House Engrossed

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

CHAPTER 6

HOUSE BILL 2670

AN ACT

AMENDING TITLE 41, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1520; AMENDING SECTIONS 42-5063, 42-5159, 42-6012, 43-1083.04 AND 43-1164.05, ARIZONA REVISED STATUTES; RELATING TO BUSINESS TAX INCENTIVES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Title 41, chapter 10, article 1, Arizona Revised Statutes, is amended by adding section 41-1520, to read:

41-1520. International operations center; utility relief; definitions

A. FROM AND AFTER JUNE 30, 2015, UTILITY RELIEF IS ALLOWED FOR THE OWNER OR OPERATOR OF AN INTERNATIONAL OPERATIONS CENTER THAT IS CERTIFIED PURSUANT TO THIS SECTION.

B. TO QUALIFY FOR THE UTILITY RELIEF, THE OWNER OR OPERATOR MUST SUBMIT TO THE AUTHORITY AN APPLICATION IN A FORM PRESCRIBED BY THE AUTHORITY THAT INCLUDES ALL OF THE FOLLOWING:

1. THE OWNER'S OR OPERATOR'S NAME, ADDRESS AND TELEPHONE NUMBER.

2. THE ADDRESS OF THE SITE WHERE THE FACILITY IS OR WILL BE LOCATED, INCLUDING, IF APPLICABLE, INFORMATION SUFFICIENT TO IDENTIFY THE SPECIFIC PORTION OR PORTIONS OF THE FACILITY COMPRISING THE INTERNATIONAL OPERATIONS CENTER.

C. WITHIN SIXTY DAYS AFTER RECEIVING A COMPLETE AND CORRECT APPLICATION, THE AUTHORITY SHALL REVIEW THE APPLICATION AND EITHER ISSUE A WRITTEN CERTIFICATION THAT THE INTERNATIONAL OPERATIONS CENTER QUALIFIES FOR THE UTILITY RELIEF OR PROVIDE WRITTEN REASONS FOR ITS DENIAL. A FAILURE TO APPROVE OR DENY THE APPLICATION WITHIN SIXTY DAYS AFTER THE DATE OF SUBMITTAL CONSTITUTES CERTIFICATION OF THE INTERNATIONAL OPERATIONS CENTER, AND THE AUTHORITY SHALL ISSUE WRITTEN CERTIFICATION TO THE OWNER OR OPERATOR WITHIN FOURTEEN DAYS. THE AUTHORITY SHALL SEND A COPY OF THE CERTIFICATION TO THE DEPARTMENT OF REVENUE.

D. THE OWNER OR OPERATOR OF THE INTERNATIONAL OPERATIONS CENTER MUST ACHIEVE BOTH OF THE FOLLOWING INVESTMENT REQUIREMENTS AFTER TAKING INTO ACCOUNT THE COMBINED INVESTMENTS MADE BY THE OWNER OR OPERATOR:

1. A MINIMUM ANNUAL INVESTMENT OF ONE HUNDRED MILLION DOLLARS IN NEW CAPITAL ASSETS, INCLUDING COSTS OF LAND, BUILDINGS AND INTERNATIONAL OPERATIONS CENTER EQUIPMENT IN EACH OF TEN CONSECUTIVE TAXABLE YEARS OF THE OWNER OR OPERATOR. INVESTMENTS GREATER THAN ONE HUNDRED MILLION DOLLARS IN ANY TAXABLE YEAR MAY BE CARRIED FORWARD AS A CREDIT TOWARD THE INVESTMENT REQUIREMENT IN FUTURE YEARS.

2. ON OR BEFORE THE TENTH ANNIVERSARY OF CERTIFICATION, A MINIMUM INVESTMENT OF AT LEAST ONE BILLION TWO HUNDRED FIFTY MILLION DOLLARS IN NEW CAPITAL ASSETS, INCLUDING COSTS OF LAND, BUILDINGS AND INTERNATIONAL OPERATIONS CENTER EQUIPMENT.

E. WITHIN THIRTY DAYS AFTER THE END OF EACH TAXABLE YEAR FOLLOWING CERTIFICATION, AND THE TENTH ANNIVERSARY OF CERTIFICATION, THE OWNER OR OPERATOR SHALL FURNISH THE AUTHORITY WRITTEN INFORMATION DEMONSTRATING WHETHER THE CERTIFIED INTERNATIONAL OPERATIONS CENTER HAS OR HAS NOT SATISFIED THE INVESTMENT REQUIREMENTS PRESCRIBED IN SUBSECTION D OF THIS SECTION. UNTIL THE INVESTMENT REQUIREMENTS PRESCRIBED IN SUBSECTION D OF THIS SECTION ARE MET, THE OWNER OR OPERATOR SHALL KEEP DETAILED RECORDS OF

ALL CAPITAL INVESTMENT IN THE INTERNATIONAL OPERATIONS CENTER, INCLUDING COSTS OF LAND, BUILDINGS AND INTERNATIONAL OPERATIONS CENTER EQUIPMENT, AND ALL UTILITY RELIEF DIRECTLY RECEIVED BY THE OWNER OR OPERATOR.

F. IF THE AUTHORITY DETERMINES THAT THE REQUIREMENTS OF THIS SECTION HAVE NOT BEEN SATISFIED, THE AUTHORITY MAY REVOKE THE CERTIFICATION OF THE INTERNATIONAL OPERATIONS CENTER AND NOTIFY THE DEPARTMENT OF REVENUE IN WRITING. THE OWNER OR OPERATOR MAY APPEAL THE REVOCATION. THE AUTHORITY MAY GIVE SPECIAL CONSIDERATION OR ALLOW A TEMPORARY EXCEPTION IF THERE IS EXTRAORDINARY HARDSHIP DUE TO FACTORS BEYOND THE OWNER'S OR OPERATOR'S CONTROL. IF CERTIFICATION IS REVOKED, THE DEPARTMENT OF REVENUE SHALL ORDER THE OWNER OR OPERATOR TO FORFEIT FURTHER ENTITLEMENT TO UTILITY RELIEF. IF THE OWNER OR OPERATOR FAILS TO MAKE A MINIMUM CAPITAL INVESTMENT OF ONE HUNDRED MILLION DOLLARS IN A TAXABLE YEAR, TAKING INTO ACCOUNT ANY EXCESS INVESTMENT AMOUNTS CARRIED FORWARD FROM PREVIOUS YEARS, THE OWNER OR OPERATOR MAY AVOID REVOCATION OF ITS CERTIFICATION BY PAYING TO THE DEPARTMENT OF REVENUE WITHIN SIXTY DAYS AFTER THE END OF THE TAXABLE YEAR THE AMOUNT OF THE UTILITY RELIEF PROVIDED PURSUANT TO THIS SECTION IN THAT YEAR.

G. THE AUTHORITY AND THE DEPARTMENT OF REVENUE SHALL PRESCRIBE FORMS AND PROCEDURES AS NECESSARY FOR THE PURPOSES OF THIS SECTION.

H. PROPRIETARY BUSINESS INFORMATION CONTAINED IN THE APPLICATION FORM DESCRIBED IN SUBSECTION B OF THIS SECTION AND THE WRITTEN NOTICE DESCRIBED IN SUBSECTION F OF THIS SECTION ARE CONFIDENTIAL AND MAY NOT BE DISCLOSED TO THE PUBLIC, EXCEPT THAT THE INFORMATION SHALL BE TRANSMITTED TO THE DEPARTMENT OF REVENUE. THE AUTHORITY OR THE DEPARTMENT OF REVENUE MAY DISCLOSE THE NAME OF AN INTERNATIONAL OPERATIONS CENTER THAT HAS BEEN CERTIFIED PURSUANT TO THIS SECTION.

I. EXCEPT AS PROVIDED IN SUBSECTION F OF THIS SECTION, ON CERTIFICATION, THE INTERNATIONAL OPERATIONS CENTER REMAINS CERTIFIED UNLESS OWNERSHIP OF THE INTERNATIONAL OPERATIONS CENTER IS SOLD, CONVEYED, TRANSFERRED OR OTHERWISE DIRECTLY OR INDIRECTLY DISPOSED OF TO ANOTHER ENTITY IN WHICH THE ORIGINAL OWNER HOLDS LESS THAN A CONTROLLING INTEREST. FOR THE PURPOSES OF THIS SUBSECTION, "CONTROLLING INTEREST" MEANS AT LEAST EIGHTY PERCENT OF THE VOTING SHARES OF A CORPORATION OR OF THE INTERESTS IN A NONCORPORATE ENTITY.

J. AN OWNER OR OPERATOR MAY BE COMPRISED OF A SINGLE ENTITY OR AFFILIATED ENTITIES.

K. FOR THE PURPOSES OF THIS SECTION:

1. "INTERNATIONAL OPERATIONS CENTER" MEANS A FACILITY THAT IS SUBJECT TO THE INVESTMENT THRESHOLDS UNDER SUBSECTION D OF THIS SECTION AND THAT SELF-CONSUMES RENEWABLE ENERGY FROM A QUALIFIED FACILITY PURSUANT TO SECTION 43-1083.04, SUBSECTION C OR SECTION 43-1164.05, SUBSECTION C.

2. "UTILITY RELIEF" MEANS THE MITIGATION OF THE TAX BURDEN ON THE RETAIL PURCHASER OF ELECTRICITY OR NATURAL GAS THROUGH THE APPLICATION OF SECTION 42-5063, SUBSECTION C, PARAGRAPH 7, SECTION 42-5159, SUBSECTION G, PARAGRAPH 2 AND SECTION 42-6012, PARAGRAPH 2.

Sec. 2. Section 42-5063, Arizona Revised Statutes, is amended to read:

42-5063. Utilities classification; definitions

A. The utilities classification is comprised of the business of:

1. Producing and furnishing or furnishing to consumers natural or artificial gas and water.

2. Providing to retail electric customers ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity.

B. The utilities classification does not include:

1. Sales of ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity, gas or water to a person who resells the services.

2. Sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

3. Sales of alternative fuel, as defined in section 1-215, to a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

4. Sales of ancillary services, electric distribution services, electric generation services, electric transmission services and other services that are related to providing electricity to a retail electric customer who is located outside this state for use outside this state if the electricity is delivered to a point of sale outside this state.

5. Sales or other transfers of renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this paragraph, "renewable energy credit" means a unit created administratively by the corporation commission or governing body of a public power utility to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

C. The tax base for the utilities classification is the gross proceeds of sales or gross income derived from the business, but the following shall be deducted from the tax base:

1. Revenues received by a municipally owned utility in the form of fees charged to persons constructing residential, commercial or industrial developments or connecting residential, commercial or industrial developments to a municipal utility system or systems if the fees are segregated and used only for capital expansion, system enlargement or debt service of the utility system or systems.

2. Revenues received by any person or persons owning a utility system in the form of reimbursement or contribution compensation for property and equipment installed to provide utility access to, on or across the land of an actual utility consumer if the property and equipment become the property of the utility. This deduction shall not exceed the value of such property and equipment.

3. Gross proceeds of sales or gross income derived from sales to:

(a) Qualifying hospitals as defined in section 42-5001.

(b) A qualifying health care organization as defined in section 42-5001 if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

4. The portion of gross proceeds of sales or gross income that is derived from sales to a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 of a utility product and that is used directly in environmental technology manufacturing, producing or processing. This paragraph shall apply for twenty full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of a qualified environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

5. The portion of gross proceeds of sales or gross income attributable to transfers of electricity by any retail electric customer owning a solar photovoltaic energy generating system to an electric distribution system, if the electricity transferred is generated by the customer's system.

6. Gross proceeds of sales or gross income derived from sales of electricity or natural gas to a business that is principally engaged in manufacturing or smelting operations and that uses at least fifty-one ~~per cent~~ PERCENT of the electricity or natural gas in the manufacturing or smelting operations. This paragraph does not apply to gas transportation services. For the purposes of this paragraph:

(a) "Gas transportation services" means the services of transporting natural gas to a natural gas customer or to a natural gas distribution facility if the natural gas was purchased from a supplier other than the utility.

(b) "Manufacturing" means the performance as a business of an integrated series of operations that places tangible personal property in a form, composition or character different from that in which it was acquired and transforms it into a different product with a distinctive name, character or use. Manufacturing does not include processing, fabricating, job printing, mining, generating electricity or operating a restaurant.

(c) "Principally engaged" means at least fifty-one ~~per cent~~ PERCENT of the business is a manufacturing or smelting operation.

(d) "Smelting" means to melt or fuse a metalliferous mineral, often with an accompanying chemical change, usually to separate the metal.

7. GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM SALES OF ELECTRICITY OR NATURAL GAS TO A BUSINESS THAT OPERATES AN INTERNATIONAL OPERATIONS CENTER IN THIS STATE AND THAT IS CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1520.

D. For the purposes of this section:

1. "Ancillary services" means those services so designated in federal energy regulatory commission order 888 adopted in 1996 that include the services necessary to support the transmission of electricity from resources to loads while maintaining reliable operation of the transmission system according to good utility practice.

2. "Electric distribution service" means distributing electricity to retail electric customers through the use of electric distribution facilities.

3. "Electric generation service" means providing electricity for sale to retail electric customers but excluding electric distribution or transmission services.

4. "Electric transmission service" means transmitting electricity to retail electric customers or to electric distribution facilities so classified by the federal energy regulatory commission or, to the extent permitted by law, so classified by the Arizona corporation commission.

5. "Other services" includes metering, meter reading services, billing and collecting services.

6. "Retail electric customer" means a person who purchases electricity for that person's own use, including use in that person's trade or business and not for resale, redistribution or retransmission.

Sec. 3. Section 42-5159, Arizona Revised Statutes, is amended to read:

42-5159. Exemptions

A. The tax levied by this article does not apply to the storage, use or consumption in this state of the following described tangible personal property:

1. Tangible personal property sold in this state, the gross receipts from the sale of which are included in the measure of the tax imposed by articles 1 and 2 of this chapter.

2. Tangible personal property the sale or use of which has already been subjected to an excise tax at a rate equal to or exceeding the tax imposed by this article under the laws of another state of the United States. If the excise tax imposed by the other state is at a rate less than the tax imposed by this article, the tax imposed by this article is reduced by the amount of the tax already imposed by the other state.

3. Tangible personal property, the storage, use or consumption of which the constitution or laws of the United States prohibit this state from taxing or to the extent that the rate or imposition of tax is unconstitutional under the laws of the United States.

4. Tangible personal property that directly enters into and becomes an ingredient or component part of any manufactured, fabricated or processed article, substance or commodity for sale in the regular course of business.

5. Motor vehicle fuel and use fuel, the sales, distribution or use of which in this state is subject to the tax imposed under title 28, chapter 16, article 1, use fuel that is sold to or used by a person holding a valid

single trip use fuel tax permit issued under section 28-5739, aviation fuel, the sales, distribution or use of which in this state is subject to the tax imposed under section 28-8344, and jet fuel, the sales, distribution or use of which in this state is subject to the tax imposed under article 8 of this chapter.

6. Tangible personal property brought into this state by an individual who was a nonresident at the time the property was purchased for storage, use or consumption by the individual if the first actual use or consumption of the property was outside this state, unless the property is used in conducting a business in this state.

7. Purchases of implants used as growth promotants and injectable medicines, not already exempt under paragraph 16 of this subsection, for livestock and poultry owned by, or in possession of, persons who are engaged in producing livestock, poultry, or livestock or poultry products, or who are engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.

8. Livestock, poultry, supplies, feed, salts, vitamins and other additives for use or consumption in the businesses of farming, ranching and feeding livestock or poultry, not including fertilizers, herbicides and insecticides. For the purposes of this paragraph, "poultry" includes ratites.

9. Seeds, seedlings, roots, bulbs, cuttings and other propagative material for use in commercially producing agricultural, horticultural, viticultural or floricultural crops in this state.

10. Tangible personal property not exceeding two hundred dollars in any one month purchased by an individual at retail outside the continental limits of the United States for the individual's own personal use and enjoyment.

11. Advertising supplements that are intended for sale with newspapers published in this state and that have already been subjected to an excise tax under the laws of another state in the United States that equals or exceeds the tax imposed by this article.

12. Materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:

(a) Printed or photographic materials, beginning August 7, 1985.

(b) Electronic or digital media materials, beginning July 17, 1994.

13. Tangible personal property purchased by:

(a) A hospital organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(b) A hospital operated by this state or a political subdivision of this state.

(c) A licensed nursing care institution or a licensed residential care institution or a residential care facility operated in conjunction with a licensed nursing care institution or a licensed kidney dialysis center, which provides medical services, nursing services or health related services and is not used or held for profit.

(d) A qualifying health care organization, as defined in section 42-5001, if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

(e) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind and visually impaired children and children with ~~multidisabilities~~ MULTIPLE DISABILITIES from the time of birth to age twenty-one.

(f) A nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for persons with mental or physical disabilities if the programs are exclusively for training, job placement, rehabilitation or testing.

(g) A person that is subject to tax under article 1 of this chapter by reason of being engaged in business classified under the prime contracting classification under section 42-5075, or a subcontractor working under the control of a prime contractor, if the tangible personal property is any of the following:

(i) Incorporated or fabricated by the contractor into a structure, project, development or improvement in fulfillment of a contract.

(ii) Used in environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

(h) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code if the property is purchased from the parent or an affiliate organization that is located outside this state.

(i) A qualifying community health center as defined in section 42-5001.

(j) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

(k) A person engaged in business under the transient lodging classification if the property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, which are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

(l) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that

qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

(m) A qualifying health sciences educational institution as defined in section 42-5001.

14. Commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

15. Tangible personal property sold by:

(a) Any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.

(b) A nonprofit organization that is exempt from taxation under section 501(c)(3) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

(c) A nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

16. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

17. Prosthetic appliances, as defined in section 23-501, prescribed or recommended by a person who is licensed, registered or otherwise professionally credentialed as a physician, dentist, podiatrist, chiropractor, naturopath, homeopath, nurse or optometrist.

18. Prescription eyeglasses and contact lenses.

19. Insulin, insulin syringes and glucose test strips.

20. Hearing aids as defined in section 36-1901.

21. Durable medical equipment that has a centers for medicare and medicaid services common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.

22. Food, as provided in and subject to the conditions of article 3 of this chapter and section 42-5074.

23. Items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.

958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786).

24. Food and drink provided without monetary charge by a taxpayer that is subject to section 42-5074 to its employees for their own consumption on the premises during the employees' hours of employment.

25. Tangible personal property that is used or consumed in a business subject to section 42-5074 for human food, drink or condiment, whether simple, mixed or compounded.

26. Food, drink or condiment and accessory tangible personal property that are acquired for use by or provided to a school district or charter school if they are to be either served or prepared and served to persons for consumption on the premises of a public school in the school district or on the premises of the charter school during school hours.

27. Lottery tickets or shares purchased pursuant to title 5, chapter 5.1, article 1.

28. Textbooks, sold by a bookstore, that are required by any state university or community college.

29. Magazines, other periodicals or other publications produced by this state to encourage tourist travel.

30. Paper machine clothing, such as forming fabrics and dryer felts, purchased by a paper manufacturer and directly used or consumed in paper manufacturing.

31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity purchased by a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for twenty full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

32. Motor vehicles that are removed from inventory by a motor vehicle dealer as defined in section 28-4301 and that are provided to:

(a) Charitable or educational institutions that are exempt from taxation under section 501(c)(3) of the internal revenue code.

(b) Public educational institutions.

(c) State universities or affiliated organizations of a state university if no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

33. Natural gas or liquefied petroleum gas used to propel a motor vehicle.

34. Machinery, equipment, technology or related supplies that are only useful to assist a person ~~who has~~ WITH a physical disability as defined in section 46-191~~,~~ OR A PERSON WHO has a developmental disability as defined in section 36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

35. Liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, research and development and, beginning on January 1, 1999, printing, if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involves direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This paragraph does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any exemption for such chemicals that is otherwise provided by this section. For the purposes of this paragraph, "printing" means a commercial printing operation and includes job printing, engraving, embossing, copying and bookbinding.

36. Food, drink and condiment purchased for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.

37. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing or renting such property.

38. Tangible personal property that is or directly enters into and becomes an ingredient or component part of cards used as prescription plan identification cards.

39. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract. For the purposes of this paragraph:

(a) "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from which would otherwise be included in the retail classification, that is used or consumed in the performance of a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based on generally accepted accounting principles and consistent with government contract accounting standards.

(b) "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or

services that, in whole or in part, are necessary to the performance of one or more government contracts, or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed, and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract.

40. Through December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061. From and after December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061, if the gross proceeds of the sales were included in the measure of the tax imposed by article 1 of this chapter or if the personal property liquidation was a casual activity or transaction.

41. Wireless telecommunications equipment that is held for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064.

42. Alternative fuel, as defined in section 1-215, purchased by a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

43. Tangible personal property purchased by a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

44. Alternative fuel vehicles if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 1-215.

45. Gas diverted from a pipeline, by a person engaged in the business of:

(a) Operating a natural or artificial gas pipeline, and used or consumed for the sole purpose of fueling compressor equipment that pressurizes the pipeline.

(b) Converting natural gas into liquefied natural gas, and used or consumed for the sole purpose of fueling compressor equipment used in the conversion process.

46. Tangible personal property that is excluded, exempt or deductible from transaction privilege tax pursuant to section 42-5063.

47. Tangible personal property purchased to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

48. Tangible personal property sold by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

49. Prepared food, drink or condiment donated by a restaurant as classified in section 42-5074, subsection A to a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

50. Application services that are designed to assess or test student learning or to promote curriculum design or enhancement purchased by or for any school district, charter school, community college or state university. For the purposes of this paragraph:

(a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol.

(b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

51. Motor vehicle fuel and use fuel to a qualified business under section 41-1516 for off-road use in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

52. Repair parts installed in equipment used directly by a qualified business under section 41-1516 in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

53. Renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this paragraph, "renewable energy credit" means a unit created administratively by the corporation commission or governing body of a public power entity to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

54. Computer data center equipment purchased by the owner, operator or qualified colocation tenant of the computer data center or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in a computer data center that is certified by the Arizona commerce authority under section 41-1519. To qualify for this deduction, at the time of purchase, the owner, operator or qualified colocation tenant must present to the retailer its certificate that is issued pursuant to section 41-1519 and that establishes its qualification for the

deduction. For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

55. Coal acquired from an owner or operator of a power plant by a person who is responsible for refining coal if both of the following apply:

(a) The transfer of title or possession of the coal is for the purpose of refining the coal.

(b) The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining process. For the purposes of this subdivision, "coal refining process" means the application of a coal additive system that aids the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.

B. In addition to the exemptions allowed by subsection A of this section, the following categories of tangible personal property are also exempt:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification under section 42-5064 and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media that are components of carrier systems.

4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.

5. Neat animals, horses, asses, sheep, ratites, swine or goats used or to be used as breeding or production stock, including sales of breedings or ownership shares in such animals used for breeding or production.

6. Pipes or valves four inches in diameter or larger used to transport oil, natural gas, artificial gas, water or coal slurry, including compressor units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves.

7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:

(a) A person holding a federal certificate of public convenience and necessity, a supplemental air carrier certificate under federal aviation regulations (14 Code of Federal Regulations part 121) or a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

(b) Any foreign government, or sold to persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state.

8. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

9. Rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

10. Machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

11. Buses or other urban mass transit vehicles that are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and that are sold to bus companies holding a federal certificate of convenience and necessity or operated by any city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

12. Groundwater measuring devices required under section 45-604.

13. New machinery and equipment consisting of tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines not already exempt under paragraph 6 of this subsection and that are used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products in this state. For the purposes of this paragraph:

(a) "New machinery and equipment" means machinery or equipment that has never been sold at retail except pursuant to leases or rentals that do not total two years or more.

(b) "Self-powered implements" includes machinery and equipment that are electric-powered.

14. Machinery or equipment used in research and development. For the purposes of this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of

the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

15. Tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:

(a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations part 25.

(b) Any satellite television or data transmission facility, if both of the following conditions are met:

(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations part 25.

(ii) Over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services.

For the purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

16. Clean rooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph 14 of this subsection, of semiconductor products. For the purposes of this paragraph, "clean room" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

17. Machinery and equipment that are used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

18. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

19. Machinery and equipment that are used in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state and that are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

20. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:

(a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.

(b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.

(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

21. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2024 by a qualified business under section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this exemption, the qualified business must obtain and present its certification from the Arizona commerce authority at the time of purchase.

C. The exemptions provided by subsection B of this section do not include:

1. Expendable materials. For the purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 15 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 11 of this section, without regard to the use of such motor vehicles.

6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

8. Machinery and equipment or tangible personal property used by a contractor in the performance of a contract.

D. The following shall be deducted in computing the purchase price of electricity by a retail electric customer from a utility business:

1. Revenues received from sales of ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity to a retail electric customer who is located outside this state for use outside this state if the electricity is delivered to a point of sale outside this state.

2. Revenues received from providing electricity, including ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity with respect to which the transaction privilege tax imposed under section 42-5063 has been paid.

E. The tax levied by this article does not apply to the purchase of solar energy devices from a retailer that is registered with the department as a solar energy retailer or a solar energy contractor.

F. The following shall be deducted in computing the purchase price of electricity by a retail electric customer from a utility business:

1. Fees charged by a municipally owned utility to persons constructing residential, commercial or industrial developments or connecting residential, commercial or industrial developments to a municipal utility system or systems if the fees are segregated and used only for capital expansion, system enlargement or debt service of the utility system or systems.

2. Reimbursement or contribution compensation to any person or persons owning a utility system for property and equipment installed to provide utility access to, on or across the land of an actual utility consumer if the property and equipment become the property of the utility. This deduction shall not exceed the value of such property and equipment.

G. The tax levied by this article does not apply to the purchase price of electricity or natural gas by:

1. A business that is principally engaged in manufacturing or smelting operations and that uses at least fifty-one ~~per cent~~ PERCENT of the

electricity or natural gas in the manufacturing or smelting operations. This ~~subsection~~ PARAGRAPH does not apply to gas transportation services. For the purposes of this ~~subsection~~ PARAGRAPH:

~~1.~~ (a) "Gas transportation services" means the services of transporting natural gas to a natural gas customer or to a natural gas distribution facility if the natural gas was purchased from a supplier other than the utility.

~~2.~~ (b) "Manufacturing" means the performance as a business of an integrated series of operations that places tangible personal property in a form, composition or character different from that in which it was acquired and transforms it into a different product with a distinctive name, character or use. Manufacturing does not include processing, fabricating, job printing, mining, generating electricity or operating a restaurant.

~~3.~~ (c) "Principally engaged" means at least fifty-one ~~per cent~~ PERCENT of the business is a manufacturing or smelting operation.

~~4.~~ (d) "Smelting" means to melt or fuse a metalliferous mineral, often with an accompanying chemical change, usually to separate the metal.

2. A BUSINESS THAT OPERATES AN INTERNATIONAL OPERATIONS CENTER IN THIS STATE AND THAT IS CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1520.

H. For the purposes of subsection B of this section:

1. "Aircraft" includes:

(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.

(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

2. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

I. For the purposes of subsection D of this section, "ancillary services", "electric distribution service", "electric generation service", "electric transmission service" and "other services" have the same meanings prescribed in section 42-5063.

Sec. 4. Section 42-6012, Arizona Revised Statutes, is amended to read:

42-6012. <u>Municipal transaction privilege tax; sales of electricity or natural gas</u>

~~A.~~ A city or town that levies a transaction privilege, sales, gross receipts, use, franchise or other similar fee or tax, however denominated, on the business of producing, providing or furnishing electricity, electric lights, current, power or natural gas shall either tax or exempt in whole the gross proceeds of sales or gross income from sales by those businesses to EITHER OF THE FOLLOWING BUSINESSES:

1. Businesses that use at least fifty-one ~~per cent~~ PERCENT of the electricity, electric lights, current, power or natural gas in a manufacturing or smelting operation located in that city or town. This ~~subsection~~ PARAGRAPH does not apply to gas transportation services.

~~B.~~ For the purposes of this ~~section~~ PARAGRAPH:

~~1.~~ (a) "Gas transportation services" means the services of transporting natural gas to a natural gas customer or to a natural gas distribution facility if the natural gas was purchased from a supplier other than the utility.

~~2.~~ (b) "Manufacturing" means the performance as a business of an integrated series of operations that places tangible personal property in a form, composition or character different from that in which it was acquired and transforms it into a different product with a distinctive name, character or use. Manufacturing does not include processing, fabricating, job printing, mining, generating electricity or operating a restaurant.

~~3.~~ (c) "Smelting" means to melt or fuse a metalliferous mineral, often with an accompanying chemical change, usually to separate the metal.

2. BUSINESSES THAT OPERATE AN INTERNATIONAL OPERATIONS CENTER IN THIS STATE AND THAT ARE CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1520.

Sec. 5. Section 43-1083.04, Arizona Revised Statutes, is amended to read:

43-1083.04. <u>Credit for renewable energy investment and production for self-consumption by manufacturers and international operations centers; definitions</u>

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 OR FOR AN INTERNATIONAL OPERATIONS CENTER.

B. IF THE POWER IS GENERATED PRIMARILY FOR THE PURPOSES OF THE TAXPAYER'S MANUFACTURING FACILITY, 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 BY December 31, 2017, whichever is earlier.

2. At least ninety ~~per cent~~ PERCENT 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~~ PERCENT. A facility that transfers the power it generates to a utility qualifies under this paragraph

if at least ninety ~~per cent~~ PERCENT 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. IF THE POWER IS GENERATED PRIMARILY FOR THE PURPOSES OF THE TAXPAYER'S INTERNATIONAL OPERATIONS CENTER, THE TAXPAYER IS ELIGIBLE FOR THE CREDIT IF ALL OF THE FOLLOWING APPLY:

1. THE TAXPAYER INVESTS AT LEAST ONE HUNDRED MILLION DOLLARS IN ONE OR MORE 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 BY DECEMBER 31, 2018, WHICHEVER IS EARLIER.

2. A PORTION OF THE ENERGY PRODUCED AT EACH RENEWABLE ENERGY FACILITY IS USED FOR SELF-CONSUMPTION IN THIS STATE. BY THE FIFTH YEAR A RENEWABLE ENERGY FACILITY IS IN OPERATION, AT LEAST FIFTY-ONE PERCENT OF THE ENERGY PRODUCED MUST BE USED FOR SELF-CONSUMPTION IN THIS STATE. SELF-CONSUMPTION INCLUDES THE POWER USED BY RELATED ENTITIES IF THE RELATED ENTITIES ARE DIRECTLY OR INDIRECTLY UNDER THE SAME OWNERSHIP INTERESTS THAT COLLECTIVELY OWN MORE THAN EIGHTY PERCENT. POWER THAT A RENEWABLE ENERGY FACILITY TRANSFERS TO A UTILITY QUALIFIES AS SELF-CONSUMPTION IF THE UTILITY IS THE SAME UTILITY THAT PROVIDES POWER TO THE OWNER'S INTERNATIONAL OPERATIONS CENTER IN THIS STATE.

3. THE POWER THAT IS USED FOR SELF-CONSUMPTION UNDER PARAGRAPH 2 OF THIS SUBSECTION IS USED FOR AN INTERNATIONAL OPERATIONS CENTER IN THIS STATE. A LESSOR OF AN INTERNATIONAL OPERATIONS CENTER FACILITY THAT USES POWER FOR SELF-CONSUMPTION UNDER PARAGRAPH 2 OF THIS SUBSECTION SATISFIES THE REQUIREMENTS OF THIS PARAGRAPH IF THE LESSEE IS AN INTERNATIONAL OPERATIONS CENTER AND THE POWER IS TRANSFERRED AS PART OF THE LEASE TO THE LESSEE.

~~C.~~ D. Subject to subsection ~~F~~ G of this section, the credit authorized by this section is ~~one~~ FIVE million dollars per year for five years for each renewable energy facility. The maximum credit allowed per taxpayer per year is five million dollars. IF A TAXPAYER USES THE POWER GENERATED BY THE RENEWABLE ENERGY FACILITY IN THE TAXPAYER'S INTERNATIONAL OPERATIONS CENTER, THE TAXPAYER, INCLUDING ALL AFFILIATES OF THE TAXPAYER, MAY NOT CUMULATE TAX CREDITS UNDER THIS SECTION OVER DIFFERENT TAXABLE YEARS EXCEEDING, IN THE AGGREGATE, TWENTY-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~~ N of this section, may not be claimed for any taxable year beginning after December 31, 2025.

~~D.~~ E. 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.~~ F. 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~~ THE PORTION of the power generated by each facility, AS REQUIRED BY SUBSECTION B, PARAGRAPH 2 OR SUBSECTION C, PARAGRAPH 2 OF THIS SECTION, shall be for self-consumption and shall be used for manufacturing OR INTERNATIONAL OPERATIONS CENTER USE.

5. Any additional information that the department requires.

~~F.~~ G. The department shall review each application under subsection ~~E~~ F 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~~ F, paragraph 3 of this section. If the year a facility is completed is different from the estimated completion date provided in subsection ~~E~~ F, 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.~~ H. If a taxpayer fails to start construction within six months after submitting the application under subsection ~~E~~ F of this section, the preapproval issued under subsection ~~F~~ G of this section is void and all

monies reserved from the limits specified in subsection ~~F~~ G of this section revert back to the limit for the year for which they were reserved.

~~H.~~ I. Each year after initial preapproval, on or before the anniversary date of the application specified in subsection ~~E~~ F 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 OR SUBSECTION C, PARAGRAPH 1 of this section. This documentation is not required after the department receives a report stating that the ~~three hundred million dollar~~ REQUIRED investment THRESHOLD has been reached.

2. Documentation for each facility that demonstrates that ~~at least ninety per cent~~ THE REQUIRED PORTION of the power generated by each renewable energy facility is for self-consumption AS REQUIRED BY SUBSECTION B, PARAGRAPH 2 OR SUBSECTION C, PARAGRAPH 2 OF THIS SECTION.

3. CERTIFICATION FROM THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1520.

~~I.~~ J. 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~~ G 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. IF THE TAXPAYER IS THE OWNER OR OPERATOR OF AN INTERNATIONAL OPERATIONS CENTER, THE TAXPAYER MUST SUBMIT THE REQUEST FOR FINAL CERTIFICATION FOR EACH OF THE RENEWABLE ENERGY FACILITIES FOR WHICH CAPITAL INVESTMENT WILL BE CLAIMED TOWARDS THE REQUIRED INVESTMENT THRESHOLD AND MUST SUBMIT ADDITIONAL EVIDENCE TO THE DEPARTMENT WITHIN SIXTY DAYS AFTER THE END OF THE FIFTH YEAR OF OPERATION OF EACH FACILITY THAT THE REQUIREMENTS OF SUBSECTION C, PARAGRAPH 2 OF THIS SECTION HAVE BEEN MET.

~~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 THE TAXPAYER FAILS TO MAKE THE REQUIRED INVESTMENT IN RENEWABLE ENERGY FACILITIES WITHIN THE TIME PERIOD REQUIRED BY SUBSECTION B, PARAGRAPH 1 OR SUBSECTION C, PARAGRAPH 1 OF THIS SECTION OR IF THE CERTIFICATION OF AN INTERNATIONAL OPERATIONS CENTER HAS BEEN REVOKED UNDER SECTION 41-1520 DUE TO

A FAILURE TO MAKE A ONE BILLION TWO HUNDRED FIFTY MILLION DOLLAR INVESTMENT IN THE CENTER WITHIN TEN YEARS AFTER CERTIFICATION OR IF THE TAXPAYER FAILS TO RECEIVE FINAL CERTIFICATION OF THE CREDIT UNDER SUBSECTION J OF THIS SECTION, THE TAXPAYER SHALL NOT BE ELIGIBLE AND MUST CEASE CLAIMING ANY FURTHER CREDITS UNDER THIS SECTION AND SHALL REIMBURSE THE AMOUNT OF ALL CREDITS PREVIOUSLY RECEIVED UNDER THIS SECTION. THE REIMBURSEMENT MUST BE MADE ON THE TAXPAYER'S INCOME TAX RETURN FOR THE TAXABLE YEAR IN WHICH IT IS FIRST KNOWN THAT THE REQUIRED INVESTMENT WOULD NOT BE MADE WITHIN THE REQUIRED TIME OR THE TAXABLE YEAR IN WHICH THE CERTIFICATION WAS REVOKED. THE DEPARTMENT MAY GIVE SPECIAL CONSIDERATION OR ALLOW A TEMPORARY EXEMPTION FROM REIMBURSEMENT IF THERE IS EXTRAORDINARY HARDSHIP DUE TO FACTORS BEYOND THE TAXPAYER'S CONTROL. IF THE REIMBURSEMENT IS DUE TO REVOCATION OF THE CERTIFICATION OF AN INTERNATIONAL OPERATIONS CENTER DUE TO A FAILURE TO INVEST ONE BILLION TWO HUNDRED FIFTY MILLION DOLLARS IN THE CENTER WITHIN TEN YEARS AFTER CERTIFICATION, THE CREDITS SHALL BE REIMBURSED IN INVERSE PROPORTION TO THE TOTAL CAPITAL INVESTMENT MADE IN THE INTERNATIONAL OPERATIONS CENTER DIVIDED BY ONE BILLION TWO HUNDRED FIFTY MILLION DOLLARS. THE DEPARTMENT MAY REQUIRE REIMBURSEMENT BEFORE THE TENTH ANNIVERSARY OF CERTIFICATION OF AN INTERNATIONAL OPERATIONS CENTER IF THE FACILITY HAS BEEN CLOSED OR RELOCATED OR THE TAXPAYER HAS OTHERWISE DEMONSTRATED THAT THE ONE BILLION TWO HUNDRED FIFTY MILLION DOLLAR INVESTMENT WILL NOT BE TIMELY MADE.

~~K.~~ L. 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.~~ M. 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.~~ N. 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.~~ O. A taxpayer may not claim a credit under this section and section 43-1083.02 regarding the same facilities.

~~O.~~ P. The department shall adopt rules and publish and prescribe forms and procedures as necessary to effectuate the purposes of this section.

~~P.~~ Q. 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 by-products generated during the wastewater treatment process.

2. "INTERNATIONAL OPERATIONS CENTER" MEANS A FACILITY THAT IS CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1520.

~~2.~~ 3. "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~~ RENEWABLE energy resource.

~~3.~~ 4. "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. 6. Section 43-1164.05, Arizona Revised Statutes, is amended to read:

43-1164.05. <u>Credit for renewable energy investment and production for self-consumption by manufacturers and international operations centers; definitions</u>

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 OR FOR AN INTERNATIONAL OPERATIONS CENTER.

B. IF THE POWER IS GENERATED PRIMARILY FOR THE PURPOSES OF THE TAXPAYER'S MANUFACTURING FACILITY, 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~~ PERCENT 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~~ PERCENT. A facility that transfers the power it generates to a utility qualifies under this paragraph if at least ninety ~~per cent~~ PERCENT 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. IF THE POWER IS GENERATED PRIMARILY FOR THE PURPOSES OF THE TAXPAYER'S INTERNATIONAL OPERATIONS CENTER, THE TAXPAYER IS ELIGIBLE FOR THE CREDIT IF ALL OF THE FOLLOWING APPLY:

1. THE TAXPAYER INVESTS AT LEAST ONE HUNDRED MILLION DOLLARS IN ONE OR MORE 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 BY DECEMBER 31, 2018, WHICHEVER IS EARLIER.

2. A PORTION OF THE ENERGY PRODUCED AT EACH RENEWABLE ENERGY FACILITY IS USED FOR SELF-CONSUMPTION IN THIS STATE. BY THE FIFTH YEAR A RENEWABLE ENERGY FACILITY IS IN OPERATION, AT LEAST FIFTY-ONE PERCENT OF THE ENERGY PRODUCED MUST BE USED FOR SELF-CONSUMPTION IN THIS STATE. SELF-CONSUMPTION INCLUDES THE POWER USED BY RELATED ENTITIES IF THE RELATED ENTITIES ARE DIRECTLY OR INDIRECTLY UNDER THE SAME OWNERSHIP INTERESTS THAT COLLECTIVELY OWN MORE THAN EIGHTY PERCENT. POWER THAT A RENEWABLE ENERGY FACILITY TRANSFERS TO A UTILITY QUALIFIES AS SELF-CONSUMPTION IF THE UTILITY IS THE SAME UTILITY THAT PROVIDES POWER TO THE OWNER'S INTERNATIONAL OPERATIONS CENTER IN THIS STATE.

3. THE POWER THAT IS USED FOR SELF-CONSUMPTION UNDER PARAGRAPH 2 OF THIS SUBSECTION IS USED FOR AN INTERNATIONAL OPERATIONS CENTER IN THIS STATE. A LESSOR OF AN INTERNATIONAL OPERATIONS CENTER FACILITY THAT USES POWER FOR SELF-CONSUMPTION UNDER PARAGRAPH 2 OF THIS SUBSECTION SATISFIES THE

REQUIREMENTS OF THIS PARAGRAPH IF THE LESSEE IS AN INTERNATIONAL OPERATIONS CENTER AND THE POWER IS TRANSFERRED AS PART OF THE LEASE TO THE LESSEE.

~~C.~~ D. Subject to subsection ~~F~~ G of this section, the credit authorized by this section is ~~one~~ FIVE million dollars per year for five years for each renewable energy facility. The maximum credit allowed per taxpayer per year is five million dollars. IF A TAXPAYER USES THE POWER GENERATED BY THE RENEWABLE ENERGY FACILITY IN THE TAXPAYER'S INTERNATIONAL OPERATIONS CENTER, THE TAXPAYER, INCLUDING ALL AFFILIATES OF THE TAXPAYER, MAY NOT CUMULATE TAX CREDITS UNDER THIS SECTION OVER DIFFERENT TAXABLE YEARS EXCEEDING, IN THE AGGREGATE, TWENTY-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~~ N of this section, may not be claimed for any taxable year beginning after December 31, 2025.

~~D.~~ E. 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.~~ F. 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~~ THE PORTION of the power generated by each facility, AS REQUIRED BY SUBSECTION B, PARAGRAPH 2 OR SUBSECTION C, PARAGRAPH 2 OF THIS SECTION, shall be for self-consumption and shall be used for manufacturing OR INTERNATIONAL OPERATIONS CENTER USE.

5. Any additional information that the department requires.

~~F.~~ G. The department shall review each application under subsection ~~E~~ F 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~~ F, paragraph 3 of this section. If the year a facility is completed is different from the estimated completion date

provided in subsection ~~E~~ F, 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.~~ H. If a taxpayer fails to start construction within six months after submitting the application under subsection ~~E~~ F of this section, the preapproval issued under subsection ~~F~~ G of this section is void and all monies reserved from the limits specified in subsection ~~F~~ G of this section revert back to the limit for the year for which they were reserved.

~~H.~~ I. Each year after initial preapproval, on or before the anniversary date of the application specified in subsection ~~E~~ F 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 OR SUBSECTION C, PARAGRAPH 1 of this section. This documentation is not required after the department receives a report stating that the ~~three hundred million dollar~~ REQUIRED investment THRESHOLD has been reached.

2. Documentation for each facility that demonstrates that ~~at least ninety per cent~~ THE REQUIRED PORTION of the power generated by each renewable energy facility is for self-consumption AS REQUIRED BY SUBSECTION B, PARAGRAPH 2 OR SUBSECTION C, PARAGRAPH 2 OF THIS SECTION.

3. CERTIFICATION FROM THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1520.

~~I.~~ J. 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~~ G 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. IF THE TAXPAYER IS THE OWNER OR OPERATOR OF AN INTERNATIONAL OPERATIONS CENTER, THE TAXPAYER MUST SUBMIT THE REQUEST FOR FINAL CERTIFICATION FOR EACH OF THE RENEWABLE ENERGY FACILITIES FOR WHICH CAPITAL INVESTMENT WILL BE CLAIMED TOWARDS THE REQUIRED INVESTMENT

THRESHOLD AND MUST SUBMIT ADDITIONAL EVIDENCE TO THE DEPARTMENT WITHIN SIXTY DAYS AFTER THE END OF THE FIFTH YEAR OF OPERATION OF EACH FACILITY THAT THE REQUIREMENTS OF SUBSECTION C, PARAGRAPH 2 OF THIS SECTION HAVE BEEN MET.

~~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 THE TAXPAYER FAILS TO MAKE THE REQUIRED INVESTMENT IN RENEWABLE ENERGY FACILITIES WITHIN THE TIME PERIOD REQUIRED BY SUBSECTION B, PARAGRAPH 1 OR SUBSECTION C, PARAGRAPH 1 OF THIS SECTION OR IF THE CERTIFICATION OF AN INTERNATIONAL OPERATIONS CENTER HAS BEEN REVOKED UNDER SECTION 41-1520 DUE TO A FAILURE TO MAKE A ONE BILLION TWO HUNDRED FIFTY MILLION DOLLAR INVESTMENT IN THE CENTER WITHIN TEN YEARS AFTER CERTIFICATION OR IF THE TAXPAYER FAILS TO RECEIVE FINAL CERTIFICATION OF THE CREDIT UNDER SUBSECTION J OF THIS SECTION, THE TAXPAYER SHALL NOT BE ELIGIBLE AND MUST CEASE CLAIMING ANY FURTHER CREDITS UNDER THIS SECTION AND SHALL REIMBURSE THE AMOUNT OF ALL CREDITS PREVIOUSLY RECEIVED UNDER THIS SECTION. THE REIMBURSEMENT MUST BE MADE ON THE TAXPAYER'S INCOME TAX RETURN FOR THE TAXABLE YEAR IN WHICH IT IS FIRST KNOWN THAT THE REQUIRED INVESTMENT WOULD NOT BE MADE WITHIN THE REQUIRED TIME OR THE TAXABLE YEAR IN WHICH THE CERTIFICATION WAS REVOKED. THE DEPARTMENT MAY GIVE SPECIAL CONSIDERATION OR ALLOW A TEMPORARY EXEMPTION FROM REIMBURSEMENT IF THERE IS EXTRAORDINARY HARDSHIP DUE TO FACTORS BEYOND THE TAXPAYER'S CONTROL. IF THE REIMBURSEMENT IS DUE TO REVOCATION OF THE CERTIFICATION OF AN INTERNATIONAL OPERATIONS CENTER DUE TO A FAILURE TO INVEST ONE BILLION TWO HUNDRED FIFTY MILLION DOLLARS IN THE CENTER WITHIN TEN YEARS AFTER CERTIFICATION, THE CREDITS SHALL BE REIMBURSED IN INVERSE PROPORTION TO THE TOTAL CAPITAL INVESTMENT MADE IN THE INTERNATIONAL OPERATIONS CENTER DIVIDED BY ONE BILLION TWO HUNDRED FIFTY MILLION DOLLARS. THE DEPARTMENT MAY REQUIRE REIMBURSEMENT BEFORE THE TENTH ANNIVERSARY OF CERTIFICATION OF AN INTERNATIONAL OPERATIONS CENTER IF THE FACILITY HAS BEEN CLOSED OR RELOCATED OR THE TAXPAYER HAS OTHERWISE DEMONSTRATED THAT THE ONE BILLION TWO HUNDRED FIFTY MILLION DOLLAR INVESTMENT WILL NOT BE TIMELY MADE.

~~K.~~ L. 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.~~ M. 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.~~ N. 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.~~ O. A taxpayer may not claim a credit under this section and section 43-1164.03 regarding the same facilities.

~~O.~~ P. The department shall adopt rules and publish and prescribe forms and procedures as necessary to effectuate the purposes of this section.

~~P.~~ Q. 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 by-products generated during the wastewater treatment process.

2. "INTERNATIONAL OPERATIONS CENTER" MEANS A FACILITY THAT IS CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1520.

~~2.~~ 3. "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~~ RENEWABLE energy resource.

~~3.~~ 4. "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. 7. Effective date; retroactivity

A. Sections 42-5063, 42-5159 and 42-6012, Arizona Revised Statutes, as amended by this act, are effective from and after the last day of the month of the general effective date of the fifty-second legislature, first regular session.

B. Sections 43-1083.04 and 43-1164.05, Arizona Revised Statutes, as amended by this act, apply retroactively to taxable years beginning from and after December 31, 2014.

APPROVED BY THE GOVERNOR MARCH 3, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 3, 2015.

Passed the House February 24, 2015

by the following vote: 57 Ayes,

3 Nays, 0 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate February 25, 2015

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

26th day of February, 2015

at 8:43 o'clock A. M.

Secretary to the Governor

Approved this 3rd day of

March

at 3:42 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 3rd day of March, 2015

at 4:34 o'clock P. M.

Secretary of State

H.B. 2670