House Engrossed Senate Bill

FILED
KEN BENNETT
SECRETARY OF STATE

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

CHAPTER 8

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 LESSEE

IS A MANUFACTURER AND THE POWER IS TRANSFERRED AS PART OF THE LEASE TO THE LESSEE.

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

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

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

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

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

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

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

5. ANY ADDITIONAL INFORMATION THAT THE DEPARTMENT REQUIRES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

P. FOR THE PURPOSES OF THIS SECTION:

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

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

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

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

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

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

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

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

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

(a) SOLAR LIGHT.

(b) SOLAR HEAT.

(c) WIND.

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

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

43-1164.05. 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 LESSEE IS A MANUFACTURER AND THE POWER IS TRANSFERRED AS PART OF THE LEASE TO THE LESSEE.

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

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

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

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

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

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

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

5. ANY ADDITIONAL INFORMATION THAT THE DEPARTMENT REQUIRES.

F. THE DEPARTMENT SHALL REVIEW EACH APPLICATION UNDER SUBSECTION E OF THIS SECTION AND PREAPPROVE THE TAXPAYER FOR A SPECIFIED AMOUNT OF CREDIT THAT IS AUTHORIZED. CREDITS ARE ALLOWED UNDER THIS SECTION AND SECTION 43-1083.04 ON A FIRST COME, FIRST SERVED BASIS. THE DEPARTMENT MAY NOT AUTHORIZE TAX CREDITS UNDER THIS SECTION AND SECTION 43-1083.04 THAT EXCEED IN THE AGGREGATE A TOTAL OF TEN MILLION DOLLARS FOR ANY CALENDAR YEAR. THE PORTION OF EACH YEAR'S LIMIT THAT IS RESERVED FOR EACH TAXPAYER MUST BE BASED ON THE YEAR THAT EACH CREDIT IS EXPECTED TO BE CLAIMED USING THE DATES PROVIDED IN SUBSECTION E, PARAGRAPH 3 OF THIS SECTION. IF THE YEAR A FACILITY IS COMPLETED IS DIFFERENT FROM THE ESTIMATED COMPLETION DATE PROVIDED IN SUBSECTION E, PARAGRAPH 3 OF THIS SECTION, THE TAXPAYER MUST AMEND THE APPLICATION WITH THE NEW DATES. IF AN APPLICATION IS RECEIVED THAT, IF AUTHORIZED, WOULD REQUIRE THE DEPARTMENT TO EXCEED THE TEN MILLION DOLLAR LIMIT, THE DEPARTMENT SHALL GRANT THE APPLICANT ONLY THE REMAINING CREDIT AMOUNT THAT WOULD NOT EXCEED THE TEN MILLION DOLLAR LIMIT. AFTER THE DEPARTMENT AUTHORIZES TEN MILLION DOLLARS IN TAX CREDITS, THE DEPARTMENT SHALL DENY ANY SUBSEQUENT APPLICATIONS THAT ARE RECEIVED FOR THAT CALENDAR YEAR. THE DEPARTMENT MAY NOT AUTHORIZE ANY ADDITIONAL TAX CREDITS THAT EXCEED THE TEN MILLION DOLLAR LIMIT EVEN IF THE AMOUNTS THAT HAVE BEEN CERTIFIED TO ANY TAXPAYER ARE NOT CLAIMED OR A TAXPAYER OTHERWISE FAILS TO MEET THE REQUIREMENTS TO CLAIM THE ADDITIONAL CREDIT.

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

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

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

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

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

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

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

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

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

N. A TAXPAYER MAY NOT CLAIM A CREDIT UNDER THIS SECTION AND SECTION 43-1164.03 REGARDING THE SAME FACILITIES.

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

P. FOR THE PURPOSES OF THIS SECTION:

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

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

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

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

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

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

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

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

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

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

(a) SOLAR LIGHT.

(b) SOLAR HEAT.

(c) WIND.

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

Sec. 4. Purpose

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

APPROVED BY THE GOVERNOR APRIL 11, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2014.

Passed the House April 8, 2014,

by the following vote: 34 Ayes,

21 Nays, 5 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

Passed the Senate March 12, 2014,

by the following vote: 27 Ayes,

1 Nays, 2 Not Voting

President of the Senate

Chapman Bellington

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR
This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1484

SENATE CONCURS IN HOUSE AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 8, 2014

by the following vote: 24 Ayes,

3 Nays, 3 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

8 day of April, 2014

at 3:35 o'clock P M.

Mikhaila Howard
Secretary to the Governor

Approved this 11th day of

April

at 12:10 o'clock P. M.

Janice K. Brewer
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 11th day of April, 2014

at 2:31 o'clock P M.

Secretary of State

S.B. 1484