

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

# SENATE BILL 1484

## 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)

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

Section 1. Section 43-222, Arizona Revised Statutes, is amended to read:

43-222. Income tax credit review schedule

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

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

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

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

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

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

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

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

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

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

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

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

3. THE POWER IS USED PRIMARILY FOR MANUFACTURING. A LESSOR OF A MANUFACTURING FACILITY THAT IS USING POWER FOR SELF-CONSUMPTION UNDER 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  
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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.

38 D. TO QUALIFY AS A SEPARATE RENEWABLE ENERGY FACILITY FOR THE PURPOSES  
39 OF THIS SECTION, A FACILITY MUST BE LOCATED AT LEAST ONE MILE FROM ANY OTHER  
40 RENEWABLE ENERGY FACILITY FOR WHICH THE TAXPAYER IS CLAIMING A CREDIT UNDER  
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42 E. TO BE ELIGIBLE FOR THE CREDIT UNDER THIS SECTION, THE TAXPAYER MUST  
43 APPLY TO THE DEPARTMENT FOR CERTIFICATION OF THE CREDIT ON A FORM PRESCRIBED  
44 BY THE DEPARTMENT. THE APPLICATION SHALL INCLUDE:

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

1           2. AN ESTIMATE OF THE TOTAL INVESTMENT THE TAXPAYER WILL MAKE, OVER A  
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.

11           5. ANY ADDITIONAL INFORMATION THAT THE DEPARTMENT REQUIRES.

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  
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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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24 THAT, IF AUTHORIZED, WOULD REQUIRE THE DEPARTMENT TO EXCEED THE TEN MILLION  
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.

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

4           I. THE TAXPAYER MUST SUBMIT A REQUEST FOR FINAL CERTIFICATION TO THE  
5 DEPARTMENT WITHIN THIRTY DAYS AFTER EACH OF THE RENEWABLE ENERGY FACILITIES  
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14 INCLUDE WITH THE TAX RETURN THE FACILITY CODE FOR EACH FACILITY FOR WHICH A  
15 CREDIT IS CLAIMED.

16           J. IF THE TAXPAYER FAILS TO MAKE THE REQUIRED THREE HUNDRED MILLION  
17 DOLLAR INVESTMENT WITHIN THE TIME PERIOD REQUIRED BY SUBSECTION B, PARAGRAPH  
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.

23           K. IF A PARTICULAR FACILITY CEASES TO MEET THE REQUIREMENTS OF THIS  
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.

37           N. A TAXPAYER MAY NOT CLAIM A CREDIT UNDER THIS SECTION AND SECTION  
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.