACK TO THE LIMIT FOR THE YEAR FOR WHICH THEY WERE RESERVED.

10 H. EACH YEAR AFTER INITIAL PREAPPROVAL, ON OR BEFORE THE ANNIVERSARY
11 DATE OF THE APPLICATION SPECIFIED IN SUBSECTION E OF THIS SECTION, THE
12 TAXPAYER MUST SUBMIT TO THE DEPARTMENT:

13 1. DOCUMENTATION OF THE TAXPAYER'S PROGRESS TOWARD THE THREE HUNDRED
14 MILLION DOLLAR INVESTMENT REQUIRED BY SUBSECTION B, PARAGRAPH 1 OF THIS
15 SECTION. THIS DOCUMENTATION IS NOT REQUIRED AFTER THE DEPARTMENT RECEIVES A
16 REPORT STATING THAT THE THREE HUNDRED MILLION DOLLAR INVESTMENT HAS BEEN
17 REACHED.

18 2. DOCUMENTATION FOR EACH FACILITY THAT DEMONSTRATES THAT AT LEAST
19 NINETY PER CENT OF THE POWER GENERATED BY EACH RENEWABLE ENERGY FACILITY IS
20 FOR SELF-CONSUMPTION.

21 I. THE TAXPAYER MUST SUBMIT A REQUEST FOR FINAL CERTIFICATION TO THE
22 DEPARTMENT WITHIN THIRTY DAYS AFTER EACH OF THE RENEWABLE ENERGY FACILITIES
23 FOR WHICH AN AUTHORIZATION WAS GIVEN UNDER SUBSECTION F OF THIS SECTION
24 BECOMES OPERATIONAL. WITHIN THIRTY DAYS AFTER RECEIVING A COMPLETED REQUEST
25 UNDER THIS SUBSECTION, THE DEPARTMENT SHALL REVIEW THE REQUEST AND EITHER
26 ISSUE A FINAL CERTIFICATION OF THE CREDIT TO THE TAXPAYER OR ISSUE A DENIAL
27 OF THE CREDIT IF IT IS DETERMINED THAT THE REQUIREMENTS OF THIS SECTION HAVE
28 NOT BEEN MET. EVERY FINAL CERTIFICATION ISSUED UNDER THIS SUBSECTION MUST
29 INCLUDE A FACILITY CODE ISSUED BY THE DEPARTMENT THAT IS UNIQUE TO EACH
30 FACILITY. TO SHOW THAT THE FACILITY HAS BEEN CERTIFIED, THE TAXPAYER SHALL
31 INCLUDE WITH THE TAX RETURN THE FACILITY CODE FOR EACH FACILITY FOR WHICH A
32 CREDIT IS CLAIMED.

33 J. IF THE TAXPAYER FAILS TO MAKE THE REQUIRED THREE HUNDRED MILLION
34 DOLLAR INVESTMENT WITHIN THE TIME PERIOD REQUIRED BY SUBSECTION B, PARAGRAPH
35 1 OF THIS SECTION, THE TAXPAYER MUST CEASE CLAIMING ANY CREDITS UNDER THIS
36 SECTION AND SHALL RECAPTURE ANY CREDITS ALREADY CLAIMED. THE RECAPTURE MUST
37 BE MADE ON THE TAXPAYER'S INCOME TAX RETURN FOR THE TAX YEAR IN WHICH IT WAS
38 FIRST KNOWN THAT THE REQUIRED INVESTMENT WOULD NOT BE MADE WITHIN THE
39 REQUIRED TIME.

40 K. IF A PARTICULAR FACILITY CEASES TO MEET THE REQUIREMENTS OF THIS
41 SECTION OR IF THE FACILITY IS SOLD, THE TAXPAYER MAY NOT CLAIM ANY FUTURE
42 CREDITS RELATED TO THAT FACILITY.

43 L. CO-OWNERS OF A BUSINESS, INCLUDING PARTNERS IN A PARTNERSHIP,
44 MEMBERS OF A LIMITED LIABILITY COMPANY AND SHAREHOLDERS OF AN S CORPORATION
45 AS DEFINED IN SECTION 1361 OF THE INTERNAL REVENUE CODE, MAY EACH CLAIM THE
46 PRO RATA SHARE OF THE CREDIT ALLOWED UNDER THIS SECTION BASED ON OWNERSHIP

1 INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL THE OWNERS OF THE BUSINESS
2 MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN ALLOWED FOR A SOLE OWNER OF
3 THE BUSINESS.

4 M. IF THE ALLOWABLE TAX CREDIT FOR A TAXPAYER EXCEEDS THE TAXES
5 OTHERWISE DUE UNDER THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO
6 TAXES DUE UNDER THIS TITLE, THE AMOUNT OF THE CLAIM NOT USED TO OFFSET TAXES
7 UNDER THIS TITLE MAY BE CARRIED FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE
8 TAXABLE YEARS AS A CREDIT AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY.

9 N. A TAXPAYER MAY NOT CLAIM A CREDIT UNDER THIS SECTION AND SECTION
10 43-1083.02 REGARDING THE SAME FACILITIES.

11 O. THE DEPARTMENT SHALL ADOPT RULES AND PUBLISH AND PRESCRIBE FORMS
12 AND PROCEDURES AS NECESSARY TO EFFECTUATE THE PURPOSES OF THIS SECTION.

13 P. FOR THE PURPOSES OF THIS SECTION:

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

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

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

26 (c) ANIMAL WASTE, INCLUDING MANURE AND SLAUGHTERHOUSE AND OTHER
27 PROCESSING WASTE.

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

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

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

37 2. "RENEWABLE ENERGY FACILITY" MEANS A FACILITY IN WHICH THE TAXPAYER
38 INVESTED AT LEAST THIRTY MILLION DOLLARS, THAT HAS AT LEAST TWENTY MEGAWATTS
39 GENERATING CAPACITY OR A MINIMUM TYPICAL ANNUAL GENERATION OF FORTY THOUSAND
40 MEGAWATT HOURS, THAT IS LOCATED ON LAND IN THIS STATE OWNED OR LEASED BY THE
41 TAXPAYER AND THAT PRODUCES ELECTRICITY USING A QUALIFIED ENERGY RESOURCE.

42 3. "RENEWABLE ENERGY RESOURCE" MEANS A RESOURCE THAT GENERATES
43 ELECTRICITY THROUGH THE USE OF ONLY THE FOLLOWING ENERGY SOURCES:

44 (a) SOLAR LIGHT.

45 (b) SOLAR HEAT.

46 (c) WIND.

1 (d) BIOMASS, INCLUDING FUEL CELLS SUPPLIED DIRECTLY OR INDIRECTLY WITH
2 BIOMASS GENERATED FUELS.

3 Sec. 3. Title 43, chapter 11, article 6, Arizona Revised Statutes, is
4 amended by adding section 43-1164.05, to read:

5 43-1164.05. Credit for renewable energy investment and
6 production for self-consumption by manufacturers:
7 definitions

8 A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR
9 INVESTMENT IN NEW RENEWABLE ENERGY FACILITIES THAT PRODUCE ENERGY FOR
10 SELF-CONSUMPTION USING RENEWABLE ENERGY RESOURCES IF THE POWER WILL BE USED
11 PRIMARILY FOR MANUFACTURING.

12 B. THE TAXPAYER IS ELIGIBLE FOR THE CREDIT IF ALL OF THE FOLLOWING
13 APPLY:

14 1. THE TAXPAYER INVESTS AT LEAST THREE HUNDRED MILLION DOLLARS IN NEW
15 RENEWABLE ENERGY FACILITIES IN THIS STATE THAT PRODUCE ENERGY FOR
16 SELF-CONSUMPTION USING RENEWABLE ENERGY RESOURCES. THE MINIMUM INVESTMENT
17 MUST BE COMPLETED WITHIN A THREE-YEAR PERIOD BEGINNING ON THE DATE THE
18 INITIAL APPLICATION IS RECEIVED OR DECEMBER 31, 2017, WHICHEVER IS EARLIER.

19 2. AT LEAST NINETY PER CENT OF THE ENERGY PRODUCED AT EACH RENEWABLE
20 ENERGY FACILITY IS USED FOR SELF-CONSUMPTION IN THIS STATE. SELF-CONSUMPTION
21 INCLUDES THE POWER USED BY RELATED ENTITIES IF THE RELATED ENTITIES ARE OWNED
22 DIRECTLY OR INDIRECTLY BY THE SAME OWNERSHIP INTERESTS THAT COLLECTIVELY OWN
23 MORE THAN FIFTY PER CENT. A FACILITY THAT TRANSFERS THE POWER IT GENERATES
24 TO A UTILITY QUALIFIES UNDER THIS PARAGRAPH IF AT LEAST NINETY PER CENT OF
25 THE POWER IS TRANSFERRED BACK FOR SELF-CONSUMPTION IN THIS STATE.

26 3. THE POWER IS USED PRIMARILY FOR MANUFACTURING. A LESSOR OF A
27 MANUFACTURING FACILITY THAT IS USING POWER FOR SELF-CONSUMPTION UNDER
28 PARAGRAPH 2 OF THIS SUBSECTION QUALIFIES UNDER THIS PARAGRAPH IF THE LESSOR
29 IS A MANUFACTURER AND THE POWER IS TRANSFERRED AS PART OF THE LEASE TO THE
30 LESSOR.

31 C. SUBJECT TO SUBSECTION F OF THIS SECTION, THE CREDIT AUTHORIZED BY
32 THIS SECTION IS ONE MILLION DOLLARS PER YEAR FOR FIVE YEARS FOR EACH
33 RENEWABLE ENERGY FACILITY. THE MAXIMUM CREDIT ALLOWED PER TAXPAYER PER YEAR
34 IS FIVE MILLION DOLLARS. THE INITIAL CREDIT FOR EACH FACILITY IS CLAIMED IN
35 THE YEAR THAT THE FACILITY BECOMES OPERATIONAL. A CREDIT, OTHER THAN
36 CARRYOVERS ALLOWED UNDER SUBSECTION M OF THIS SECTION, MAY NOT BE CLAIMED FOR
37 ANY TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2025.

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46 IDENTIFICATION NUMBER OF THE APPLICANT.

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2 THREE-YEAR PERIOD BEGINNING ON THE DATE THE APPLICATION IS RECEIVED, IN NEW
3 RENEWABLE ENERGY PRODUCTION FACILITIES IN THIS STATE THAT PRODUCE ENERGY FOR
4 SELF-CONSUMPTION USING RENEWABLE ENERGY RESOURCES.

5 3. THE EXPECTED LOCATION OF EACH OF THE TAXPAYER'S FACILITIES THAT
6 COMPRISE THE TOTAL INVESTMENT IN PARAGRAPH 2 OF THIS SUBSECTION AND THE
7 EARLIEST DATE THAT EACH FACILITY IS EXPECTED TO BE OPERATIONAL.

8 4. A STATEMENT THAT AT LEAST NINETY PER CENT OF THE POWER GENERATED BY
9 EACH FACILITY SHALL BE FOR SELF-CONSUMPTION AND SHALL BE USED FOR
10 MANUFACTURING.

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12 F. THE DEPARTMENT SHALL REVIEW EACH APPLICATION UNDER SUBSECTION E OF
13 THIS SECTION AND PREAPPROVE THE TAXPAYER FOR A SPECIFIED AMOUNT OF CREDIT
14 THAT IS AUTHORIZED. CREDITS ARE ALLOWED UNDER THIS SECTION AND SECTION
15 43-1083.04 ON A FIRST COME, FIRST SERVED BASIS. THE DEPARTMENT MAY NOT
16 AUTHORIZE TAX CREDITS UNDER THIS SECTION AND SECTION 43-1083.04 THAT EXCEED
17 IN THE AGGREGATE A TOTAL OF TEN MILLION DOLLARS FOR ANY CALENDAR YEAR. THE
18 PORTION OF EACH YEAR'S LIMIT THAT IS RESERVED FOR EACH TAXPAYER MUST BE BASED
19 ON THE YEAR THAT EACH CREDIT IS EXPECTED TO BE CLAIMED USING THE DATES
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21 FACILITY IS COMPLETED IS DIFFERENT FROM THE ESTIMATED COMPLETION DATE
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25 DOLLAR LIMIT, THE DEPARTMENT SHALL GRANT THE APPLICANT ONLY THE REMAINING
26 CREDIT AMOUNT THAT WOULD NOT EXCEED THE TEN MILLION DOLLAR LIMIT. AFTER THE
27 DEPARTMENT AUTHORIZES TEN MILLION DOLLARS IN TAX CREDITS, THE DEPARTMENT
28 SHALL DENY ANY SUBSEQUENT APPLICATIONS THAT ARE RECEIVED FOR THAT CALENDAR
29 YEAR. THE DEPARTMENT MAY NOT AUTHORIZE ANY ADDITIONAL TAX CREDITS THAT
30 EXCEED THE TEN MILLION DOLLAR LIMIT EVEN IF THE AMOUNTS THAT HAVE BEEN
31 CERTIFIED TO ANY TAXPAYER ARE NOT CLAIMED OR A TAXPAYER OTHERWISE FAILS TO
32 MEET THE REQUIREMENTS TO CLAIM THE ADDITIONAL CREDIT.

33 G. IF A TAXPAYER FAILS TO START CONSTRUCTION WITHIN SIX MONTHS AFTER
34 SUBMITTING THE APPLICATION UNDER SUBSECTION E OF THIS SECTION, THE
35 PREAPPROVAL ISSUED UNDER SUBSECTION F OF THIS SECTION IS VOID AND ALL MONIES
36 RESERVED FROM THE LIMITS SPECIFIED IN SUBSECTION F OF THIS SECTION REVERT
37 BACK TO THE LIMIT FOR THE YEAR FOR WHICH THEY WERE RESERVED.

38 H. EACH YEAR AFTER INITIAL PREAPPROVAL, ON OR BEFORE THE ANNIVERSARY
39 DATE OF THE APPLICATION SPECIFIED IN SUBSECTION E OF THIS SECTION, THE
40 TAXPAYER MUST SUBMIT TO THE DEPARTMENT:

41 1. DOCUMENTATION OF THE TAXPAYER'S PROGRESS TOWARD THE THREE HUNDRED
42 MILLION DOLLAR INVESTMENT REQUIRED BY SUBSECTION B, PARAGRAPH 1 OF THIS
43 SECTION. THIS DOCUMENTATION IS NOT REQUIRED AFTER THE DEPARTMENT RECEIVES A
44 REPORT STATING THAT THE THREE HUNDRED MILLION DOLLAR INVESTMENT HAS BEEN
45 REACHED.

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2 NINETY PER CENT OF THE POWER GENERATED BY EACH RENEWABLE ENERGY FACILITY IS
3 FOR SELF-CONSUMPTION.

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5 DEPARTMENT WITHIN THIRTY DAYS AFTER EACH OF THE RENEWABLE ENERGY FACILITIES
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10 OF THE CREDIT IF IT IS DETERMINED THAT THE REQUIREMENTS OF THIS SECTION HAVE
11 NOT BEEN MET. EVERY FINAL CERTIFICATION ISSUED UNDER THIS SUBSECTION MUST
12 INCLUDE A FACILITY CODE ISSUED BY THE DEPARTMENT THAT IS UNIQUE TO EACH
13 FACILITY. TO SHOW THAT THE FACILITY HAS BEEN CERTIFIED, THE TAXPAYER SHALL
14 INCLUDE WITH THE TAX RETURN THE FACILITY CODE FOR EACH FACILITY FOR WHICH A
15 CREDIT IS CLAIMED.

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18 1 OF THIS SECTION, THE TAXPAYER MUST CEASE CLAIMING ANY CREDITS UNDER THIS
19 SECTION AND SHALL RECAPTURE ANY CREDITS ALREADY CLAIMED. THE RECAPTURE MUST
20 BE MADE ON THE TAXPAYER'S INCOME TAX RETURN FOR THE TAX YEAR IN WHICH IT WAS
21 FIRST KNOWN THAT THE REQUIRED INVESTMENT WOULD NOT BE MADE WITHIN THE
22 REQUIRED TIME.

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24 SECTION OR IF THE FACILITY IS SOLD, THE TAXPAYER MAY NOT CLAIM ANY FUTURE
25 CREDITS RELATED TO THAT FACILITY.

26 L. CO-OWNERS OF A BUSINESS, INCLUDING CORPORATE PARTNERS IN A
27 PARTNERSHIP AND MEMBERS OF A LIMITED LIABILITY COMPANY, MAY EACH CLAIM THE
28 PRO RATA SHARE OF THE CREDIT ALLOWED UNDER THIS SECTION BASED ON OWNERSHIP
29 INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL THE OWNERS OF THE BUSINESS
30 MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN ALLOWED FOR A SOLE OWNER OF
31 THE BUSINESS.

32 M. IF THE ALLOWABLE TAX CREDIT FOR A TAXPAYER EXCEEDS THE TAXES
33 OTHERWISE DUE UNDER THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO
34 TAXES DUE UNDER THIS TITLE, THE AMOUNT OF THE CLAIM NOT USED TO OFFSET TAXES
35 UNDER THIS TITLE MAY BE CARRIED FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE
36 TAXABLE YEARS AS A CREDIT AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY.

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38 43-1164.03 REGARDING THE SAME FACILITIES.

39 O. THE DEPARTMENT SHALL ADOPT RULES AND PUBLISH AND PRESCRIBE FORMS
40 AND PROCEDURES AS NECESSARY TO EFFECTUATE THE PURPOSES OF THIS SECTION.

41 P. FOR THE PURPOSES OF THIS SECTION:

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

44 (a) FOREST-RELATED MATERIALS, INCLUDING MILL RESIDUES, LOGGING
45 RESIDUES, FOREST THINNINGS, SLASH, BRUSH, LOW-COMMERCIAL VALUE MATERIALS OR
46 UNDESIRABLE SPECIES, SALT CEDAR AND OTHER PHREATOPHYTE OR WOODY VEGETATION

1 REMOVED FROM RIVER BASINS OR WATERSHEDS AND WOODY MATERIAL HARVESTED FOR THE
2 PURPOSE OF FOREST FIRE FUEL REDUCTION OR FOREST HEALTH AND WATERSHED
3 IMPROVEMENT.

4 (b) AGRICULTURAL-RELATED MATERIALS, INCLUDING ORCHARD TREES, VINEYARD,
5 GRAIN OR CROP RESIDUES, INCLUDING STRAWS AND STOVER, AQUATIC PLANTS AND
6 AGRICULTURAL PROCESSED COPRODUCTS AND WASTE PRODUCTS, INCLUDING FATS, OILS,
7 GREASES, WHEY AND LACTOSE.

8 (c) ANIMAL WASTE, INCLUDING MANURE AND SLAUGHTERHOUSE AND OTHER
9 PROCESSING WASTE.

10 (d) SOLID WOODY WASTE MATERIALS, INCLUDING LANDSCAPE OR RIGHT-OF-WAY
11 TREE TRIMMINGS, RANGELAND MAINTENANCE RESIDUES, WASTE PALLETS, CRATES AND
12 MANUFACTURING, CONSTRUCTION AND DEMOLITION WOOD WASTES BUT EXCLUDING
13 PRESSURE-TREATED, CHEMICALLY TREATED OR PAINTED WOOD WASTES AND WOOD
14 CONTAMINATED WITH PLASTIC.

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

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

19 2. "RENEWABLE ENERGY FACILITY" MEANS A FACILITY IN WHICH THE TAXPAYER
20 INVESTED AT LEAST THIRTY MILLION DOLLARS, THAT HAS AT LEAST TWENTY MEGAWATTS
21 GENERATING CAPACITY OR A MINIMUM TYPICAL ANNUAL GENERATION OF FORTY THOUSAND
22 MEGAWATT HOURS, THAT IS LOCATED ON LAND IN THIS STATE OWNED OR LEASED BY THE
23 TAXPAYER AND THAT PRODUCES ELECTRICITY USING A QUALIFIED ENERGY RESOURCE.

24 3. "RENEWABLE ENERGY RESOURCE" MEANS A RESOURCE THAT GENERATES
25 ELECTRICITY THROUGH THE USE OF ONLY THE FOLLOWING ENERGY SOURCES:

26 (a) SOLAR LIGHT.

27 (b) SOLAR HEAT.

28 (c) WIND.

29 (d) BIOMASS, INCLUDING FUEL CELLS SUPPLIED DIRECTLY OR INDIRECTLY WITH
30 BIOMASS GENERATED FUELS.

31 Sec. 4. Purpose

32 Pursuant to section 43-223, Arizona Revised Statutes, the legislature
33 enacts sections 43-1083.04 and 43-1164.05, Arizona Revised Statutes, as added
34 by this act, to provide incentives to manufacturers that are committed to
35 reducing their carbon footprint by investing in and producing renewable
36 energy for self-consumption.