Senate Engrossed

FILED

KEN BENNETT
SECRETARY OF STATE

State of Arizona
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First Regular Session
2009

CHAPTER 96

SENATE BILL 1403

AN ACT

AMENDING TITLE 41, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1511; AMENDING SECTIONS 42-2003, 42-12001 AND 42-12006, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 12, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-12057; AMENDING SECTION 42-15006, ARIZONA REVISED STATUTES; REPEALING SECTION 43-222, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 43-222; AMENDING SECTIONS 43-1074, 43-1077 AND 43-1079, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1083.01; AMENDING SECTION 43-1161, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1164.01; AMENDING SECTIONS 43-1165 AND 43-1167, ARIZONA REVISED STATUTES; PROVIDING FOR THE DELAYED REPEAL OF SECTIONS 41-1511, 43-1083.01 AND 43-1164.01, ARIZONA REVISED STATUTES; RELATING TO RENEWABLE ENERGY 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 41-1511, to read:

41-1511. Renewable energy tax incentives; qualification

A. TAX INCENTIVES ARE ALLOWED FOR EXPANDING OR LOCATING QUALIFIED RENEWABLE ENERGY OPERATIONS IN THIS STATE, INCLUDING INCOME TAX CREDITS PURSUANT TO SECTIONS 43-1083.01 AND 43-1164.01 AND PROPERTY TAX CLASSIFICATION PURSUANT TO SECTION 42-12006, PARAGRAPH 9.

B. TO BE ELIGIBLE FOR THE TAX INCENTIVES, A RENEWABLE ENERGY BUSINESS MUST APPLY TO THE DEPARTMENT OF COMMERCE, ON A FORM PRESCRIBED BY THE DEPARTMENT, FOR CERTIFICATION OF THE BUSINESS AS QUALIFYING FOR THE INCENTIVES. THE APPLICATION MUST INCLUDE:

1. THE APPLICANT'S NAME, ADDRESS, TELEPHONE NUMBER AND FEDERAL TAXPAYER IDENTIFICATION NUMBER OR NUMBERS.

2. THE NAME, ADDRESS, TELEPHONE NUMBER AND E-MAIL ADDRESS OF A CONTACT PERSON FOR THE APPLICANT.

3. THE ADDRESS OF THE SITE WHERE THE QUALIFYING FACILITY WILL BE LOCATED.

4. A DETAILED DESCRIPTION OF THE QUALIFYING FACILITY AND FIXED CAPITAL ASSETS.

5. AN ESTIMATE OF THE CAPITAL INVESTMENT AND NUMBER OF EMPLOYMENT POSITIONS AT THE QUALIFYING FACILITY, INCLUDING:

(a) A SCHEDULE OF QUALIFYING INVESTMENTS.

(b) A LIST OF EMPLOYMENT POSITIONS, THE ESTIMATED NUMBER OF EMPLOYEES TO BE HIRED FOR THE POSITIONS EACH YEAR DURING THE FIRST FIVE YEARS OF OPERATION AND THE ANNUAL WAGES FOR EACH POSITION, CALCULATED WITHOUT EMPLOYEE-RELATED BENEFITS.

6. A NONREFUNDABLE PROCESSING FEE IN AN AMOUNT ESTABLISHED BY RULE.

7. OTHER INFORMATION AS REQUIRED BY THE DEPARTMENT TO DETERMINE ELIGIBILITY FOR THE TAX INCENTIVES, AND THE AMOUNT OF INCOME TAX CREDITS, AS PRESCRIBED BY THIS SECTION.

8. AN AFFIRMATION, SIGNED BY AN AUTHORIZED EXECUTIVE REPRESENTING THE BUSINESS, THAT THE APPLICANT:

(a) AGREES TO FURNISH RECORDS OF EXPENDITURES FOR QUALIFYING INVESTMENTS TO THE DEPARTMENT OF COMMERCE ON REQUEST.

(b) WILL CONTINUE IN BUSINESS AT THE QUALIFYING FACILITY FOR TEN FULL CALENDAR YEARS AFTER POSTAPPROVAL FOR A TAX INCENTIVE, OTHER THAN FOR REASONS BEYOND THE CONTROL OF THE APPLICANT.

(c) AGREES TO FURNISH TO THE DEPARTMENT OF COMMERCE ON REQUEST INFORMATION REGARDING THE AMOUNT OF TAX BENEFITS CLAIMED EACH YEAR.

(d) AUTHORIZES THE DEPARTMENT OF REVENUE TO PROVIDE TAX INFORMATION TO THE DEPARTMENT OF COMMERCE PURSUANT TO SECTION 42-2003 FOR THE PURPOSE OF DETERMINING ANY INCONSISTENCY IN INFORMATION FURNISHED BY THE APPLICANT.

(e) CONSENTS TO THE DISCLOSURE BY THE DEPARTMENT OF COMMERCE OF THE AMOUNT OF TAX BENEFITS RECEIVED EACH YEAR IN COMPOSITE FORM, WITHOUT SPECIFIC IDENTIFICATION OF ANY TAXPAYER.

(f) AGREES TO ALLOW SITE VISITS AND AUDITS TO VERIFY THE APPLICANT'S CONTINUING QUALIFICATION AND THE ACCURACY OF INFORMATION SUBMITTED TO THE DEPARTMENT OF COMMERCE.

(g) CONSENTS TO THE ADJUSTMENT OR RECAPTURE OF ANY AMOUNT OF INCOME TAX CREDIT DUE TO NONCOMPLIANCE WITH THIS SECTION.

9. LETTERS OF GOOD STANDING FROM THE DEPARTMENT OF REVENUE AND THE COUNTY ASSESSOR OF THE COUNTY IN WHICH THE PROJECT IS LOCATED STATING THAT THE APPLICANT IS IN GOOD STANDING AND IS NOT DELINQUENT IN THE PAYMENT OF TAXES.

C. TO BE ELIGIBLE FOR THE TAX INCENTIVES, THE APPLICANT MUST MAKE NEW CAPITAL INVESTMENT IN THIS STATE IN A MANUFACTURING FACILITY OR HEADQUARTERS FACILITY OR ANY COMBINATION OF QUALIFYING FACILITIES, AS FOLLOWS:

1. THE APPLICANT MAY QUALIFY FOR INCOME TAX CREDITS PURSUANT TO SECTION 43-1083.01 OR 43-1164.01, AS APPLICABLE, IF:

(a) AT LEAST FIFTY-ONE PER CENT OF THE NET NEW FULL-TIME EMPLOYMENT POSITIONS AT THE FACILITY PAY A WAGE THAT EQUALS OR EXCEEDS ONE HUNDRED TWENTY-FIVE PER CENT OF THE MEDIAN ANNUAL WAGE IN THIS STATE, AS DETERMINED BY THE MOST RECENT ANNUAL DEPARTMENT OF COMMERCE OCCUPATIONAL WAGE AND EMPLOYMENT ESTIMATES.

(b) ALL NET NEW FULL-TIME EMPLOYMENT POSITIONS INCLUDE HEALTH INSURANCE COVERAGE FOR THE EMPLOYEES FOR WHICH THE APPLICANT PAYS AT LEAST EIGHTY PER CENT OF THE PREMIUM OR MEMBERSHIP COST, OR AN EQUIVALENT PERCENTAGE OF THE COST FOR ALTERNATIVE HEALTH BENEFIT MODELS THAT OFFER STANDARD COMPREHENSIVE COVERAGE.

2. THE FIXED CAPITAL ASSETS SHALL BE CLASSIFIED AS CLASS SIX FOR THE PURPOSES OF PROPERTY TAXATION PURSUANT TO SECTION 42-12006, PARAGRAPH 9 IF THE QUALIFYING INVESTMENT AMOUNTS TO AT LEAST TWENTY-FIVE MILLION DOLLARS. IF AT LEAST FIFTY-ONE PER CENT OF THE NET NEW FULL-TIME EMPLOYMENT POSITIONS AT THE QUALIFYING FACILITY PAY A WAGE THAT EQUALS:

(a) AT LEAST ONE HUNDRED TWENTY-FIVE, BUT LESS THAN TWO HUNDRED, PER CENT OF THE MEDIAN ANNUAL WAGE IN THIS STATE, AS DETERMINED BY THE MOST RECENT ANNUAL DEPARTMENT OF COMMERCE OCCUPATIONAL WAGE AND EMPLOYMENT ESTIMATES, THE PROPERTY MAY BE CLASSIFIED AS CLASS SIX FOR TEN TAX YEARS.

(b) AT LEAST TWO HUNDRED PER CENT OF THE MEDIAN ANNUAL WAGE IN THIS STATE, AS DETERMINED BY THE MOST RECENT ANNUAL DEPARTMENT OF COMMERCE OCCUPATIONAL WAGE AND EMPLOYMENT ESTIMATES, THE PROPERTY MAY BE CLASSIFIED AS CLASS SIX FOR FIFTEEN TAX YEARS.

D. FINAL ELIGIBILITY FOR THE TAX INCENTIVES IS SUBJECT TO ANY ADDITIONAL REQUIREMENTS PRESCRIBED BY SECTIONS 42-12006, 43-1083.01 AND 43-1164.01, AS APPLICABLE.

E. AN APPLICANT MAY SEPARATELY APPLY AND QUALIFY WITH RESPECT TO INVESTMENTS FOR:

1. FACILITIES IN SEPARATE LOCATIONS.
2. SEPARATE EXPANSIONS OF A FACILITY.

F. TO DETERMINE THE AMOUNT OF INCOME TAX CREDIT TO BE PREAPPROVED TO A QUALIFYING APPLICANT, THE DEPARTMENT SHALL USE ONE OF THE FOLLOWING COMPUTATIONS:

1. TEN PER CENT OF THE AMOUNT THE APPLICANT HAS PROJECTED IN TOTAL QUALIFYING INVESTMENT IN FACILITIES MEETING THE FOLLOWING MINIMUM EMPLOYMENT REQUIREMENTS:

(a) FOR RENEWABLE ENERGY MANUFACTURING OPERATIONS, AT LEAST ONE AND ONE-HALF NEW FULL-TIME EMPLOYMENT POSITIONS PROJECTED BY THE APPLICANT FOR EACH FIVE HUNDRED THOUSAND DOLLAR INCREMENT OF CAPITAL INVESTMENT.

(b) FOR RENEWABLE ENERGY BUSINESS HEADQUARTERS, AT LEAST ONE NEW FULL-TIME EMPLOYMENT POSITION PROJECTED BY THE APPLICANT FOR EACH TWO HUNDRED THOUSAND DOLLAR INCREMENT OF CAPITAL INVESTMENT.

2. FOR OTHER QUALIFYING RENEWABLE ENERGY INVESTMENT, TEN PER CENT OF THE AMOUNT COMPUTED AS FOLLOWS:

(a) FIVE HUNDRED THOUSAND DOLLARS FOR EACH ONE AND ONE-HALF NEW FULL-TIME EMPLOYMENT POSITIONS PROJECTED BY THE APPLICANT IN NEW RENEWABLE ENERGY MANUFACTURING OPERATIONS.

(b) TWO HUNDRED THOUSAND DOLLARS FOR EACH NEW FULL-TIME EMPLOYMENT POSITION PROJECTED BY THE APPLICANT AT A NEW RENEWABLE ENERGY BUSINESS HEADQUARTERS.

G. BEGINNING WITH INCOME TAX CREDITS ALLOCATED FOR 2010, AN APPROVED INCOME TAX CREDIT:

1. OFFSETS INCOME TAX LIABILITY FOR ANY TAXABLE YEAR WITHIN THE TAXPAYER'S APPLICABLE CARRYFORWARD PERIOD PURSUANT TO SECTION 43-1083.01 OR 43-1164.01.

2. MUST BE CLAIMED ON A TIMELY FILED ORIGINAL INCOME TAX RETURN, INCLUDING EXTENSIONS.

3. MUST BE CLAIMED IN FIVE EQUAL INSTALLMENTS AS PROVIDED IN SECTION 43-1083.01 OR 43-1164.01.

H. THE DEPARTMENT SHALL ESTABLISH A PROCESS FOR QUALIFYING AND PREAPPROVING APPLICANTS FOR THE TAX INCENTIVES. THE DEPARTMENT SHALL NOT PREAPPROVE AN APPLICANT AS QUALIFYING FOR TAX INCENTIVES UNDER THIS SECTION AFTER DECEMBER 31, 2014. PREAPPROVAL IS BASED ON:

1. PRIORITY PLACEMENT ESTABLISHED BY THE DATE THAT THE APPLICANT FILES ITS INITIAL APPLICATION WITH THE DEPARTMENT.

2. THE AVAILABILITY OF INCOME TAX CREDIT CAPACITY UNDER THE DOLLAR LIMIT PRESCRIBED BY SUBSECTION J OF THIS SECTION.

I. WITHIN THIRTY DAYS AFTER RECEIVING A COMPLETE AND CORRECT APPLICATION, THE DEPARTMENT SHALL REVIEW THE APPLICATION TO DETERMINE WHETHER THE APPLICANT SATISFIES ALL OF THE CRITERIA PRESCRIBED BY THIS SECTION AND EITHER PREAPPROVE THE PROJECT AS QUALIFYING FOR THE PURPOSES OF THE TAX INCENTIVES OR PROVIDE REASONS FOR ITS DENIAL. THE DEPARTMENT OF COMMERCE

1 SHALL SEND COPIES OF THE PREAPPROVAL TO THE DEPARTMENT OF REVENUE AND THE
2 APPLICABLE COUNTY ASSESSOR.
3 J. THE DEPARTMENT SHALL NOT PREAPPROVE INCOME TAX CREDITS EXCEEDING
4 SEVENTY MILLION DOLLARS IN ANY CALENDAR YEAR, EXCEPT AS PROVIDED BY THIS
5 SUBSECTION AND SUBSECTION K OF THIS SECTION. A PREAPPROVED AMOUNT APPLIES
6 AGAINST THE DOLLAR LIMIT FOR THE YEAR IN WHICH THE APPLICATION WAS SUBMITTED
7 REGARDLESS OF WHETHER THE INITIAL PREAPPROVAL PERIOD EXTENDS INTO THE
8 FOLLOWING YEAR OR YEARS. IF, AT THE END OF ANY YEAR, AN UNUSED BALANCE
9 OCCURS UNDER THE DOLLAR LIMIT PRESCRIBED BY THIS SUBSECTION:
10 1. THE BALANCE SHALL BE ALLOCATED TO RENEWABLE ENERGY BUSINESSES THAT
11 SUCCESSFULLY APPEAL THE DENIAL OF APPROVAL UNDER THIS SECTION. ANY AMOUNT OF
12 INCOME TAX CREDITS DUE TO SUCCESSFUL APPEALS THAT ARE NOT PAID FROM AN UNUSED
13 BALANCE AT THE END OF ANY YEAR SHALL BE PAID AGAINST THE DOLLAR LIMIT IN THE
14 FOLLOWING YEAR.
15 2. ANY REMAINING UNUSED BALANCE SHALL BE REALLOCATED FOR THE PURPOSES
16 OF THIS SECTION IN THE FOLLOWING YEAR.
17 K. THE DEPARTMENT SHALL REALLOCATE THE AMOUNT OF INCOME TAX CREDITS
18 THAT ARE VOLUNTARILY RELINQUISHED UNDER SUBSECTION L OF THIS SECTION, THAT
19 LAPSE UNDER SUBSECTION M OF THIS SECTION OR THAT LAPSE UNDER SUBSECTION O OF
20 THIS SECTION. THE REALLOCATION SHALL BE TO OTHER RENEWABLE ENERGY BUSINESSES
21 THAT APPLIED IN THE ORIGINAL CREDIT YEAR BASED ON PRIORITY PLACEMENT. ONCE
22 REALLOCATED, THE AMOUNT OF THE CREDIT APPLIES AGAINST THE DOLLAR LIMIT OF THE
23 ORIGINAL CREDIT YEAR REGARDLESS OF THE YEAR IN WHICH THE REALLOCATION OCCURS.
24 L. A TAXPAYER MAY VOLUNTARILY RELINQUISH UNUSED CREDIT AMOUNTS.
25 M. PREAPPROVAL UNDER THIS SECTION LAPSES, THE APPLICATION IS VOID AND
26 THE AMOUNT OF THE PREAPPROVED INCOME TAX CREDITS DO NOT APPLY AGAINST THE
27 DOLLAR LIMIT PRESCRIBED BY SUBSECTION J OF THIS SECTION IF, WITHIN TWELVE
28 MONTHS AFTER PREAPPROVAL, THE RENEWABLE ENERGY BUSINESS FAILS TO PROVIDE TO
29 THE DEPARTMENT DOCUMENTATION OF ITS EXPENDITURE OF TWO HUNDRED FIFTY THOUSAND
30 DOLLARS IN QUALIFYING INVESTMENT OR, IF THE PERIOD OVER WHICH THE QUALIFYING
31 INVESTMENT WILL BE MADE EXCEEDS TWELVE MONTHS, DOCUMENTATION OF ADDITIONAL
32 EXPENDITURES AS REQUIRED IN THIS SUBSECTION FOR EACH TWELVE MONTH PERIOD.
33 N. BEGINNING IN 2010, AFTER OCTOBER 31 OF EACH YEAR, IF THE DEPARTMENT
34 HAS PREAPPROVED THE MAXIMUM CALENDAR YEAR INCOME TAX CREDIT AMOUNT PURSUANT
35 TO SUBSECTION J OF THIS SECTION, THE DEPARTMENT MAY ACCEPT INITIAL
36 APPLICATIONS FOR THE NEXT CALENDAR YEAR, BUT THE PREAPPROVAL OF ANY
37 APPLICATION PURSUANT TO THIS SUBSECTION SHALL NOT BE EFFECTIVE BEFORE THE
38 FIRST BUSINESS DAY OF THE FOLLOWING CALENDAR YEAR.
39 O. WHEN THE FACILITY BEGINS OPERATIONS, A RENEWABLE ENERGY BUSINESS
40 THAT WAS PREAPPROVED FOR INCOME TAX CREDITS UNDER THIS SECTION SHALL APPLY TO
41 THE DEPARTMENT IN WRITING FOR POSTAPPROVAL OF THE CREDITS, SUBMIT
42 DOCUMENTATION CERTIFYING THE TOTAL AMOUNT AND DATES OF THE QUALIFYING
43 INVESTMENTS AND IDENTIFYING THE FIXED CAPITAL ASSETS ASSOCIATED WITH THE
44 FACILITY INCURRED FROM THE DATE OF PREAPPROVAL. FROM AND AFTER DECEMBER 31,
45 2009, THE DEPARTMENT SHALL PROVIDE POSTAPPROVAL TO A RENEWABLE ENERGY

1 BUSINESS THAT IT HAS MET THE ELIGIBILITY REQUIREMENTS OF THIS SECTION AND
2 SHALL NOTIFY THE DEPARTMENT OF REVENUE THAT THE RENEWABLE ENERGY BUSINESS MAY
3 CLAIM THE TAX CREDITS PURSUANT TO SECTIONS 43-1083.01 AND 43-1164.01. IF THE
4 AMOUNT OF QUALIFYING INVESTMENT ACTUALLY SPENT IS LESS THAN THE AMOUNT
5 PREAPPROVED FOR INCOME TAX CREDITS, THE PREAPPROVED AMOUNT NOT INCURRED
6 LAPSES AND DOES NOT APPLY AGAINST THE DOLLAR LIMIT PRESCRIBED BY SUBSECTION J
7 OF THIS SECTION FOR THAT YEAR.
8 P. THE DEPARTMENT OF COMMERCE MAY RESCIND THE BUSINESS' CERTIFICATION
9 IF THE BUSINESS NO LONGER MEETS THE TERMS AND CONDITIONS REQUIRED FOR
10 QUALIFYING FOR THE TAX INCENTIVES. THE DEPARTMENT MAY GIVE SPECIAL
11 CONSIDERATION, OR ALLOW TEMPORARY EXEMPTION FROM RECAPTURE OF TAX BENEFITS,
12 IN THE CASE OF EXTRAORDINARY HARDSHIP DUE TO FACTORS BEYOND THE CONTROL OF
13 THE QUALIFYING BUSINESS.
14 Q. IF THE DEPARTMENT OF COMMERCE RESCINDS AN APPLICANT'S PREAPPROVAL
15 UNDER SUBSECTION P OF THIS SECTION, IT SHALL NOTIFY THE DEPARTMENT OF REVENUE
16 AND THE COUNTY ASSESSOR OF THE ACTION AND THE CONDITIONS OF NONCOMPLIANCE.
17 IF THE DEPARTMENT OF REVENUE OBTAINS INFORMATION INDICATING A POSSIBLE
18 FAILURE TO QUALIFY AND COMPLY, IT SHALL PROVIDE THAT INFORMATION TO THE
19 DEPARTMENT OF COMMERCE. THE DEPARTMENT OF REVENUE MAY REQUIRE THE BUSINESS
20 TO FILE APPROPRIATE AMENDED TAX RETURNS REFLECTING ANY RECAPTURE OF INCOME
21 TAX CREDITS UNDER SECTION 43-1083.01 OR 43-1164.01.
22 R. PREAPPROVAL AND POSTAPPROVAL OF A BUSINESS FOR THE PURPOSES OF TAX
23 INCENTIVES UNDER THIS SECTION DO NOT CONSTITUTE OR IMPLY COMPLIANCE WITH ANY
24 OTHER PROVISION OF LAW OR ANY REGULATORY RULE, ORDER, PROCEDURE, PERMIT OR
25 OTHER MEASURE REQUIRED BY LAW. TO MAINTAIN QUALIFICATION FOR TAX INCENTIVES
26 UNDER THIS SECTION, A BUSINESS MUST SEPARATELY COMPLY WITH ALL ENVIRONMENTAL,
27 EMPLOYMENT AND OTHER REGULATORY MEASURES.
28 S. FOR FIVE YEARS AFTER POSTAPPROVAL FOR TAX INCENTIVES UNDER THIS
29 SECTION, IN ANY ACTION INVOLVING THE LIQUIDATION OF THE BUSINESS ASSETS OR
30 RELOCATION OUT OF STATE THIS STATE CLAIMS THE POSITION OF A SECURED CREDITOR
31 OF THE BUSINESS IN THE AMOUNT OF INCOME TAX CREDITS THE BUSINESS RECEIVED
32 PURSUANT TO SECTION 43-1083.01 OR 43-1164.01.
33 T. ANY INFORMATION GATHERED FROM RENEWABLE ENERGY BUSINESS FOR THE
34 PURPOSES OF THIS SECTION IS CONSIDERED TO BE CONFIDENTIAL TAXPAYER
35 INFORMATION AND SHALL BE DISCLOSED ONLY AS PROVIDED IN SECTION 42-2003,
36 SUBSECTION B, PARAGRAPH 12, EXCEPT THAT THE DEPARTMENT SHALL PUBLISH THE
37 FOLLOWING INFORMATION IN ITS ANNUAL REPORT:
38 1. THE NAME OF EACH RENEWABLE ENERGY BUSINESS AND THE AMOUNT OF INCOME
39 TAX CREDITS PREAPPROVED FOR EACH QUALIFYING INVESTMENT.
40 2. THE AMOUNT OF CREDITS THAT WERE POSTAPPROVED WITH RESPECT TO EACH
41 QUALIFYING INVESTMENT.
42 U. THE DEPARTMENT SHALL:
43 1. KEEP ANNUAL RECORDS OF THE INFORMATION PROVIDED ON APPLICATIONS FOR
44 RENEWABLE ENERGY BUSINESSES. THESE RECORDS SHALL REFLECT A PERCENTAGE
45 COMPARISON OF THE ANNUAL AMOUNT OF MONIES EXEMPTED OR CREDITED TO QUALIFYING

RENEWABLE ENERGY BUSINESSES TO THE ESTIMATED AMOUNT OF MONIES SPENT IN THIS STATE IN THE FORM OF QUALIFYING INVESTMENTS.

2. MAINTAIN ANNUAL DATA ON GROWTH IN THIS STATE OF RENEWABLE ENERGY BUSINESSES AND INDUSTRY EMPLOYMENT AND WAGES.

3. NOT LATER THAN APRIL 30 OF EACH YEAR, PREPARE AND PUBLISH A REPORT SUMMARIZING THE INFORMATION COLLECTED PURSUANT TO THIS SUBSECTION. THE DEPARTMENT SHALL MAKE COPIES OF THE ANNUAL REPORT AVAILABLE TO THE PUBLIC ON REQUEST.

V. THE DEPARTMENT OF COMMERCE SHALL ADOPT RULES AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY FOR THE PURPOSES OF THIS SECTION. THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF REVENUE SHALL COLLABORATE IN ADOPTING RULES AS NECESSARY TO AVOID DUPLICATION AND INCONSISTENCIES WHILE ACCOMPLISHING THE INTENT AND PURPOSES OF THIS SECTION.

W. FOR THE PURPOSES OF THIS SECTION:

1. "CAPITAL INVESTMENT" MEANS AN EXPENDITURE TO ACQUIRE, LEASE OR IMPROVE PROPERTY THAT IS USED IN OPERATING A BUSINESS, INCLUDING LAND, BUILDINGS, MACHINERY AND FIXTURES.

2. "HEADQUARTERS" MEANS A PRINCIPAL CENTRAL ADMINISTRATIVE OFFICE WHERE PRIMARY HEADQUARTERS RELATED FUNCTIONS AND SERVICES ARE PERFORMED, INCLUDING FINANCIAL, PERSONNEL, ADMINISTRATIVE, LEGAL, PLANNING AND SIMILAR BUSINESS FUNCTIONS ARE PERFORMED.

3. "MANUFACTURING" MEANS FABRICATING, PRODUCING OR MANUFACTURING RAW OR PREPARED MATERIALS INTO USABLE PRODUCTS, IMPARTING NEW FORMS, QUALITIES, PROPERTIES AND COMBINATIONS. MANUFACTURING DOES NOT INCLUDE GENERATING ELECTRICITY FOR OFF-SITE CONSUMPTION.

4. "QUALIFYING INVESTMENT" MEANS INVESTMENT IN LAND, BUILDINGS, MACHINERY AND FIXTURES FOR EXPANSION OF AN EXISTING FACILITY OR ESTABLISHMENT OF A NEW FACILITY IN THIS STATE. QUALIFYING INVESTMENT DOES NOT INCLUDE RELOCATING AN EXISTING FACILITY IN THIS STATE TO ANOTHER LOCATION IN THIS STATE WITHOUT ADDITIONAL CAPITAL INVESTMENT.

5. "RENEWABLE ENERGY OPERATIONS" ARE LIMITED TO MANUFACTURERS OF, AND HEADQUARTERS FOR, SYSTEMS AND COMPONENTS THAT ARE USED OR USEFUL IN MANUFACTURING RENEWABLE ENERGY EQUIPMENT FOR THE GENERATION, STORAGE, TESTING AND RESEARCH AND DEVELOPMENT, TRANSMISSION OR DISTRIBUTION OF ELECTRICITY FROM RENEWABLE RESOURCES, INCLUDING SPECIALIZED CRATES NECESSARY TO PACKAGE THE RENEWABLE ENERGY EQUIPMENT MANUFACTURED AT THE FACILITY.

Sec. 2. Section 42-2003, Arizona Revised Statutes, is amended to read:

42-2003. <u>Authorized disclosure of confidential information</u>

A. Confidential information relating to:

1. A taxpayer may be disclosed to the taxpayer, its successor in interest or a designee of the taxpayer who is authorized in writing by the taxpayer. A principal corporate officer of a parent corporation may execute a written authorization for a controlled subsidiary.

2. A corporate taxpayer may be disclosed to any principal officer, any person designated by a principal officer or any person designated in a

1 resolution by the corporate board of directors or other similar governing
2 body.
3 3. A partnership may be disclosed to any partner of the
4 partnership. This exception does not include disclosure of confidential
5 information of a particular partner unless otherwise authorized.
6 4. An estate may be disclosed to the personal representative of the
7 estate and to any heir, next of kin or beneficiary under the will of the
8 decedent if the department finds that the heir, next of kin or beneficiary
9 has a material interest which will be affected by the confidential
10 information.
11 5. A trust may be disclosed to the trustee or trustees, jointly or
12 separately, and to the grantor or any beneficiary of the trust if the
13 department finds that the grantor or beneficiary has a material interest
14 which will be affected by the confidential information.
15 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
16 to confidentiality either in writing or on the record in any administrative
17 or judicial proceeding.
18 7. The name and taxpayer identification numbers of persons issued
19 direct payment permits may be publicly disclosed.
20 B. Confidential information may be disclosed to:
21 1. Any employee of the department whose official duties involve tax
22 administration.
23 2. The office of the attorney general solely for its use in
24 preparation for, or in an investigation which may result in, any proceeding
25 involving tax administration before the department or any other agency or
26 board of this state, or before any grand jury or any state or federal court.
27 3. The department of liquor licenses and control for its use in
28 determining whether a spirituous liquor licensee has paid all transaction
29 privilege taxes and affiliated excise taxes incurred as a result of the sale
30 of spirituous liquor, as defined in section 4-101, at the licensed
31 establishment and imposed on the licensed establishments by this state and
32 its political subdivisions.
33 4. Other state tax officials whose official duties require the
34 disclosure for proper tax administration purposes if the information is
35 sought in connection with an investigation or any other proceeding conducted
36 by the official. Any disclosure is limited to information of a taxpayer who
37 is being investigated or who is a party to a proceeding conducted by the
38 official.
39 5. The following agencies, officials and organizations, if they grant
40 substantially similar privileges to the department for the type of
41 information being sought, pursuant to statute and a written agreement between
42 the department and the foreign country, agency, state, Indian tribe or
43 organization:
44 (a) The United States internal revenue service, alcohol and tobacco
45 tax and trade bureau of the United States treasury, United States bureau of

alcohol, tobacco, firearms and explosives of the United States department of justice, United States drug enforcement agency and federal bureau of investigation.

(b) A state tax official of another state.

(c) An organization of states, federation of tax administrators or multistate tax commission that operates an information exchange for tax administration purposes.

(d) An agency, official or organization of a foreign country with responsibilities that are comparable to those listed in subdivision (a), (b) or (c) of this paragraph.

(e) An agency, official or organization of an Indian tribal government with responsibilities comparable to the responsibilities of the agencies, officials or organizations identified in subdivision (a), (b) or (c) of this paragraph.

6. The auditor general, in connection with any audit of the department subject to the restrictions in section 42-2002, subsection D.

7. Any person to the extent necessary for effective tax administration in connection with:

(a) The processing, storage, transmission, destruction and reproduction of the information.

(b) The programming, maintenance, repair, testing and procurement of equipment for purposes of tax administration.

8. The office of administrative hearings relating to taxes administered by the department pursuant to section 42-1101, but the department shall not disclose any confidential information:

(a) Regarding income tax, withholding tax or estate tax.

(b) On any tax issue relating to information associated with the reporting of income tax, withholding tax or estate tax.

9. The United States treasury inspector general for tax administration for the purpose of reporting a violation of internal revenue code section 7213A (26 United States Code section 7213A), unauthorized inspection of returns or return information.

10. The financial management service of the United States treasury department for use in the treasury offset program.

11. The United States treasury department or its authorized agent for use in the state income tax levy program and in the electronic federal tax payment system.

12. The department of commerce for its use in:

(a) Qualifying motion picture production companies for the tax incentives provided for motion picture production under chapter 5 of this title and sections 43-1075 and 43-1163.

~~(b) Fulfilling its annual reporting responsibility pursuant to section 41-1517, subsections S and T.~~

~~(c)~~ (b) Qualifying applicants for the motion picture infrastructure project tax credits under sections 43-1075.01 and 43-1163.01.

1 (c) QUALIFYING RENEWABLE ENERGY OPERATIONS FOR THE TAX INCENTIVES
2 UNDER SECTIONS 42-12006, 43-1083.01 AND 43-1164.01.
3 (d) FULFILLING ITS ANNUAL REPORTING RESPONSIBILITY PURSUANT TO SECTION
4 41-1511, SUBSECTIONS T AND U AND SECTION 41-1517, SUBSECTIONS S AND T.
5 13. A prosecutor for purposes of section 32-1164, subsection C.
6 14. The state fire marshal for use in determining compliance with and
7 enforcing title 41, chapter 16, article 3.1.
8 C. Confidential information may be disclosed in any state or federal
9 judicial or administrative proceeding pertaining to tax administration
10 pursuant to the following conditions:
11 1. One or more of the following circumstances must apply:
12 (a) The taxpayer is a party to the proceeding.
13 (b) The proceeding arose out of, or in connection with, determining
14 the taxpayer's civil or criminal liability, or the collection of the
15 taxpayer's civil liability, with respect to any tax imposed under this title
16 or title 43.
17 (c) The treatment of an item reflected on the taxpayer's return is
18 directly related to the resolution of an issue in the proceeding.
19 (d) Return information directly relates to a transactional
20 relationship between a person who is a party to the proceeding and the
21 taxpayer and directly affects the resolution of an issue in the proceeding.
22 2. Confidential information may not be disclosed under this subsection
23 if the disclosure is prohibited by section 42-2002, subsection C or D.
24 D. Identity information may be disclosed for purposes of notifying
25 persons entitled to tax refunds if the department is unable to locate the
26 persons after reasonable effort.
27 E. The department, upon the request of any person, shall provide the
28 names and addresses of bingo licensees as defined in section 5-401, verify
29 whether or not a person has a privilege license and number, a distributor's
30 license and number or a withholding license and number or disclose the
31 information to be posted on the department's web site or otherwise publicly
32 accessible pursuant to section 42-1124, subsection F and section 42-3201,
33 subsection A.
34 F. A department employee, in connection with the official duties
35 relating to any audit, collection activity or civil or criminal
36 investigation, may disclose return information to the extent that disclosure
37 is necessary to obtain information which is not otherwise reasonably
38 available. These official duties include the correct determination of and
39 liability for tax, the amount to be collected or the enforcement of other
40 state tax revenue laws.
41 G. If an organization is exempt from this state's income tax as
42 provided in section 43-1201 for any taxable year, the name and address of the
43 organization and the application filed by the organization upon which the
44 department made its determination for exemption together with any papers

1 submitted in support of the application and any letter or document issued by
2 the department concerning the application are open to public inspection.
3 H. Confidential information relating to transaction privilege tax, use
4 tax, severance tax, jet fuel excise and use tax and rental occupancy tax may
5 be disclosed to any county, city or town tax official if the information
6 relates to a taxpayer who is or may be taxable by the county, city or town.
7 Any taxpayer information released by the department to the county, city or
8 town:
9 1. May only be used for internal purposes.
10 2. May not be disclosed to the public in any manner that does not
11 comply with confidentiality standards established by the department. The
12 county, city or town shall agree in writing with the department that any
13 release of confidential information that violates the confidentiality
14 standards adopted by the department will result in the immediate suspension
15 of any rights of the county, city or town to receive taxpayer information
16 under this subsection.
17 I. The department may disclose statistical information gathered from
18 confidential information if it does not disclose confidential information
19 attributable to any one taxpayer. In order to comply with the requirements
20 of section 42-5029, subsection A, paragraph 3, the department may disclose to
21 the state treasurer statistical information gathered from confidential
22 information, even if it discloses confidential information attributable to a
23 taxpayer.
24 J. The department may disclose the aggregate amounts of any tax
25 credit, tax deduction or tax exemption enacted after January 1, 1994.
26 Information subject to disclosure under this subsection shall not be
27 disclosed if a taxpayer demonstrates to the department that such information
28 would give an unfair advantage to competitors.
29 K. Except as provided in section 42-2002, subsection C, confidential
30 information, described in section 42-2001, paragraph 2, subdivision (a), item
31 (iii), may be disclosed to law enforcement agencies for law enforcement
32 purposes.
33 L. The department may provide transaction privilege tax license
34 information to property tax officials in a county for the purpose of
35 identification and verification of the tax status of commercial property.
36 M. The department may provide transaction privilege tax, luxury tax,
37 use tax, property tax and severance tax information to the ombudsman-citizens
38 aide pursuant to title 41, chapter 8, article 5.
39 N. Except as provided in section 42-2002, subsection D, a court may
40 order the department to disclose confidential information pertaining to a
41 party to an action. An order shall be made only upon a showing of good cause
42 and that the party seeking the information has made demand upon the taxpayer
43 for the information.
44 O. This section does not prohibit the disclosure by the department of
45 any information or documents submitted to the department by a bingo licensee.

1 Before disclosing the information the department shall obtain the name and
2 address of the person requesting the information.
3 P. If the department is required or permitted to disclose confidential
4 information, it may charge the person or agency requesting the information
5 for the reasonable cost of its services.
6 Q. Except as provided in section 42-2002, subsection D, the department
7 of revenue shall release confidential information as requested by the
8 department of economic security pursuant to section 42-1122 or 46-291.
9 Information disclosed under this subsection is limited to the same type of
10 information that the United States internal revenue service is authorized to
11 disclose under section 6103(l)(6) of the internal revenue code.
12 R. Except as provided in section 42-2002, subsection D, the department
13 of revenue shall release confidential information as requested by the courts
14 and clerks of the court pursuant to section 42-1122.
15 S. To comply with the requirements of section 42-5031, the department
16 may disclose to the state treasurer, to the county stadium district board of
17 directors and to any city or town tax official that is part of the county
18 stadium district confidential information attributable to a taxpayer's
19 business activity conducted in the county stadium district.
20 T. The department shall release confidential information as requested
21 by the attorney general for purposes of determining compliance with and
22 enforcing section 44-7101, the master settlement agreement referred to
23 therein and subsequent agreements to which the state is a party that amend or
24 implement the master settlement agreement. Information disclosed under this
25 subsection is limited to luxury tax information relating to tobacco
26 manufacturers, distributors, wholesalers and retailers and information
27 collected by the department pursuant to section 44-7101(2)(j).
28 U. For proceedings before the department, the office of administrative
29 hearings, the board of tax appeals or any state or federal court involving
30 penalties that were assessed against a return preparer or electronic return
31 preparer pursuant to section 42-1103.02 or 42-1125.01, confidential
32 information may be disclosed only before the judge or administrative law
33 judge adjudicating the proceeding, the parties to the proceeding and the
34 parties' representatives in the proceeding prior to its introduction into
35 evidence in the proceeding. The confidential information may be introduced
36 as evidence in the proceeding only if the taxpayer's name, the names of any
37 dependents listed on the return, all social security numbers, the taxpayer's
38 address, the taxpayer's signature and any attachments containing any of the
39 foregoing information are redacted and if either:
40 1. The treatment of an item reflected on such return is or may be
41 related to the resolution of an issue in the proceeding.
42 2. Such return or return information relates or may relate to a
43 transactional relationship between a person who is a party to the proceeding
44 and the taxpayer which directly affects the resolution of an issue in the
45 proceeding.

V. The department may disclose to the attorney general confidential information received under section 44-7111 and requested by the attorney general for purposes of determining compliance with and enforcing section 44-7111. The department and attorney general shall share with each other the information received under section 44-7111, and may share the information with other federal, state or local agencies only for the purposes of enforcement of section 44-7101, section 44-7111 or corresponding laws of other states.

Sec. 3. Section 42-12001, Arizona Revised Statutes, is amended to read:

42-12001. Class one property

For purposes of taxation, class one is established consisting of the following subclasses:

1. Producing mines and mining claims, personal property used on mines and mining claims, improvements to mines and mining claims and mills and smelters operated in conjunction with mines and mining claims that are valued at full cash value pursuant to section 42-14053.

2. Standing timber that is valued at full cash value.

3. Real and personal property of gas distribution companies, electric transmission companies, electric distribution companies, combination gas and electric transmission and distribution companies, companies engaged in the generation of electricity and electric cooperatives that are valued at full cash value pursuant to section 42-14151.

4. Real and personal property of airport fuel delivery companies that are valued pursuant to section 42-14503.

5. Real and personal property that is used by producing oil, gas and geothermal resource interests that are valued at full cash value pursuant to section 42-14102.

6. Real and personal property of water, sewer and wastewater utility companies that are valued at full cash value pursuant to section 42-14151.

7. Real and personal property of pipeline companies that are valued at full cash value pursuant to section 42-14201.

8. Real and personal property of shopping centers that are valued at full cash value or pursuant to chapter 13, article 5 of this title, as applicable.

9. Real and personal property of golf courses that are valued at full cash value or pursuant to chapter 13, article 4 of this title.

10. All property, both real and personal, of manufacturers, assemblers or fabricators, OTHER THAN PROPERTY THAT IS SPECIFICALLY INCLUDED IN ANOTHER CLASS DESCRIBED IN THIS ARTICLE, THAT ARE valued under ~~the provisions of~~ this title.

11. Real and personal property that is used in communications transmission facilities and that provides public telephone or telecommunications exchange or interexchange access for compensation to effect two-way communication to, from, through or within this state.

12. Real property and improvements that are devoted to any other commercial or industrial use, other than property that is specifically included in another class described in this article, and that are valued at full cash value.

13. Personal property that is devoted to any other commercial or industrial use, other than property that is specifically included in another class described in this article, and that is valued at full cash value.

Sec. 4. Section 42-12006, Arizona Revised Statutes, is amended to read:

42-12006. Class six property

For purposes of taxation, class six is established consisting of:

1. Noncommercial historic property as defined in section 42-12101 and valued at full cash value.

2. Real and personal property that is located within the area of a foreign trade zone or subzone established under 19 United States Code section 81 and title 44, chapter 18, that is activated for foreign trade zone use by the district director of the United States customs service pursuant to 19 Code of Federal Regulations section 146.6 and that is valued at full cash value. Property that is classified under this paragraph shall not thereafter be classified under paragraph 7 of this section.

3. Real and personal property and improvements that are located in a military reuse zone that is established under title 41, chapter 10, article 3 and that is devoted to providing aviation or aerospace services or to manufacturing, assembling or fabricating aviation or aerospace products, valued at full cash value and subject to the following terms and conditions:

(a) Property may not be classified under this paragraph for more than five tax years.

(b) Any new addition or improvement to property already classified under this paragraph qualifies separately for classification under this paragraph for not more than five tax years.

(c) If a military reuse zone is terminated, the property in that zone that was previously classified under this paragraph shall be reclassified as prescribed by this article.

(d) Property that is classified under this paragraph shall not thereafter be classified under paragraph 4 or 7 of this section.

4. Real and personal property and improvements that are located in an enterprise zone, that are owned or used by a small manufacturing or small commercial ~~printer~~ PRINTING business that is certified by the department of commerce pursuant to section 41-1525.01 and that are valued at full cash value, subject to the following terms and conditions:

(a) Property may not be classified under this paragraph for more than five tax years.

(b) Property that is classified under this paragraph shall not thereafter be classified under paragraph 3 or 7 of this section.

5. Real and personal property and improvements or a portion of such property comprising a qualified environmental technology manufacturing, producing or processing facility as described in section 41-1514.02, valued at full cash value and subject to the following terms and conditions:

(a) Property shall be classified under this paragraph for twenty tax years from the date placed in service.

(b) Any addition or improvement to property already classified under this paragraph qualifies separately for classification under this subdivision for an additional twenty tax years from the date placed in service.

(c) After revocation of certification under section 41-1514.02, property that was previously classified under this paragraph shall be reclassified as prescribed by this article.

(d) Property that is classified under this paragraph shall not thereafter be classified under paragraph 7 of this section.

6. That portion of real and personal property that is used on or after January 1, 1999 specifically and solely for remediation of the environment by an action that has been determined to be reasonable and necessary to respond to the release or threatened release of a hazardous substance by the department of environmental quality pursuant to section 49-282.06 or pursuant to its corrective action authority under rules adopted pursuant to section 49-922, subsection B, paragraph 4 or by the United States environmental protection agency pursuant to the national contingency plan (40 Code of Federal Regulations part 300) and that is valued at full cash value. Property that is not being used specifically and solely for the remediation objectives described in this paragraph shall not be classified under this paragraph. For the purposes of this paragraph, "remediation of the environment" means one or more of the following actions:

(a) Monitoring, assessing or evaluating the release or threatened release.

(b) Excavating, removing, transporting, treating and disposing of contaminated soil.

(c) Pumping and treating contaminated water.

(d) Treatment, containment or removal of contaminants in groundwater or soil.

7. Real and personal property and improvements constructed or installed from and after December 31, 2004 through December 31, 2010 and owned by a qualified business under section 41-1516 and used solely for the purpose of harvesting, transporting or the initial processing of qualifying forest products removed from qualifying projects as defined in section 41-1516. The classification under this paragraph is subject to the following terms and conditions:

(a) Property may be initially classified under this paragraph only in valuation years 2005 through 2010.

(b) Property may not be classified under this paragraph for more than five years.

(c) Any new addition or improvement, constructed or installed from and after December 31, 2004 through December 31, 2010, to property already classified under this paragraph qualifies separately for classification and assessment under this paragraph for not more than five years.

(d) Property that is classified under this paragraph shall not thereafter be classified under paragraph 2, 3, 4 or 5 of this section.

8. Real and personal property and improvements to the property that are used specifically and solely to manufacture from and after December 31, 2006 through December 31, 2016 biodiesel fuel that is one hundred per cent biodiesel and its by-products and that are valued at full cash value. This paragraph applies only to the portion of property that is used specifically for manufacturing and processing one hundred per cent biodiesel fuel, or its related by-products, from raw feedstock obtained from off-site sources, including necessary on-site storage facilities that are intrinsically associated with the manufacturing process. Any other commercial or industrial use disqualifies the entire property from classification under this paragraph.

9. REAL AND PERSONAL PROPERTY AND IMPROVEMENTS THAT ARE CERTIFIED PURSUANT TO SECTION 41-1511, SUBSECTION C, PARAGRAPH 2 AND THAT ARE USED FOR RENEWABLE ENERGY MANUFACTURING OR HEADQUARTERS OPERATIONS AS PROVIDED BY SECTION 42-12057. THIS PARAGRAPH APPLIES ONLY TO PROPERTY THAT IS USED IN MANUFACTURING AND HEADQUARTERS OPERATIONS OF RENEWABLE ENERGY COMPANIES, INCLUDING NECESSARY ON-SITE RESEARCH AND DEVELOPMENT, TESTING AND STORAGE FACILITIES THAT ARE ASSOCIATED WITH THE MANUFACTURING PROCESS. UP TO TEN PER CENT OF THE AGGREGATE FULL CASH VALUE OF THE PROPERTY MAY BE DERIVED FROM USES THAT ARE ANCILLARY TO AND INTRINSICALLY ASSOCIATED WITH THE MANUFACTURING PROCESS OR HEADQUARTERS OPERATION. ANY ADDITIONAL ANCILLARY PROPERTY IS NOT QUALIFIED FOR CLASSIFICATION UNDER THIS PARAGRAPH. NO NEW PROPERTIES MAY BE CLASSIFIED PURSUANT TO THIS PARAGRAPH FROM AND AFTER DECEMBER 31, 2014. CLASSIFICATION UNDER THIS PARAGRAPH IS LIMITED TO THE TIME PERIODS DETERMINED BY THE DEPARTMENT OF COMMERCE PURSUANT TO SECTION 41-1511, SUBSECTION C, PARAGRAPH 2, SUBDIVISION (a) OR (b). PROPERTY THAT IS CLASSIFIED UNDER THIS PARAGRAPH SHALL NOT THEREAFTER BE CLASSIFIED UNDER ANY OTHER PARAGRAPH OF THIS SECTION.

Sec. 5. Title 42, chapter 12, article 2, Arizona Revised Statutes, is amended by adding section 42-12057, to read:

42-12057. <u>Criteria for renewable energy property</u>

A. TO QUALIFY FOR THE CLASSIFICATION AS CLASS SIX PURSUANT TO SECTION 42-12006, PARAGRAPH 9, THE OWNER OF A MANUFACTURING FACILITY OR HEADQUARTERS FACILITY MUST BE CERTIFIED PURSUANT TO SECTION 41-1511, SUBSECTION C, PARAGRAPH 2 AND MUST PROVIDE DOCUMENTATION TO THE COUNTY ASSESSOR EACH YEAR THAT THE FACILITY IS EXCLUSIVELY DEDICATED TO RENEWABLE ENERGY MANUFACTURING OR REGIONAL, NATIONAL OR GLOBAL RENEWABLE ENERGY BUSINESS HEADQUARTERS OPERATIONS.

B. FOR THE PURPOSES OF THIS SECTION, RENEWABLE ENERGY PROJECTS ARE LIMITED TO MANUFACTURERS OF, AND HEADQUARTERS FOR, SYSTEMS AND COMPONENTS THAT ARE USED OR USEFUL IN MANUFACTURING RENEWABLE ENERGY EQUIPMENT FOR THE GENERATION, STORAGE, TESTING AND RESEARCH AND DEVELOPMENT, TRANSMISSION OR DISTRIBUTION OF ELECTRICITY FROM RENEWABLE RESOURCES, INCLUDING SPECIALIZED CRATES NECESSARY TO PACKAGE THE RENEWABLE ENERGY EQUIPMENT MANUFACTURED AT THE FACILITY.

Sec. 6. Section 42-15006, Arizona Revised Statutes, is amended to read:

42-15006. Assessed valuation of class six property

The assessed valuation of class six property described in section 42-12006 is based on the following percentages to the full cash value or limited valuation of class six property, as applicable:

1. Property described in section 42-12006, paragraphs 1, 2, 3, 5, 6, 7, ~~and~~ 8 AND 9, five per cent.

2. Property described in section 42-12006, paragraph 4:

(a) For primary property tax purposes, five per cent.

(b) Except as provided in subdivision (c), for secondary property tax purposes:

(i) Twenty-five per cent through December 31, 2006.

(ii) Twenty-four per cent beginning from and after December 31, 2006 through December 31, 2007.

(iii) Twenty-three per cent beginning from and after December 31, 2007 through December 31, 2008.

(iv) Twenty-two per cent beginning from and after December 31, 2008 through December 31, 2009.

(v) Twenty-one per cent beginning from and after December 31, 2009 through December 31, 2010.

(vi) Twenty per cent beginning from and after December 31, 2010.

(c) If subdivision (b) is finally adjudicated to be invalid, for secondary property tax purposes, five per cent.

Sec. 7. Repeal

Section 43-222, Arizona Revised Statutes, is repealed.

Sec. 8. Title 43, chapter 2, article 2, Arizona Revised Statutes, is amended by adding a new section 43-222, 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 43-1075, 43-1075.01, 43-1079.01, 43-1087, 43-1088, 43-1090.01, 43-1163, 43-1163.01, 43-1167.01, 43-1175 AND 43-1182.

2. FOR YEARS ENDING IN 1 AND 6, SECTIONS 43-1074.02, 43-1083, 43-1085, 43-1164 AND 43-1183.

3. FOR YEARS ENDING IN 2 AND 7, SECTIONS 43-1073, 43-1079, 43-1080, 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1090, 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, 43-1081.01, 43-1083.01, 43-1084, 43-1162, 43-1164.01 AND 43-1170.01.

Sec. 9. Section 43-1074, Arizona Revised Statutes, is amended to read:

43-1074. Credit for increased employment in enterprise zones; definitions

A. A credit is allowed against the taxes imposed by this title for net increases in qualified employment positions of residents of this state by a business located in an enterprise zone established under title 41, chapter 10, article 2, except employment positions at a zone location where more than ten per cent of the business conducted at the location consists of retail sales of tangible personal property, measured by either the number of employees assigned to retail sales or the square footage of the facility used for retail sales activities at the location in the zone. Retail sales and retail sales activities do not include:

1. Food and beverage for consumption on the premises solely by employees and occasional guests of employees at the location.

2. Promotional products not available for sale and displaying the company logo or trademark.

3. Products sold to company employees.

B. Subject to subsection E of this section, the amount of the credit is equal to:

1. One-fourth of the taxable wages paid to an employee in a qualified employment position, not to exceed five hundred dollars, in the first year or partial year of employment.

2. One-third of the taxable wages paid to an employee in a qualified employment position, not to exceed one thousand dollars per qualified employment position, in the second year of continuous employment.

3. One-half of the taxable wages paid to an employee in a qualified employment position, not to exceed one thousand five hundred dollars per qualified employment position, in the third year of continuous employment.

C. To qualify for a credit under this section:

1. All of the employees with respect to whom a credit is claimed must reside in this state.

2. Thirty-five per cent of the employees with respect to whom a credit is claimed for the first year of employment must reside on the date of employment in an enterprise zone that is located in the same county in which the business is located. If an employee for whom a credit was allowed in the first year of employment leaves employment during the second or third year, the taxpayer may substitute another employee who meets the requirements of paragraph 3 of this subsection and who was hired during the same year as the

original employee. If the original employee was counted toward the residency requirement under this paragraph, the substitute employee must also have resided in a zone at the time the substitute was hired.

3. A qualified employment position must meet all of the following requirements:

(a) The position must be a minimum of one thousand seven hundred fifty hours per year of full-time and permanent employment.

(b) The job duties must be performed primarily at the zone locations of the business. If an eligible employee in a qualified employment position is transferred or assigned to work in the taxpayer's workplace at a different location that is also located in an enterprise zone and qualifies as a zone location, it may be considered to be continuous employment if it continues to meet all qualified employment position requirements.

(c) The employment must include health insurance coverage for the employee for which the employer pays at least fifty per cent of the premium or membership cost. If the taxpayer is self-insured, the taxpayer must pay at least fifty per cent of a predetermined fixed cost per employee for an insurance program that is payable whether or not the employee has filed claims.

(d) The employer must pay compensation at least equal to the wage offer by county as computed annually by the department of economic security research administration division.

(e) The employee must have been employed for at least ninety days during the first taxable year. An employee who is hired during the last ninety days of the taxable year shall be considered a new employee during the next taxable year. A qualified employment position that is filled during the last ninety days of the taxable year is considered to be a new qualified employment position for the next taxable year.

(f) The employee must not have been previously employed by the taxpayer within twelve months before the current date of hire.

D. A credit is allowed for employment in the second and third year only for qualified employment positions for which a credit was allowed and claimed by the taxpayer on the original first and second year tax returns. For the purposes of this subsection, the requirement to claim the credit on the original tax return does not apply to qualified employment positions created before January 1, 2002 and ~~were~~ certified to the department of commerce.

E. The net increase in the number of qualified employment positions is the lesser of the total number of filled qualified employment positions created in the zone during the tax year or the difference between the average number of full-time employees in the zone in the current tax year and the average number of full-time employees during the immediately preceding taxable year. The net increase in the number of qualified employment positions computed under this subsection shall not exceed two hundred qualified employment positions per taxpayer each year.

F. A taxpayer who claims a credit under section 43-1077, ~~or~~ 43-1079 OR 43-1083.01 shall not claim a credit under this section with respect to the same ~~employees~~ EMPLOYMENT POSITIONS.

G. If the allowable tax credit exceeds the income taxes otherwise due on the claimant's income, or if there are no state income taxes due on the claimant's income, the amount of the claim not used as an offset against income taxes may be carried forward as a tax credit against subsequent taxable years' income tax liability, not to exceed five taxable years, provided the business remains in an enterprise zone.

H. Co-owners of a business, including partners in a partnership and shareholders of an S corporation, as defined in section 1361 of the internal revenue code, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners of the business may not exceed the amount that would have been allowed for a sole owner of the business.

I. If a person purchases a business in a zone or changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim first year credits only for one or more qualified employment positions that it created and filled with an eligible employee after the purchase or reorganization was complete. If a person purchases a taxpayer that had qualified for first or second year credits or changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim the second or third year credits if it meets other eligibility requirements of this section. Credits for which a taxpayer qualified before the changes described in this subsection are terminated and lost at the time the changes are implemented.

J. A failure to timely report and certify to the department of commerce and the department of revenue the information prescribed by section 41-1525, subsection B, paragraphs 1, 2 and 3 and in the manner prescribed by section 41-1525, subsection C~~,~~ disqualifies the taxpayer from the credit under this section. The department of revenue shall require written evidence of the timely report to the department of commerce.

K. The termination of an enterprise zone does not affect the credit under this section with respect to:

1. Taxpayers who have employees in the second and third years of employment in qualified employment positions under subsections A, B and C of this section if the business remains in the location that was in the enterprise zone.

2. Amounts carried forward into subsequent taxable years under subsection G of this section.

L. The department may adopt rules necessary for the administration of this section.

M. For the purposes of this section:

1. "Assigned to retail" means working more than twenty-five per cent of an employee's time in one or more retail sales activities.

2. "Retail sales" means the sale of tangible personal property to an ultimate consumer.

3. "Retail sales activities" means all activities persons operating a retail business normally engage in, including taking orders, filling orders, billing orders, receiving and processing payment and shipping, stocking and delivering tangible personal property to the ultimate consumer, except drop shipments by a company acting on behalf of an unrelated company that has made a sale to a final consumer.

4. "Zone location" means a single parcel or contiguous parcels of owned or leased land, the structures and personal property contained on the land or any part of the structures occupied by a taxpayer.

Sec. 10. Section 43-1077, Arizona Revised Statutes, is amended to read:

43-1077. Credit for employment by qualified defense contractor

A. A credit is allowed against the taxes imposed by this title for:

1. Net increases in employment under United States department of defense contracts during the taxable year, as computed under subsection D of this section, by a qualified defense contractor who is certified by the department of commerce under section 41-1508.

2. Net increases in private commercial employment during the taxable year, as computed under subsection E of this section, by a qualified defense contractor who is certified by the department of commerce under section 41-1508 due to full-time equivalent employee positions transferred during the taxable year by the taxpayer from exclusively defense related activities to employment by the taxpayer in exclusively private commercial activities.

B. The amount of the credit is a dollar amount allowed for each full-time equivalent employee position created, determined as follows:

1st year	$2,500
2nd year	$2,000
3rd year	$1,500
4th year	$1,000
5th year	$ 500

C. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry the amount of the claim not used to offset the taxes under this title forward until taxable years beginning from and after December 31, 2011 as a credit against subsequent years' income tax liability, regardless of continuing certification as a qualified defense contractor.

D. The net increase in employment under defense related contracts shall be determined as follows:

1. Establish an employment baseline for the taxpayer based on a multiyear forecast of employment on United States department of defense contracts that was submitted to the department of defense before June 1, 1992. The annual average employment forecast for the first year the taxpayer qualified is the baseline. If the taxpayer did not make such a forecast

before June 1, 1992, the baseline is the average annual employment as reported to the department of economic security during the preceding taxable year. If a taxpayer qualifies in the same year it relocates into this state, the taxpayer's baseline is zero.

2. For the first year of the credit, the taxpayer's net increase in average employment is the increase in employment reported to the department of economic security for the taxable year over the employment baseline.

3. For each succeeding year of the credit, the taxpayer's net increase in average employment is the increase in employment reported to the department of economic security for the taxable year over the preceding taxable year's average employment.

E. In computing the amount of credit allowed under subsection A, paragraph 2 of this section, the taxpayer shall:

1. Prorate employment during the taxable year according to the date of transfer from defense to private commercial activities or the date of transfer from private commercial activities to defense.

2. Compute and subtract an amount pursuant to subsection B of this section for full-time equivalent employee positions that were transferred during the taxable year by the taxpayer from exclusively private commercial activities to exclusively defense related activities.

F. The taxpayer shall account for qualifying full-time equivalent employee positions on a first-in first-out basis. If a decrease in qualifying employment occurs, the taxpayer shall subtract the decrease from the earliest qualifying positions.

G. A credit is not allowed under both subsection A, paragraphs 1 and 2 of this section with respect to the same employee position. A full-time equivalent employee position may be considered for purposes of computing the credit under either subsection A, paragraph 1 or 2 of this section, but not both.

H. A credit is not allowed under this section with respect to employment that was transferred from an outside contractor in this state to in-house employment by the taxpayer solely for purposes of qualifying for the credit.

I. A taxpayer who claims a credit under section 43-1074, ~~or~~ 43-1079 OR 43-1083.01 may not claim a credit under this section with respect to the same ~~employees~~ EMPLOYEE POSITIONS.

J. Co-owners of a business, including partners in a partnership and shareholders of an S corporation, as defined in section 1361 of the internal revenue code, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners may not exceed the amount that would have been allowed for a sole owner of the business.

1 Sec. 11. Section 43-1079, Arizona Revised Statutes, is amended to
2 read:
3 43-1079. Credit for increased employment in military reuse
4 zones; definition
5 A. A credit is allowed against the taxes imposed by this title for net
6 increases in employment by the taxpayer of full-time employees working in a
7 military reuse zone, established under title 41, chapter 10, article 3, and
8 who are primarily engaged in providing aviation or aerospace services or in
9 manufacturing, assembling or fabricating aviation or aerospace products. The
10 amount of the credit is a dollar amount allowed for each new employee,
11 determined as follows:
12 1. With respect to each employee other than a dislocated military base
13 employee:
14 1st year of employment $ 500
15 2nd year of employment $1,000
16 3rd year of employment $1,500
17 4th year of employment $2,000
18 5th year of employment $2,500
19 2. With respect to each dislocated military base employee:
20 1st year of employment $1,000
21 2nd year of employment $1,500
22 3rd year of employment $2,000
23 4th year of employment $2,500
24 5th year of employment $3,000
25 B. If the allowable tax credit exceeds the taxes otherwise due under
26 this title on the claimant's income, or if there are no taxes due under this
27 title, the amount of the claim not used to offset the taxes under this title
28 may be carried forward as a credit against subsequent years' income tax
29 liability for the period, not to exceed five taxable years, if the business
30 remains in the military reuse zone.
31 C. The net increase in the number of employees for purposes of this
32 section shall be determined by comparing the taxpayer's average employment in
33 the military reuse zone during the taxable year with the taxpayer's previous
34 year's fourth quarter employment in the zone, based on the taxpayer's report
35 to the department of economic security for unemployment insurance purposes
36 but considering only employment in the zone.
37 D. Co-owners of a business, including partners in a partnership and
38 shareholders of an S corporation, as defined in section 1361 of the internal
39 revenue code, may each claim only the pro rata share of the credit allowed
40 under this section based on the ownership interest. The total of the credits
41 allowed all such owners may not exceed the amount that would have been
42 allowed for a sole owner of the business.
43 E. A credit is not allowed under this section with respect to an
44 employee whose place of employment is relocated by the taxpayer from a
45 location in this state to the military reuse zone, unless the employee is

engaged in aviation or aerospace services or in manufacturing, assembling or fabricating aviation or aerospace products and the taxpayer maintains at least the same number of employees in this state but outside the zone.

F. A taxpayer who claims a credit under section 43-1074, ~~or~~ 43-1077 OR 43-1083.01 may not claim a credit under this section with respect to the same employees.

G. For the purposes of this section, "dislocated military base employee" means a civilian who previously had permanent full-time civilian employment on the military facility as of the date the closure of the facility was finally determined under federal law, as certified by the department of commerce.

Sec. 12. Title 43, chapter 10, article 5, Arizona Revised Statutes, is amended by adding section 43-1083.01, to read:

43-1083.01. Credit for renewable energy industry

A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2009 THROUGH DECEMBER 31, 2014, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR QUALIFIED INVESTMENT AND EMPLOYMENT IN EXPANDING OR LOCATING QUALIFIED RENEWABLE ENERGY OPERATIONS IN THIS STATE. TO QUALIFY FOR THE CREDIT, THE TAXPAYER MUST INVEST IN RENEWABLE ENERGY MANUFACTURING, OR IN NEW REGIONAL, NATIONAL OR GLOBAL RENEWABLE ENERGY BUSINESS HEADQUARTERS, IN THIS STATE AND PRODUCE NEW FULL-TIME EMPLOYMENT POSITIONS WHERE THE JOB DUTIES ARE PERFORMED AT THE LOCATION OF THE QUALIFYING INVESTMENT. THE TAXPAYER MUST MEET THE EMPLOYEE COMPENSATION AND EMPLOYEE HEALTH BENEFIT REQUIREMENTS PRESCRIBED BY SECTION 41-1511.

B. THE AMOUNT OF THE CREDIT IS COMPUTED AS FOLLOWS:

1. TEN PER CENT OF THE TAXPAYER'S TOTAL CAPITAL INVESTMENT IN PROJECTS MEETING THE FOLLOWING MINIMUM EMPLOYMENT REQUIREMENTS:

(a) FOR QUALIFYING RENEWABLE ENERGY MANUFACTURING OPERATIONS, AT LEAST ONE AND ONE-HALF NEW FULL-TIME EMPLOYMENT POSITIONS FOR EACH FIVE HUNDRED THOUSAND DOLLAR INCREMENT OF CAPITAL INVESTMENT.

(b) FOR QUALIFYING RENEWABLE ENERGY BUSINESS HEADQUARTERS, AT LEAST ONE NEW FULL-TIME EMPLOYMENT POSITION FOR EACH TWO HUNDRED THOUSAND DOLLAR INCREMENT OF CAPITAL INVESTMENT.

2. FOR OTHER QUALIFYING RENEWABLE ENERGY INVESTMENT, TEN PER CENT OF THE AMOUNT COMPUTED AS FOLLOWS:

(a) FIVE HUNDRED THOUSAND DOLLARS FOR EACH ONE AND ONE-HALF NEW FULL-TIME EMPLOYMENT POSITIONS IN NEW RENEWABLE ENERGY MANUFACTURING OPERATIONS.

(b) TWO HUNDRED THOUSAND DOLLARS FOR EACH NEW FULL-TIME EMPLOYMENT POSITION AT A NEW RENEWABLE ENERGY BUSINESS HEADQUARTERS.

(c) THE AMOUNT OF CREDIT UNDER THIS PARAGRAPH SHALL NOT EXCEED TEN PER CENT OF THE AMOUNT OF THE TAXPAYER'S TOTAL CAPITAL INVESTMENT.

3. THE CREDIT AMOUNT COMPUTED UNDER PARAGRAPH 1 OR 2 OF THIS SUBSECTION IS APPORTIONED, AND THE TAXPAYER SHALL CLAIM THE CREDIT IN FIVE EQUAL ANNUAL INSTALLMENTS IN EACH OF FIVE CONSECUTIVE TAXABLE YEARS.

C. CREDITS ARE ALLOWED IN EACH TAXABLE YEAR UNDER THIS SECTION AND SECTION 43-1164.01 ON A FIRST COME, FIRST SERVED BASIS. THE DEPARTMENT SHALL NOT ALLOW TAX CREDITS UNDER THIS SECTION AND SECTION 43-1164.01 THAT EXCEED IN THE AGGREGATE A TOTAL OF SEVENTY MILLION DOLLARS IN ANY FISCAL YEAR, EXCEPT THAT IF LESS THAN THE MAXIMUM DOLLAR AMOUNT IS CLAIMED IN ANY FISCAL YEAR, THE UNUSED CREDIT AMOUNT MAY BE CARRIED OVER TO THE FOLLOWING YEAR.

D. TO CLAIM THE CREDIT THE TAXPAYER MUST:

1. CONDUCT A BUSINESS THAT QUALIFIES UNDER SECTION 41-1511.

2. SUBMIT A COPY OF A CURRENT AND VALID CERTIFICATION OF QUALIFICATION ISSUED TO THE TAXPAYER BY THE DEPARTMENT OF COMMERCE.

E. TO BE COUNTED FOR THE PURPOSES OF THE CREDIT, AN EMPLOYEE MUST HAVE BEEN EMPLOYED AT THE QUALIFYING BUSINESS LOCATION FOR AT LEAST NINETY DAYS DURING THE TAXABLE YEAR IN A PERMANENT FULL-TIME EMPLOYMENT POSITION OF AT LEAST ONE THOUSAND SEVEN HUNDRED FIFTY HOURS PER YEAR. AN EMPLOYEE WHO IS HIRED DURING THE LAST NINETY DAYS OF THE TAXABLE YEAR SHALL BE CONSIDERED A NEW EMPLOYEE DURING THE NEXT TAXABLE YEAR. TO BE COUNTED FOR THE PURPOSES OF THE CREDIT DURING THE FIRST TAXABLE YEAR OF EMPLOYMENT, THE EMPLOYEE MUST NOT HAVE BEEN PREVIOUSLY EMPLOYED BY THE TAXPAYER WITHIN TWELVE MONTHS BEFORE THE CURRENT DATE OF HIRE. THE TERMS OF EMPLOYMENT MUST COMPLY IN ALL CASES WITH THE REQUIREMENTS OF SECTION 41-1511 AND CERTIFICATION BY THE DEPARTMENT OF COMMERCE.

F. IF THE ALLOWABLE TAX CREDIT FOR A TAXABLE YEAR EXCEEDS THE INCOME TAXES OTHERWISE DUE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO STATE INCOME TAXES DUE ON THE CLAIMANT'S INCOME, THE AMOUNT OF THE CLAIM NOT USED AS AN OFFSET AGAINST INCOME TAXES SHALL BE PAID TO THE TAXPAYER IN THE SAME MANNER AS A REFUND UNDER SECTION 42-1118. REFUNDS MADE PURSUANT TO THIS SUBSECTION ARE SUBJECT TO SETOFF UNDER SECTION 42-1122.

G. EXCEPT AS PROVIDED BY SUBSECTION H OF THIS SECTION, IF, WITHIN TEN TAXABLE YEARS AFTER FIRST RECEIVING A CREDIT PURSUANT TO THIS SECTION, THE CERTIFICATION OF QUALIFICATION OF A BUSINESS IS TERMINATED OR REVOKED UNDER SECTION 41-1511, OTHER THAN FOR REASONS BEYOND THE CONTROL OF THE BUSINESS AS DETERMINED BY THE DEPARTMENT OF COMMERCE, THE TAXPAYER IS PERMANENTLY DISQUALIFIED FROM CREDITS UNDER THIS SECTION IN SUBSEQUENT TAXABLE YEARS AND THE CREDITS ALLOWED THE TAXPAYER IN ALL TAXABLE YEARS PURSUANT TO THIS SECTION ARE SUBJECT TO RECAPTURE PURSUANT TO THIS SUBSECTION. THIS SUBSECTION APPLIES ONLY IN THE CASE OF THE TERMINATION OR REVOCATION OF A CERTIFICATION OF QUALIFICATION UNDER SECTION 41-1511. THIS SUBSECTION DOES NOT APPLY IF, IN ANY TAXABLE YEAR, A TAXPAYER OTHERWISE DOES NOT QUALIFY FOR OR FAILS TO CLAIM THE CREDIT UNDER THIS SECTION. THE RECAPTURE OF CREDITS IS COMPUTED BY INCREASING THE AMOUNT OF TAXES IMPOSED IN THE YEAR FOLLOWING THE YEAR OF TERMINATION OR REVOCATION BY THE FULL AMOUNT OF ALL CREDITS PREVIOUSLY ALLOWED UNDER THIS SECTION.

H. A TAXPAYER WHO CLAIMS A CREDIT UNDER SECTION 43-1074, 43-1077 OR 43-1079 MAY NOT CLAIM A CREDIT UNDER THIS SECTION WITH RESPECT TO THE SAME FULL-TIME EMPLOYMENT POSITIONS.

I. THE DEPARTMENT OF REVENUE SHALL ADOPT RULES AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY FOR THE PURPOSES OF THIS SECTION. THE DEPARTMENT OF REVENUE AND THE DEPARTMENT OF COMMERCE SHALL COLLABORATE IN ADOPTING RULES AS NECESSARY TO AVOID DUPLICATION AND CONTRADICTORY REQUIREMENTS WHILE ACCOMPLISHING THE INTENT AND PURPOSES OF THIS SECTION.

J. FOR THE PURPOSES OF THIS SECTION, RENEWABLE ENERGY OPERATIONS ARE LIMITED TO MANUFACTURERS OF, AND HEADQUARTERS FOR, SYSTEMS AND COMPONENTS THAT ARE USED OR USEFUL IN MANUFACTURING RENEWABLE ENERGY EQUIPMENT FOR THE GENERATION, STORAGE, TESTING AND RESEARCH AND DEVELOPMENT, TRANSMISSION OR DISTRIBUTION OF ELECTRICITY FROM RENEWABLE RESOURCES, INCLUDING SPECIALIZED CRATES NECESSARY TO PACKAGE THE RENEWABLE ENERGY EQUIPMENT MANUFACTURED AT THE FACILITY.

Sec. 13. Section 43-1161, Arizona Revised Statutes, is amended to read:

43-1161. <u>Credit for increased employment in enterprise zones; definitions</u>

A. A credit is allowed against the taxes imposed by this title for net increases in qualified employment positions of residents of this state by a business located in an enterprise zone established under title 41, chapter 10, article 2, except employment positions at a zone location where more than ten per cent of the business conducted at the location consists of retail sales of tangible personal property, measured by either the number of employees assigned to retail sales or the square footage of the facility used for retail sales activities at the location in the zone. Retail sales and retail sales activities do not include:

1. Food and beverage for consumption on the premises solely by employees and occasional guests of employees at the location.

2. Promotional products not available for sale and displaying the company logo or trademark.

3. Products sold to company employees.

B. Subject to subsection E of this section, the amount of the credit is equal to:

1. One-fourth of the taxable wages paid to an employee in a qualified employment position, not to exceed five hundred dollars, in the first year or partial year of employment.

2. One-third of the taxable wages paid to an employee in a qualified employment position, not to exceed one thousand dollars per qualified employment position, in the second year of continuous employment.

3. One-half of the taxable wages paid to an employee in a qualified employment position, not to exceed one thousand five hundred dollars per qualified employment position, in the third year of continuous employment.

C. To qualify for a credit under this section:

1. All of the employees with respect to whom a credit is claimed must reside in this state.

2. Thirty-five per cent of the employees with respect to whom a credit is claimed for the first year of employment must reside on the date of hire in an enterprise zone that is located in the same county in which the business is located. If an employee for whom a credit was allowed in the first year of employment leaves employment during the second or third year, the taxpayer may substitute another employee who meets the requirements of paragraph 3 of this subsection and who was hired during the same year as the original employee. If the original employee was counted toward the residency requirement under this paragraph, the substitute employee must also have resided in a zone at the time the substitute was hired.

3. A qualified employment position must meet all of the following requirements:

(a) The position must be a minimum of one thousand seven hundred fifty hours per year of full-time and permanent employment.

(b) The job duties must be performed primarily at the zone locations of the business. If an eligible employee in a qualified employment position is transferred or assigned to work in the taxpayer's workplace at a different location that is also located in an enterprise zone and qualifies as a zone location, it may be considered to be continuous employment if it continues to meet all qualified employment position requirements.

(c) The employment must include health insurance coverage for the employee for which the employer pays at least fifty per cent of the premium or membership cost. If the taxpayer is self-insured, the taxpayer must pay at least fifty per cent of a predetermined fixed cost per employee for an insurance program that is payable whether or not the employee has filed claims.

(d) The employer must pay compensation at least equal to the wage offer by county as computed annually by the department of economic security research administration division.

(e) The employee must have been employed for at least ninety days during the first taxable year. An employee who is hired during the last ninety days of the taxable year shall be considered a new employee during the next taxable year. A qualified employment position that is filled during the last ninety days of the taxable year is considered to be a new qualified employment position for the next taxable year.

(f) The employee must not have been previously employed by the taxpayer within twelve months before the current date of hire.

D. A credit is allowed for employment in the second and third year only for qualified employment positions for which a credit was allowed and claimed by the taxpayer on the original first and second year tax returns. For the purposes of this subsection, the requirement to claim the credit on the original tax return does not apply to qualified employment positions created before January 1, 2002 and ~~were~~ certified to the department of commerce.

E. The net increase in the number of qualified employment positions is the lesser of the total number of filled qualified employment positions created in the zone during the tax year or the difference between the average number of full-time employees in the zone in the current tax year and the average number of full-time employees during the immediately preceding taxable year. The net increase in the number of qualified employment positions computed under this subsection may not exceed two hundred qualified employment positions per taxpayer each year.

F. A taxpayer who claims a credit under section 43-1164.01, 43-1165 or 43-1167 may not claim a credit under this section with respect to the same ~~employees~~ EMPLOYMENT POSITIONS.

G. If the allowable tax credit exceeds the income taxes otherwise due on the claimant's income, or if there are no state income taxes due on the claimant's income, the amount of the claim not used as an offset against income taxes may be carried forward as a tax credit against subsequent years' income tax liability for the period, not to exceed five taxable years, provided the business remains in an enterprise zone.

H. Co-owners of a business, including partners in a partnership, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners of the business may not exceed the amount that would have been allowed for a sole owner of the business.

I. If a person purchases a business in a zone or changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim first year credits only for one or more qualified employment positions that it created and filled with an eligible employee after the purchase or reorganization was complete. If a person purchases a taxpayer that had qualified for first or second year credits or changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim the second or third year credits if it meets other eligibility requirements of this section. Credits for which a taxpayer qualified before the changes described in this subsection are terminated and lost at the time the changes are implemented.

J. A failure to timely report and certify to the department of commerce and the department of revenue the information prescribed by section 41-1525, subsection B, paragraphs 1, 2 and 3 and in the manner prescribed by section 41-1525, subsection C~~,~~ disqualifies the taxpayer from the credit under this section. The department of revenue shall require written evidence of the timely report to the department of commerce.

K. The termination of an enterprise zone does not affect the credit under this section with respect to:

1. Taxpayers that have employees in the second and third years of employment in qualified employment positions under subsections A, B and C of this section if the business remains in the location that was in the enterprise zone.

2. Amounts carried forward into subsequent taxable years under subsection G of this section.

L. The department may adopt rules necessary for the administration of this section.

M. For the purposes of this section:

1. "Assigned to retail" means working more than twenty-five per cent of an employee's time in one or more retail sales activities.

2. "Retail sales" means the sale of tangible personal property to an ultimate consumer.

3. "Retail sales activities" means all activities persons operating a retail business normally engage in, including taking orders, filling orders, billing orders, receiving and processing payment and shipping, stocking and delivering tangible personal property to the ultimate consumer, except drop shipments by a company acting on behalf of an unrelated company that has made a sale to a final consumer.

4. "Zone location" means a single parcel or contiguous parcels of owned or leased land, the structures and personal property contained on the land or any part of the structures occupied by a taxpayer.

Sec. 14. Title 43, chapter 11, article 6, Arizona Revised Statutes, is amended by adding section 43-1164.01, to read:

43-1164.01. <u>Credit for renewable energy industry</u>

A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2009 THROUGH DECEMBER 31, 2014, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR QUALIFIED INVESTMENT AND EMPLOYMENT IN EXPANDING OR LOCATING QUALIFIED RENEWABLE ENERGY OPERATIONS IN THIS STATE. TO QUALIFY FOR THE CREDIT, THE TAXPAYER MUST INVEST IN RENEWABLE ENERGY MANUFACTURING, OR IN NEW REGIONAL, NATIONAL OR GLOBAL RENEWABLE ENERGY BUSINESS HEADQUARTERS, IN THIS STATE AND PRODUCE NEW FULL-TIME EMPLOYMENT POSITIONS WHERE THE JOB DUTIES ARE PERFORMED AT THE LOCATION OF THE QUALIFYING INVESTMENT. THE TAXPAYER MUST MEET THE EMPLOYEE COMPENSATION AND EMPLOYEE HEALTH BENEFIT REQUIREMENTS PRESCRIBED BY SECTION 41-1511.

B. THE AMOUNT OF THE CREDIT IS COMPUTED AS FOLLOWS:

1. TEN PER CENT OF THE TAXPAYER'S TOTAL CAPITAL INVESTMENT IN PROJECTS MEETING THE FOLLOWING MINIMUM EMPLOYMENT REQUIREMENTS:

(a) FOR QUALIFYING RENEWABLE ENERGY MANUFACTURING OPERATIONS, AT LEAST ONE AND ONE-HALF NEW FULL-TIME EMPLOYMENT POSITIONS FOR EACH FIVE HUNDRED THOUSAND DOLLAR INCREMENT OF CAPITAL INVESTMENT.

(b) FOR QUALIFYING RENEWABLE ENERGY BUSINESS HEADQUARTERS, AT LEAST ONE NEW FULL-TIME EMPLOYMENT POSITION FOR EACH TWO HUNDRED THOUSAND DOLLAR INCREMENT OF CAPITAL INVESTMENT.

2. FOR OTHER QUALIFYING RENEWABLE ENERGY INVESTMENT, TEN PER CENT OF THE AMOUNT COMPUTED AS FOLLOWS:

(a) FIVE HUNDRED THOUSAND DOLLARS FOR EACH ONE AND ONE-HALF NEW FULL-TIME EMPLOYMENT POSITIONS IN NEW RENEWABLE ENERGY MANUFACTURING OPERATIONS.

1 (b) TWO HUNDRED THOUSAND DOLLARS FOR EACH NEW FULL-TIME EMPLOYMENT
2 POSITION AT A NEW RENEWABLE ENERGY BUSINESS HEADQUARTERS.
3 (c) THE AMOUNT OF CREDIT UNDER THIS PARAGRAPH SHALL NOT EXCEED TEN PER
4 CENT OF THE AMOUNT OF THE TAXPAYER'S TOTAL CAPITAL INVESTMENT.
5 3. THE CREDIT AMOUNT COMPUTED UNDER PARAGRAPH 1 OR 2 OF THIS
6 SUBSECTION IS APPORTIONED, AND THE TAXPAYER SHALL CLAIM THE CREDIT IN FIVE
7 EQUAL ANNUAL INSTALLMENTS IN EACH OF FIVE CONSECUTIVE TAXABLE YEARS.
8 C. CREDITS ARE ALLOWED IN EACH TAXABLE YEAR UNDER THIS SECTION AND
9 SECTION 43-1083.01 ON A FIRST COME, FIRST SERVED BASIS. THE DEPARTMENT SHALL
10 NOT ALLOW TAX CREDITS UNDER THIS SECTION AND SECTION 43-1083.01 THAT EXCEED
11 IN THE AGGREGATE A TOTAL OF SEVENTY MILLION DOLLARS IN ANY FISCAL YEAR,
12 EXCEPT THAT IF LESS THAN THE MAXIMUM DOLLAR AMOUNT IS CLAIMED IN ANY FISCAL
13 YEAR, THE UNUSED CREDIT AMOUNT MAY BE CARRIED OVER TO THE FOLLOWING YEAR.
14 D. TO CLAIM THE CREDIT THE TAXPAYER MUST:
15 1. CONDUCT A BUSINESS THAT QUALIFIES UNDER SECTION 41-1511.
16 2. SUBMIT A COPY OF A CURRENT AND VALID CERTIFICATION OF QUALIFICATION
17 ISSUED TO THE TAXPAYER BY THE DEPARTMENT OF COMMERCE.
18 E. TO BE COUNTED FOR THE PURPOSES OF THE CREDIT, AN EMPLOYEE MUST HAVE
19 BEEN EMPLOYED AT THE QUALIFYING BUSINESS LOCATION FOR AT LEAST NINETY DAYS
20 DURING THE TAXABLE YEAR IN A PERMANENT FULL-TIME EMPLOYMENT POSITION OF AT
21 LEAST ONE THOUSAND SEVEN HUNDRED FIFTY HOURS PER YEAR. AN EMPLOYEE WHO IS
22 HIRED DURING THE LAST NINETY DAYS OF THE TAXABLE YEAR SHALL BE CONSIDERED A
23 NEW EMPLOYEE DURING THE NEXT TAXABLE YEAR. TO BE COUNTED FOR THE PURPOSES OF
24 THE CREDIT DURING THE FIRST TAXABLE YEAR OF EMPLOYMENT, THE EMPLOYEE MUST NOT
25 HAVE BEEN PREVIOUSLY EMPLOYED BY THE TAXPAYER WITHIN TWELVE MONTHS BEFORE THE
26 CURRENT DATE OF HIRE. THE TERMS OF EMPLOYMENT MUST COMPLY IN ALL CASES WITH
27 THE REQUIREMENTS OF SECTION 41-1511 AND CERTIFICATION BY THE DEPARTMENT OF
28 COMMERCE.
29 F. IF THE ALLOWABLE TAX CREDIT FOR A TAXABLE YEAR EXCEEDS THE INCOME
30 TAXES OTHERWISE DUE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO STATE INCOME
31 TAXES DUE ON THE CLAIMANT'S INCOME, THE AMOUNT OF THE CLAIM NOT USED AS AN
32 OFFSET AGAINST INCOME TAXES SHALL BE PAID TO THE TAXPAYER IN THE SAME MANNER
33 AS A REFUND UNDER SECTION 42-1118. REFUNDS MADE PURSUANT TO THIS SUBSECTION
34 ARE SUBJECT TO SETOFF UNDER SECTION 42-1122.
35 G. EXCEPT AS PROVIDED BY SUBSECTION H OF THIS SECTION, IF, WITHIN TEN
36 TAXABLE YEARS AFTER FIRST RECEIVING A CREDIT PURSUANT TO THIS SECTION, THE
37 CERTIFICATION OF QUALIFICATION OF A BUSINESS IS TERMINATED OR REVOKED UNDER
38 SECTION 41-1511, OTHER THAN FOR REASONS BEYOND THE CONTROL OF THE BUSINESS AS
39 DETERMINED BY THE DEPARTMENT OF COMMERCE, THE TAXPAYER IS PERMANENTLY
40 DISQUALIFIED FROM CREDITS UNDER THIS SECTION IN SUBSEQUENT TAXABLE YEARS AND
41 THE CREDITS ALLOWED THE TAXPAYER IN ALL TAXABLE YEARS PURSUANT TO THIS
42 SECTION ARE SUBJECT TO RECAPTURE PURSUANT TO THIS SUBSECTION. THIS
43 SUBSECTION APPLIES ONLY IN THE CASE OF THE TERMINATION OR REVOCATION OF A
44 CERTIFICATION OF QUALIFICATION UNDER SECTION 41-1511. THIS SUBSECTION DOES
45 NOT APPLY IF, IN ANY TAXABLE YEAR, A TAXPAYER OTHERWISE DOES NOT QUALIFY FOR

OR FAILS TO CLAIM THE CREDIT UNDER THIS SECTION. THE RECAPTURE OF CREDITS IS COMPUTED BY INCREASING THE AMOUNT OF TAXES IMPOSED IN THE YEAR FOLLOWING THE YEAR OF TERMINATION OR REVOCATION BY THE FULL AMOUNT OF ALL CREDITS PREVIOUSLY ALLOWED UNDER THIS SECTION.

H. A TAXPAYER WHO CLAIMS A CREDIT UNDER SECTION 43-1161, 43-1165 OR 43-1167 MAY NOT CLAIM A CREDIT UNDER THIS SECTION WITH RESPECT TO THE SAME FULL-TIME EMPLOYMENT POSITIONS.

I. THE DEPARTMENT OF REVENUE SHALL ADOPT RULES AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY FOR THE PURPOSES OF THIS SECTION. THE DEPARTMENT OF REVENUE AND THE DEPARTMENT OF COMMERCE SHALL COLLABORATE IN ADOPTING RULES AS NECESSARY TO AVOID DUPLICATION AND CONTRADICTORY REQUIREMENTS WHILE ACCOMPLISHING THE INTENT AND PURPOSES OF THIS SECTION.

J. FOR THE PURPOSES OF THIS SECTION, RENEWABLE ENERGY OPERATIONS ARE LIMITED TO MANUFACTURERS OF, AND HEADQUARTERS FOR, SYSTEMS AND COMPONENTS THAT ARE USED OR USEFUL IN MANUFACTURING RENEWABLE ENERGY EQUIPMENT FOR THE GENERATION, STORAGE, TESTING AND RESEARCH AND DEVELOPMENT, TRANSMISSION OR DISTRIBUTION OF ELECTRICITY FROM RENEWABLE RESOURCES, INCLUDING SPECIALIZED CRATES NECESSARY TO PACKAGE THE RENEWABLE ENERGY EQUIPMENT MANUFACTURED AT THE FACILITY.

Sec. 15. Section 43-1165, Arizona Revised Statutes, is amended to read:

43-1165. Credit for employment by qualified defense contractor

A. A credit is allowed against the taxes imposed by this title for:

1. Net increases in employment under United States department of defense contracts during the taxable year, as computed under subsection D of this section, by a qualified defense contractor that is certified by the department of commerce under section 41-1508.

2. Net increases in private commercial employment during the taxable year, as computed under subsection E of this section, by a qualified defense contractor that is certified by the department of commerce under section 41-1508 due to full-time equivalent employee positions transferred during the taxable year by the taxpayer from exclusively defense related activities to employment by the taxpayer in exclusively private commercial activities.

B. The amount of the credit is a dollar amount allowed for each full-time equivalent employee position created, determined as follows:

1st year	$2,500
2nd year	$2,000
3rd year	$1,500
4th year	$1,000
5th year	$ 500

C. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry the amount of the claim not used to offset the taxes under this title forward until taxable years beginning from and after

1 December 31, 2011 as a credit against subsequent years' income tax liability,
2 regardless of continuing certification as a qualified defense contractor.
3 D. The net increase in employment under defense related contracts
4 shall be determined as follows:
5 1. Establish an employment baseline for the taxpayer based on a
6 multiyear forecast of employment on United States department of defense
7 contracts that was submitted to the department of defense before June 1,
8 1992. The annual average employment forecast for the first year the taxpayer
9 qualified is the baseline. If the taxpayer did not make such a forecast
10 before June 1, 1992, the baseline is the average annual employment as
11 reported to the department of economic security during the preceding taxable
12 year. If a taxpayer qualifies in the same year it relocates into this state,
13 the taxpayer's baseline is zero.
14 2. For the first year of the credit, the taxpayer's net increase in
15 average employment is the increase in employment reported to the department
16 of economic security for the taxable year over the employment baseline.
17 3. For each succeeding year of the credit, the taxpayer's net increase
18 in average employment is the increase in employment reported to the
19 department of economic security for the taxable year over the preceding
20 taxable year's average employment.
21 E. In computing the amount of credit allowed under subsection A,
22 paragraph 2 of this section, the taxpayer shall:
23 1. Prorate employment during the taxable year according to the date of
24 transfer from defense to private commercial activities or the date of
25 transfer from private commercial activities to defense.
26 2. Compute and subtract an amount pursuant to subsection B of this
27 section for full-time equivalent employee positions that were transferred
28 during the taxable year by the taxpayer from exclusively private commercial
29 activities to exclusively defense related activities.
30 F. The taxpayer shall account for qualifying full-time equivalent
31 employee positions on a first-in first-out basis. If a decrease in
32 qualifying employment occurs, the taxpayer shall subtract the decrease from
33 the earliest qualifying positions.
34 G. A credit is not allowed under both subsection A, paragraphs 1 and 2
35 of this section with respect to the same employee position. A full-time
36 equivalent employee position may be considered for purposes of computing the
37 credit under either subsection A, paragraph 1 or 2 of this section, but not
38 both.
39 H. A credit is not allowed under this section with respect to
40 employment that was transferred from an outside contractor in this state to
41 in-house employment by the taxpayer solely for purposes of qualifying for the
42 credit.
43 I. A taxpayer that claims a credit under section 43-1161, 43-1164.01
44 or 43-1167 may not claim a credit under this section with respect to the same
45 ~~employees~~ EMPLOYEE POSITIONS.

J. Co-owners of a business, including corporate partners in a partnership, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners may not exceed the amount that would have been allowed for a sole owner of the business.

Sec. 16. Section 43-1167, Arizona Revised Statutes, is amended to read:

43-1167. Credit for increased employment in military reuse zones; definition

A. A credit is allowed against the taxes imposed by this title for net increases in employment by the taxpayer of full-time employees working in a military reuse zone, established under title 41, chapter 10, article 3, and who are primarily engaged in providing aviation or aerospace services or in manufacturing, assembling or fabricating aviation or aerospace products. The amount of the credit is a dollar amount allowed for each new employee, determined as follows:

1. With respect to each employee other than a dislocated military base employee:

1st year of employment	$ 500
2nd year of employment	$1,000
3rd year of employment	$1,500
4th year of employment	$2,000
5th year of employment	$2,500

2. With respect to each dislocated military base employee:

1st year of employment	$1,000
2nd year of employment	$1,500
3rd year of employment	$2,000
4th year of employment	$2,500
5th year of employment	$3,000

B. If the allowable tax credit 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 the taxes under this title may be carried forward as a credit against subsequent years' income tax liability for the period, not to exceed five taxable years, if the business remains in the military reuse zone.

C. The net increase in the number of employees for purposes of this section shall be determined by comparing the taxpayer's average employment in the military reuse zone during the taxable year with the taxpayer's previous year's fourth quarter employment in the zone, based on the taxpayer's report to the department of economic security for unemployment insurance purposes but considering only employment in the zone.

D. Co-owners of a business, including corporate partners in a partnership, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits

allowed all such owners may not exceed the amount that would have been allowed for a sole owner of the business.

E. A credit is not allowed under this section with respect to an employee whose place of employment is relocated by the taxpayer from a location in this state to the military reuse zone unless the employee is engaged in aviation or aerospace services or in manufacturing, assembling or fabricating aviation or aerospace products and the taxpayer maintains at least the same number of employees in this state but outside the zone.

F. A taxpayer who claims a credit under section 43-1161, 43-1164.01 or 43-1165 may not claim a credit under this section with respect to the same employees.

G. For the purposes of this section, "dislocated military base employee" means a civilian who previously had permanent full-time civilian employment on the military facility as of the date the closure of the facility was finally determined under federal law, as certified by the department of commerce.

Sec. 17. Delayed repeal

Sections 41-1511, 43-1083.01 and 43-1164.01, Arizona Revised Statutes, as added by this act, are repealed from and after December 31, 2015.

Sec. 18. Emergency rules

The department of commerce and the department of revenue may adopt emergency rules pursuant to section 41-1026, Arizona Revised Statutes, that are necessary to accomplish the intent and purposes of this act.

Sec. 19. Purpose

Pursuant to section 43-223, Arizona Revised Statutes, the income tax credits enacted in sections 43-1083.01 and 43-1164.01, Arizona Revised Statutes, as added by this act, are intended to encourage business investment that will produce high quality employment opportunities for citizens of this state and enhance the position of this state as a center for production and use of renewable energy products.

APPROVED BY THE GOVERNOR JULY 10, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 10, 2009.