

REFERENCE TITLE: R&D tax credits; conversion; application

State of Arizona  
House of Representatives  
Fifty-second Legislature  
Second Regular Session  
2016

# HB 2601

Introduced by  
Representative Livingston

AN ACT

AMENDING TITLE 41, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1507.02; AMENDING SECTION 42-1118, ARIZONA REVISED STATUTES; AMENDING SECTION 43-1074.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2014, CHAPTER 168, SECTION 5; AMENDING SECTION 43-1074.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2014, CHAPTER 168, SECTION 6; AMENDING SECTION 43-1168, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2014, CHAPTER 168, SECTION 9; AMENDING SECTION 43-1168, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2014, CHAPTER 168, SECTION 10; RELATING TO INCOME TAX CREDITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 41, chapter 10, article 1, Arizona Revised Statutes,  
3 is amended by adding section 41-1507.02, to read:

4 41-1507.02. Income tax credit for increased research  
5 activities; qualification for conversion of  
6 amount carried forward; application; fee;  
7 definition

8 A. THE AUTHORITY SHALL RECEIVE APPLICATIONS FROM AND EVALUATE AND  
9 CERTIFY TAXPAYERS WHO ARE CARRYING FORWARD UNUSED AMOUNTS OF AN INCOME TAX  
10 CREDIT FOR INCREASED RESEARCH ACTIVITIES UNDER SECTION 43-1074.01 OR 43-1168  
11 TO FURTHER QUALIFY TO CONVERT A PORTION OF THE UNUSED BALANCE OF THE TAX  
12 CREDIT, AT THE TAXPAYER'S OPTION EITHER:

13 1. TO OFFSET THE TRANSACTION PRIVILEGE TAX BURDEN WITH RESPECT TO  
14 CONTRACTS FOR THE CONSTRUCTION OF FIXED CAPITAL ASSETS IN THIS STATE THAT ARE  
15 OWNED BY THE TAXPAYER.

16 2. INTO CASH REIMBURSEMENTS FOR INFRASTRUCTURE IMPROVEMENTS AND OTHER  
17 CAPITAL EXPENDITURES ASSOCIATED WITH PROJECTS IN THIS STATE.

18 B. THE AMOUNT OF THE TAX CREDIT THAT MAY BE CONVERTED UNDER THIS  
19 SECTION IS EIGHTY-FIVE PERCENT OF THE AMOUNT REQUESTED FOR CONVERSION. THE  
20 TAXPAYER WAIVES THE REMAINING FIFTEEN PERCENT OF THE UNUSED AMOUNT OF THE TAX  
21 CREDITS REQUESTED ON APPROVAL OF THE CONVERSION.

22 C. TO BE ELIGIBLE FOR THE CONVERSION OF UNUSED INCOME TAX CREDITS  
23 UNDER THIS SECTION, THE TAXPAYER MUST MAKE NEW CAPITAL INVESTMENT OR CREATE  
24 OR RETAIN EMPLOYMENT IN THIS STATE AFTER DECEMBER 31, 2016 AS FOLLOWS:

25 1. THE INVESTMENT REQUIREMENT FOR FIXED CAPITAL ASSETS MUST EQUAL AT  
26 LEAST \_\_\_\_\_ MILLION DOLLARS.

27 2. THE EMPLOYMENT REQUIREMENT MUST INVOLVE THE CREATION OR RETENTION  
28 OF AT LEAST \_\_\_\_\_ EMPLOYMENT POSITIONS AT THE LOCATION OR LOCATIONS OF  
29 THE CAPITAL INVESTMENT TO WHICH ALL OF THE FOLLOWING APPLY:

30 (a) EACH EMPLOYMENT POSITION CONSISTS OF AT LEAST ONE THOUSAND SEVEN  
31 HUNDRED FIFTY HOURS PER YEAR OF FULL-TIME PERMANENT EMPLOYMENT.

32 (b) THE JOB DUTIES ARE PERFORMED PRIMARILY AT THE LOCATION OR  
33 LOCATIONS OF THE CAPITAL INVESTMENT.

34 (c) THE EMPLOYER PAYS COMPENSATION AT LEAST EQUAL TO THE MEDIAN WAGE  
35 BY COUNTY AS COMPUTED ANNUALLY BY THE AUTHORITY.

36 D. THE TAXPAYER MUST APPLY TO THE AUTHORITY FOR CONVERSION OF TAX  
37 CREDITS IN A FORM THAT IS PRESCRIBED BY THE AUTHORITY AND THAT INCLUDES ALL  
38 OF THE FOLLOWING INFORMATION:

39 1. THE TAXPAYER'S NAME, ADDRESS AND TAXPAYER IDENTIFICATION NUMBER AND  
40 A TELEPHONE NUMBER AND E-MAIL ADDRESS OF A PERSON RESPONSIBLE FOR THE  
41 APPLICATION.

42 2. A GENERAL DESCRIPTION OF THE TAXPAYER'S BUSINESS AND THE RESEARCH  
43 ACTIVITIES CONDUCTED BY THE TAXPAYER.

44 3. THE ADDRESS OF THE SITE WHERE THE FIXED CAPITAL ASSETS ARE LOCATED.

1           4. A GENERAL DESCRIPTION OF THE BUSINESS ACTIVITIES CONDUCTED AT THE  
2 LOCATION.  
3           5. THE AMOUNT OF CAPITAL INVESTMENT OR NUMBER OF EMPLOYMENT POSITIONS  
4 AT THE LOCATION, INCLUDING:  
5           (a) A SCHEDULE OF QUALIFYING INVESTMENTS.  
6           (b) A LIST OF FULL-TIME EMPLOYMENT POSITIONS, THE NUMBER OF EMPLOYEES  
7 HIRED FOR THE POSITIONS AND THE ANNUAL COMPENSATION FOR EACH POSITION,  
8 CALCULATED WITHOUT EMPLOYEE-RELATED BENEFITS.  
9           6. THE AMOUNT OF THE TAXPAYER'S OUTSTANDING TAX CREDITS UNDER SECTION  
10 43-1074.01 OR 43-1168, AS APPLICABLE, TO BE CONVERTED UNDER THIS SECTION.  
11           7. OTHER INFORMATION AS REQUIRED BY THE AUTHORITY TO DETERMINE  
12 ELIGIBILITY FOR THE CONVERSION OF TAX CREDITS UNDER THIS SECTION.  
13           8. AN AFFIRMATION, SIGNED BY AN AUTHORIZED EXECUTIVE REPRESENTING THE  
14 TAXPAYER, THAT THE APPLICANT:  
15           (a) AGREES TO FURNISH RECORDS OF EXPENDITURES FOR CAPITAL INVESTMENTS  
16 TO THE AUTHORITY ON REQUEST.  
17           (b) WILL CONTINUE IN BUSINESS AT THE QUALIFYING LOCATION FOR FIVE FULL  
18 CALENDAR YEARS AFTER APPROVAL, OTHER THAN FOR REASONS BEYOND THE CONTROL OF  
19 THE APPLICANT.  
20           (c) AGREES TO ALLOW SITE VISITS AND AUDITS TO VERIFY THE APPLICANT'S  
21 QUALIFICATION AND THE ACCURACY OF INFORMATION SUBMITTED TO THE AUTHORITY.  
22           E. THE APPLICANT SHALL INCLUDE WITH THE APPLICATION A NONREFUNDABLE  
23 PROCESSING FEE IN AN AMOUNT DETERMINED BY THE AUTHORITY.  
24           F. THE AUTHORITY SHALL PROCESS AND EVALUATE EACH APPLICATION AND,  
25 WITHIN THIRTY DAYS AFTER RECEIVING A COMPLETE AND CORRECT APPLICATION, SHALL  
26 NOTIFY THE APPLICANT EITHER:  
27           1. OF APPROVAL AND ISSUE A CERTIFICATE OF CONVERSION OF THE TAX  
28 CREDITS. THE APPLICANT MUST PRESENT THE CERTIFICATE OF CONVERSION TO THE  
29 DEPARTMENT OF REVENUE AS PROVIDED BY SECTION 42-1118 FOR A REFUND OF  
30 TRANSACTION PRIVILEGE TAX AMOUNTS INCURRED WITH RESPECT TO CONSTRUCTION  
31 CONTRACTS ASSOCIATED WITH THE CAPITAL INVESTMENT.  
32           2. OF FAILURE TO QUALIFY WITH SPECIFIC REASONS FOR THE FAILURE. A  
33 FAILURE TO QUALIFY DOES NOT PRECLUDE A SUBSEQUENT APPLICATION AND APPROVAL IF  
34 THE APPLICANT CORRECTS ANY ERROR OR DEFICIENCY.  
35           G. THE AUTHORITY MAY NOT APPROVE THE CONVERSION OF INCOME TAX CREDIT  
36 CARRYOVERS UNDER THIS SECTION EXCEEDING A TOTAL OF TWENTY MILLION DOLLARS IN  
37 ANY FISCAL YEAR. CONVERSIONS ARE ALLOWED ON A FIRST-COME, FIRST-SERVED BASIS  
38 ACCORDING TO THE DATE THE APPLICATION IS FILED WITH THE AUTHORITY. AN  
39 APPROVED AMOUNT APPLIES AGAINST THE DOLLAR LIMIT FOR THE FISCAL YEAR IN WHICH  
40 THE AUTHORITY RECEIVED THE COMPLETE AND CORRECT APPLICATION. IF, AT THE END  
41 OF THE YEAR, AN UNUSED BALANCE OCCURS UNDER THE DOLLAR LIMIT PRESCRIBED IN  
42 THIS SUBSECTION, THE UNUSED BALANCE ROLLS OVER TO ADD TO THE CONVERSION  
43 CAPACITY OF THE FOLLOWING YEAR.

1 H. FOR THE PURPOSES OF THIS SECTION, "CAPITAL INVESTMENT" MEANS AN  
2 EXPENDITURE TO ACQUIRE, LEASE OR IMPROVE PROPERTY THAT IS USED IN OPERATING A  
3 BUSINESS, INCLUDING LAND, BUILDINGS AND FIXTURES.

4 Sec. 2. Section 42-1118, Arizona Revised Statutes, is amended to read:  
5 42-1118. Refunds, credits, offsets and abatelements

6 A. If the department determines that any amount of tax, penalty or  
7 interest has been paid in excess of the amount actually due, the department  
8 shall credit the excess amount against any tax administered pursuant to this  
9 article, including any penalty, interest or other amounts owed by the  
10 taxpayer to the department. If it is determined that the amount cannot be  
11 credited against a tax or installment of taxes due from the taxpayer, the  
12 department may:

13 1. Refund the entire amount of tax, interest and penalty, in a lump  
14 sum or in not more than five annual installments, to the taxpayer from whom  
15 it was collected.

16 2. Issue to the taxpayer a credit voucher for the entire amount of  
17 tax, interest and penalty collected, to be carried forward and applied  
18 against future tax liabilities until exhausted.

19 3. Refund part, and issue a credit voucher for the balance, of the  
20 tax, interest and penalties as provided in paragraphs 1 and 2 of this  
21 subsection.

22 B. If the total amount withheld from income under section 43-401  
23 exceeds the amount of the tax on the employee's entire taxable income as  
24 computed under title 43, the department shall refund the amount of the excess  
25 deducted without requiring a filing of a refund claim as provided in this  
26 section. The failure of the department to make the refund does not limit the  
27 right of the taxpayer to file a claim for a refund pursuant to this section  
28 if the claim is not barred under section 42-1106. The department shall not  
29 refund amounts less than one dollar unless specifically requested by the  
30 taxpayer at the time the return or claim for refund is filed.

31 C. Any overpayment that may result from withholdings or estimates  
32 pursuant to section 43-401, 43-581 or 43-582 shall not be credited or  
33 refunded unless an Arizona income tax return has been filed for the tax year  
34 for which the withholdings or estimates were made.

35 D. The department shall give a vendor who has a duty to collect use  
36 tax pursuant to chapter 5, article 4 of this title and who has not collected  
37 that tax full credit or offset for any use tax, interest and penalty paid to  
38 the department by the purchaser when issuing a determination of a deficiency  
39 pursuant to section 42-1108. This credit or offset shall be computed from  
40 the date of the use tax payment by the purchaser. If the purchaser has been  
41 audited by the department for use tax for the period of the purchase, the  
42 purchaser is considered to have paid the use tax to the department. For  
43 other purchases, the vendor may submit an affirmation by a purchaser on a  
44 form prescribed by the department that use tax was paid on the purchase. A  
45 fully completed certificate, taken in good faith by the vendor, constitutes

1 proof that the vendor is entitled to this credit or offset. The department  
2 may require a purchaser who has submitted the certificate to establish the  
3 accuracy and completeness of the information contained in the certificate.  
4 If the purchaser cannot establish the accuracy and completeness of the  
5 information, the purchaser is liable for a penalty equal to the amount of tax  
6 and interest that would have been paid by the seller and for the additional  
7 penalties pursuant to section 42-1125. Payment of the penalty relieves the  
8 purchaser of any responsibility for paying the use tax. The department may  
9 require this proof and may assess the purchaser within the later of the  
10 period of limitations set forth in section 42-1104 or one year from the date  
11 the notice of proposed deficiency is issued to the vendor if the purchaser  
12 does not establish the accuracy of the information contained in the  
13 certificate.

14 E. Each claim for refund shall be filed with the department in writing  
15 and shall identify the claimant by name, address and tax identification  
16 number. Each claim shall provide the amount of refund requested, the  
17 specific tax period involved and the specific grounds on which the claim is  
18 founded. Refunds are subject to setoff for debts pursuant to section  
19 42-1122.

20 F. A motor vehicle manufacturer that repurchases a vehicle pursuant to  
21 section 44-1263 or for reasons of consumer satisfaction may apply for a  
22 refund of the taxes paid under chapter 5 of this title if that manufacturer  
23 has refunded the amount of tax to the consumer. A refund is allowed under  
24 this subsection only if the manufacturer provides satisfactory proof to the  
25 department that tax amounts attributed to the sale of the vehicle were  
26 collected from the consumer and that the manufacturer refunded an amount of  
27 tax to the consumer. Any refund provided under this subsection is in lieu of  
28 any refund on the vehicle that the dealer may otherwise be entitled to  
29 receive. A manufacturer must apply for a refund under this subsection within  
30 four years after repurchasing the vehicle. For the purposes of this  
31 subsection:

- 32 1. "Consumer" has the same meaning prescribed in section 44-1261.
- 33 2. "Motor vehicle manufacturer" means a corporation engaged in the  
34 business of producing passenger cars, trucks and multipurpose passenger  
35 vehicles as described in 49 Code of Federal Regulations section 571.3.
- 36 3. "Satisfactory proof" includes copies of checks and a purchase or  
37 lease agreement that lists the vehicle identification number and that  
38 itemizes the amount that was collected as tax from the consumer.

39 G. A TAXPAYER WHO HAS AN INCOME TAX CREDIT FOR INCREASED RESEARCH  
40 ACTIVITIES UNDER SECTION 43-1074.01 OR 43-1168 AND WHO MEETS PRESCRIBED  
41 CAPITAL INVESTMENT OR EMPLOYMENT THRESHOLDS MAY CONVERT EIGHTY-FIVE PERCENT  
42 OF THE OUTSTANDING INCOME TAX CREDIT CARRYFORWARD TOWARD A REFUND OF AMOUNTS  
43 PAID BY THE TAXPAYER FOR TRANSACTION PRIVILEGE TAXES IMPOSED PURSUANT TO  
44 SECTION 42-5075 WITH RESPECT TO CONSTRUCTION CONTRACTS ASSOCIATED WITH THE  
45 CAPITAL INVESTMENT OR INTO CASH REIMBURSEMENTS FOR INFRASTRUCTURE

1 IMPROVEMENTS AND OTHER CAPITAL EXPENDITURES ASSOCIATED WITH PROJECTS IN THIS  
2 STATE. THE TAXPAYER MUST SUBMIT A CLAIM FOR REFUND TO THE DEPARTMENT AS  
3 PROVIDED BY THIS SECTION, INCLUDING A CERTIFICATE OF CONVERSION ISSUED BY THE  
4 ARIZONA COMMERCE AUTHORITY TO THE TAXPAYER PURSUANT TO SECTION 41-1507.02.  
5 ON CONFIRMING THE VALIDITY OF THE CLAIM, THE DEPARTMENT SHALL PAY THE ENTIRE  
6 AMOUNT AS A LUMP SUM.

7 ~~G.~~ H. The department shall not imprint the full social security  
8 number or other taxpayer identifier used pursuant to section 42-1105 on any  
9 taxpayer refund check, voucher or other credit documentation issued to the  
10 taxpayer under this section.

11 ~~H.~~ I. If any amount has been erroneously determined to be due from  
12 any person but not yet collected, the department shall cancel the amount or  
13 amounts on its records.

14 ~~I.~~ J. If, with or after the filing of a protest or an appeal with the  
15 department, the state board of tax appeals or the court, a taxpayer pays the  
16 tax protested or appealed before the department, board or court acts ~~upon~~ ON  
17 the protest or the appeal, such body shall treat the protest or the appeal as  
18 a claim for refund or an appeal from the denial of a claim for refund filed  
19 under this section.

20 Sec. 3. Section 43-1074.01, Arizona Revised Statutes, as amended by  
21 Laws 2014, chapter 168, section 5, is amended to read:

22 43-1074.01. Credit for increased research activities

23 A. A credit is allowed against the taxes imposed by this title in an  
24 amount determined pursuant to section 41 of the internal revenue code, except  
25 that:

26 1. The amount of the credit is based on the excess, if any, of the  
27 qualified research expenses for the taxable year over the base amount as  
28 defined in section 41(c) of the internal revenue code and is computed as  
29 follows:

30 (a) If the excess is two million five hundred thousand dollars or  
31 less, the credit is equal to twenty-four ~~per cent~~ PERCENT of that amount.

32 (b) If the excess is over two million five hundred thousand dollars,  
33 the credit is equal to six hundred thousand dollars plus fifteen ~~per cent~~  
34 PERCENT of any amount exceeding two million five hundred thousand dollars,  
35 except that:

36 (i) For taxable years beginning from and after December 31, 2000  
37 through December 31, 2001, the credit shall not exceed one million five  
38 hundred thousand dollars.

39 (ii) For taxable years beginning from and after December 31, 2001  
40 through December 31, 2002, the credit shall not exceed two million five  
41 hundred thousand dollars.

42 (c) For taxable years beginning from and after December 31, 2011, an  
43 additional credit amount is allowed if the taxpayer made basic research  
44 payments during the taxable year to a university under the jurisdiction of  
45 the Arizona board of regents. The additional credit amount is equal to ten

1 ~~per-cent~~ PERCENT of the excess, if any, of the basic research payments over  
2 the qualified organization base period amount for the taxable year. The  
3 department shall not allow credit amounts under this subdivision and section  
4 43-1168, subsection A, paragraph 1, subdivision (d) that exceed, in the  
5 aggregate, a combined total of ten million dollars in any calendar year.  
6 Subject to that limit, on application by the taxpayer, the department shall  
7 certify credit amounts under this subdivision and section 43-1168, subsection  
8 A, paragraph 1, subdivision (d) based on priority placement established by  
9 the date that the taxpayer filed the application. For taxable years  
10 beginning from and after December 31, 2014, any basic research payments used  
11 to determine the additional credit under this subdivision must first receive  
12 certification from the Arizona commerce authority pursuant to section  
13 41-1507.01. The additional credit amount under this subdivision shall not  
14 exceed the amount allowed based on actual basic research payments or the  
15 department's certification, whichever is less. If an application, if  
16 certified in full, would exceed the ten million dollar limit, the department  
17 shall certify only an amount within that limit. After the limit is attained,  
18 the department shall deny any subsequent applications regardless of whether  
19 other certified amounts are not actually claimed as a credit or other  
20 taxpayers fail to qualify to actually claim certified amounts.  
21 Notwithstanding subsections B and C of this section, any amount of the  
22 additional credit under this subdivision that exceeds the taxes otherwise due  
23 under this title is not refundable, but may be carried forward to the next  
24 five consecutive taxable years. For the purposes of this subdivision, "basic  
25 research payments" and "qualified organization base period amount" have the  
26 same meanings prescribed by section 41(e) of the internal revenue code  
27 without regard to whether the taxpayer is or is not a corporation.

28 2. Qualified research includes only research conducted in this state,  
29 including research conducted at a university in this state and paid for by  
30 the taxpayer.

31 3. If two or more taxpayers, including partners in a partnership and  
32 shareholders of an S corporation, as defined in section 1361 of the internal  
33 revenue code, share in the eligible expenses, each taxpayer is eligible to  
34 receive a proportionate share of the credit.

35 4. The credit under this section applies only to expenses incurred  
36 from and after December 31, 2000.

37 5. The termination provisions of section 41 of the internal revenue  
38 code do not apply.

39 B. Except as provided by ~~subsection~~ SUBSECTIONS C AND D of this  
40 section, if the allowable credit under this section exceeds the taxes  
41 otherwise due under this title on the claimant's income, or if there are no  
42 taxes due under this title, the amount of the credit not used to offset taxes  
43 may be carried forward to the next fifteen consecutive taxable years. The  
44 amount of credit carryforward from taxable years beginning from and after  
45 December 31, 2000 through December 31, 2002 that may be used in any taxable

1 year may not exceed the taxpayer's tax liability under this title or five  
2 hundred thousand dollars, whichever is less, minus the credit under this  
3 section for the current taxable year's qualified research expenses. The  
4 amount of credit carryforward from taxable years beginning from and after  
5 December 31, 2002 that may be used in any taxable year may not exceed the  
6 taxpayer's tax liability under this title minus the credit under this section  
7 for the current taxable year's qualified research expenses. A taxpayer who  
8 carries forward any amount of credit under this subsection may not thereafter  
9 claim a refund of any amount of the credit under subsection C of this  
10 section.

11 C. For taxable years beginning from and after December 31, 2009, if a  
12 taxpayer who claims a credit under this section employs fewer than one  
13 hundred fifty persons in the taxpayer's trade or business and if the  
14 allowable credit under this section exceeds the taxes otherwise due under  
15 this title on the claimant's income, or if there are no taxes due under this  
16 title, in lieu of carrying the excess amount of credit forward to subsequent  
17 taxable years under subsection B of this section, the taxpayer may elect to  
18 receive a refund as follows:

19 1. The taxpayer must apply to the Arizona commerce authority for  
20 qualification for the refund pursuant to section 41-1507 and submit a copy of  
21 the authority's certificate of qualification to the department of revenue  
22 with the taxpayer's income tax return.

23 2. The amount of the refund is limited to seventy-five ~~per cent~~  
24 PERCENT of the amount by which the allowable credit under this section  
25 exceeds the taxpayer's tax liability under this title for the taxable year.  
26 The remainder of the excess amount of the credit is waived.

27 3. The refund shall be paid in the manner prescribed by section  
28 42-1118.

29 4. The refund is subject to setoff under section 42-1122.

30 5. If the department determines that a credit refunded pursuant to  
31 this subsection is incorrect or invalid, the excess credit issued may be  
32 treated as a tax deficiency pursuant to section 42-1108.

33 D. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2016, IF A  
34 TAXPAYER CLAIMS A CREDIT UNDER THIS SECTION AND IF THE ALLOWABLE CREDIT UNDER  
35 THIS SECTION EXCEEDS THE TAXES OTHERWISE DUE UNDER THIS TITLE, OR IF THERE  
36 ARE NO TAXES DUE UNDER THIS TITLE, IN LIEU OF CARRYING THE EXCESS AMOUNT OF  
37 CREDIT FORWARD TO SUBSEQUENT TAXABLE YEARS UNDER SUBSECTION B OF THIS  
38 SECTION, THE TAXPAYER MAY ELECT TO CONVERT A PORTION OF THE UNUSED BALANCE OF  
39 THE CREDIT EITHER TO OFFSET THE TRANSACTION PRIVILEGE TAX BURDEN WITH RESPECT  
40 TO CONTRACTS FOR THE CONSTRUCTION OF FIXED CAPITAL ASSETS IN THIS STATE THAT  
41 ARE OWNED BY THE TAXPAYER OR INTO CASH REIMBURSEMENTS FOR INFRASTRUCTURE  
42 IMPROVEMENTS AND OTHER CAPITAL EXPENDITURES ASSOCIATED WITH PROJECTS IN THIS  
43 STATE. THE AMOUNT OF THE TAX CREDIT THAT MAY BE CONVERTED UNDER THIS  
44 SUBSECTION IS EIGHTY-FIVE PERCENT OF THE AMOUNT REQUESTED FOR CONVERSION ON  
45 THE DATE OF APPLYING FOR THE CONVERSION. THE TAXPAYER WAIVES THE REMAINING

1 FIFTEEN PERCENT OF THE UNUSED AMOUNT OF THE TAX CREDITS REQUESTED ON APPROVAL  
2 OF THE CONVERSION. TO BE ELIGIBLE FOR THE CONVERSION OF UNUSED TAX CREDITS  
3 UNDER THIS SUBSECTION, THE TAXPAYER MUST MAKE NEW CAPITAL INVESTMENT OR  
4 CREATE OR RETAIN EMPLOYMENT IN THIS STATE AFTER DECEMBER 31, 2016, AND APPLY  
5 TO THE ARIZONA COMMERCE AUTHORITY AS PRESCRIBED BY SECTION 41-1507.02.

6 ~~D.~~ E. A taxpayer that claims a credit for increased research and  
7 development activity under this section shall not claim a credit under  
8 section 43-1085.01 for the same expenses.

9 Sec. 4. Section 43-1074.01, Arizona Revised Statutes, as amended by  
10 Laws 2014, chapter 168, section 6, is amended to read:

11 43-1074.01. Credit for increased research activities

12 A. A credit is allowed against the taxes imposed by this title in an  
13 amount determined pursuant to section 41 of the internal revenue code, except  
14 that:

15 1. The amount of the credit is based on the excess, if any, of the  
16 qualified research expenses for the taxable year over the base amount as  
17 defined in section 41(c) of the internal revenue code and is computed as  
18 follows:

19 (a) If the excess is two million five hundred thousand dollars or  
20 less, the credit is equal to twenty ~~per cent~~ PERCENT of that amount.

21 (b) If the excess is over two million five hundred thousand dollars,  
22 the credit is equal to five hundred thousand dollars plus eleven ~~per cent~~  
23 PERCENT of any amount exceeding two million five hundred thousand dollars,  
24 except that:

25 (i) For taxable years beginning from and after December 31, 2000  
26 through December 31, 2001, the credit shall not exceed one million five  
27 hundred thousand dollars.

28 (ii) For taxable years beginning from and after December 31, 2001  
29 through December 31, 2002, the credit shall not exceed two million five  
30 hundred thousand dollars.

31 (c) For taxable years beginning from and after December 31, 2011, an  
32 additional credit amount is allowed if the taxpayer made basic research  
33 payments during the taxable year to a university under the jurisdiction of  
34 the Arizona board of regents. The additional credit amount is equal to ten  
35 ~~per cent~~ PERCENT of the excess, if any, of the basic research payments over  
36 the qualified organization base period amount for the taxable year. The  
37 department shall not allow credit amounts under this subdivision and section  
38 43-1168, subsection A, paragraph 1, subdivision (d) that exceed, in the  
39 aggregate, a combined total of ten million dollars in any calendar year.  
40 Subject to that limit, on application by the taxpayer, the department shall  
41 certify credit amounts under this subdivision and section 43-1168, subsection  
42 A, paragraph 1, subdivision (d) based on priority placement established by  
43 the date that the taxpayer filed the application. For taxable years  
44 beginning from and after December 31, 2014, any basic research payments used  
45 to determine the additional credit under this subdivision must first receive

1 certification from the Arizona commerce authority pursuant to section  
2 41-1507.01. The additional credit amount under this subdivision shall not  
3 exceed the amount allowed based on actual basic research payments or the  
4 department's certification, whichever is less. If an application, if  
5 certified in full, would exceed the ten million dollar limit, the department  
6 shall certify only an amount within that limit. After the limit is attained,  
7 the department shall deny any subsequent applications regardless of whether  
8 other certified amounts are not actually claimed as a credit or other  
9 taxpayers fail to qualify to actually claim certified amounts.  
10 Notwithstanding subsections B and C of this section, any amount of the  
11 additional credit under this subdivision that exceeds the taxes otherwise due  
12 under this title is not refundable, but may be carried forward to the next  
13 five consecutive taxable years. For the purposes of this subdivision, "basic  
14 research payments" and "qualified organization base period amount" have the  
15 same meanings prescribed by section 41(e) of the internal revenue code  
16 without regard to whether the taxpayer is or is not a corporation.

17 2. Qualified research includes only research conducted in this state,  
18 including research conducted at a university in this state and paid for by  
19 the taxpayer.

20 3. If two or more taxpayers, including partners in a partnership and  
21 shareholders of an S corporation, as defined in section 1361 of the internal  
22 revenue code, share in the eligible expenses, each taxpayer is eligible to  
23 receive a proportionate share of the credit.

24 4. The credit under this section applies only to expenses incurred  
25 from and after December 31, 2000.

26 5. The termination provisions of section 41 of the internal revenue  
27 code do not apply.

28 B. Except as provided by ~~subsection~~ SUBSECTIONS C AND D of this  
29 section, if the allowable credit under this section exceeds the taxes  
30 otherwise due under this title on the claimant's income, or if there are no  
31 taxes due under this title, the amount of the credit not used to offset taxes  
32 may be carried forward to the next fifteen consecutive taxable years. The  
33 amount of credit carryforward from taxable years beginning from and after  
34 December 31, 2000 through December 31, 2002 that may be used in any taxable  
35 year may not exceed the taxpayer's tax liability under this title or five  
36 hundred thousand dollars, whichever is less, minus the credit under this  
37 section for the current taxable year's qualified research expenses. The  
38 amount of credit carryforward from taxable years beginning from and after  
39 December 31, 2002 that may be used in any taxable year may not exceed the  
40 taxpayer's tax liability under this title minus the credit under this section  
41 for the current taxable year's qualified research expenses. A taxpayer who  
42 carries forward any amount of credit under this subsection may not thereafter  
43 claim a refund of any amount of the credit under subsection C of this  
44 section.

1 C. For taxable years beginning from and after December 31, 2009, if a  
2 taxpayer who claims a credit under this section employs fewer than one  
3 hundred fifty persons in the taxpayer's trade or business and if the  
4 allowable credit under this section exceeds the taxes otherwise due under  
5 this title on the claimant's income, or if there are no taxes due under this  
6 title, in lieu of carrying the excess amount of credit forward to subsequent  
7 taxable years under subsection B of this section, the taxpayer may elect to  
8 receive a refund as follows:

9 1. The taxpayer must apply to the Arizona commerce authority for  
10 qualification for the refund pursuant to section 41-1507 and submit a copy of  
11 the authority's certificate of qualification to the department of revenue  
12 with the taxpayer's income tax return.

13 2. The amount of the refund is limited to seventy-five ~~per cent~~  
14 PERCENT of the amount by which the allowable credit under this section  
15 exceeds the taxpayer's tax liability under this title for the taxable year.  
16 The remainder of the excess amount of the credit is waived.

17 3. The refund shall be paid in the manner prescribed by section  
18 42-1118.

19 4. The refund is subject to setoff under section 42-1122.

20 5. If the department determines that a credit refunded pursuant to  
21 this subsection is incorrect or invalid, the excess credit issued may be  
22 treated as a tax deficiency pursuant to section 42-1108.

23 D. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2016, IF A  
24 TAXPAYER CLAIMS A CREDIT UNDER THIS SECTION AND IF THE ALLOWABLE CREDIT UNDER  
25 THIS SECTION EXCEEDS THE TAXES OTHERWISE DUE UNDER THIS TITLE, OR IF THERE  
26 ARE NO TAXES DUE UNDER THIS TITLE, IN LIEU OF CARRYING THE EXCESS AMOUNT OF  
27 CREDIT FORWARD TO SUBSEQUENT TAXABLE YEARS UNDER SUBSECTION B OF THIS  
28 SECTION, THE TAXPAYER MAY ELECT TO CONVERT A PORTION OF THE UNUSED BALANCE OF  
29 THE CREDIT EITHER TO OFFSET THE TRANSACTION PRIVILEGE TAX BURDEN WITH RESPECT  
30 TO CONTRACTS FOR THE CONSTRUCTION OF FIXED CAPITAL ASSETS IN THIS STATE THAT  
31 ARE OWNED BY THE TAXPAYER OR INTO CASH REIMBURSEMENTS FOR INFRASTRUCTURE  
32 IMPROVEMENTS AND OTHER CAPITAL EXPENDITURES ASSOCIATED WITH PROJECTS IN THIS  
33 STATE. THE AMOUNT OF THE TAX CREDIT THAT MAY BE CONVERTED UNDER THIS  
34 SUBSECTION IS EIGHTY-FIVE PERCENT OF THE AMOUNT REQUESTED FOR CONVERSION ON  
35 THE DATE OF APPLYING FOR THE CONVERSION. THE TAXPAYER WAIVES THE REMAINING  
36 FIFTEEN PERCENT OF THE UNUSED AMOUNT OF THE TAX CREDITS REQUESTED ON APPROVAL  
37 OF THE CONVERSION. TO BE ELIGIBLE FOR THE CONVERSION OF UNUSED TAX CREDITS  
38 UNDER THIS SUBSECTION, THE TAXPAYER MUST MAKE NEW CAPITAL INVESTMENT OR  
39 CREATE OR RETAIN EMPLOYMENT IN THIS STATE AFTER DECEMBER 31, 2016, AND APPLY  
40 TO THE ARIZONA COMMERCE AUTHORITY AS PRESCRIBED BY SECTION 41-1507.02.

41 ~~D.~~ E. A taxpayer that claims a credit for increased research and  
42 development activity under this section shall not claim a credit under  
43 section 43-1085.01 for the same expenses.

1           Sec. 5. Section 43-1168, Arizona Revised Statutes, as amended by Laws  
2 2014, chapter 168, section 9, is amended to read:

3           43-1168. Credit for increased research activities

4           A. A credit is allowed against the taxes imposed by this title in an  
5 amount determined pursuant to section 41 of the internal revenue code, except  
6 that:

7           1. The amount of the credit is computed as follows:

8           (a) Add:

9           (i) The excess, if any, of the qualified research expenses for the  
10 taxable year over the base amount as defined in section 41(c) of the internal  
11 revenue code.

12           (ii) The basic research payments determined under section 41(e)(1)(A)  
13 of the internal revenue code.

14           (b) If the sum computed under subdivision (a) is two million five  
15 hundred thousand dollars or less, the credit is equal to twenty-four ~~per-cent~~  
16 PERCENT of that amount.

17           (c) If the sum computed under subdivision (a) is over two million five  
18 hundred thousand dollars, the credit is equal to six hundred thousand dollars  
19 plus fifteen ~~per-cent~~ PERCENT of any amount exceeding two million five  
20 hundred thousand dollars, except that:

21           (i) For taxable years beginning from and after December 31, 2000  
22 through December 31, 2001, the credit shall not exceed one million five  
23 hundred thousand dollars.

24           (ii) For taxable years beginning from and after December 31, 2001  
25 through December 31, 2002, the credit shall not exceed two million five  
26 hundred thousand dollars.

27           (d) For taxable years beginning from and after December 31, 2011, an  
28 additional credit amount is allowed if the taxpayer made basic research  
29 payments during the taxable year to a university under the jurisdiction of  
30 the Arizona board of regents. The additional credit amount is equal to ten  
31 ~~per-cent~~ PERCENT of the excess, if any, of the basic research payments over  
32 the qualified organization base period amount for the taxable year. The  
33 department shall not allow credit amounts under this subdivision and section  
34 43-1074.01, subsection A, paragraph 1, subdivision (c) that exceed, in the  
35 aggregate, a combined total of ten million dollars in any calendar year.  
36 Subject to that limit, on application by the taxpayer, the department shall  
37 certify credit amounts under this subdivision and section 43-1074.01,  
38 subsection A, paragraph 1, subdivision (c) based on priority placement  
39 established by the date that the taxpayer filed the application. For taxable  
40 years beginning from and after December 31, 2014, any basic research payments  
41 used to determine the additional credit under this subdivision must first  
42 receive certification from the Arizona commerce authority pursuant to section  
43 41-1507.01. The additional credit amount under this subdivision shall not  
44 exceed the amount allowed based on actual basic research payments or the  
45 department's certification, whichever is less. If an application, if

1 certified in full, would exceed the ten million dollar limit, the department  
2 shall certify only an amount within that limit. After the limit is attained,  
3 the department shall deny any subsequent applications regardless of whether  
4 other certified amounts are not actually claimed as a credit or other  
5 taxpayers fail to qualify to actually claim certified amounts.  
6 Notwithstanding subsections B and D of this section, any amount of the  
7 additional credit under this subdivision that exceeds the taxes otherwise due  
8 under this title is not refundable, but may be carried forward to the next  
9 five consecutive taxable years. For the purposes of this subdivision, "basic  
10 research payments" and "qualified organization base period amount" have the  
11 same meanings prescribed by section 41(e) of the internal revenue code.

12 2. Qualified research includes only research conducted in this state,  
13 including research conducted at a university in this state and paid for by  
14 the taxpayer.

15 3. If two or more taxpayers, including corporate partners in a  
16 partnership, share in the eligible expenses, each taxpayer is eligible to  
17 receive a proportionate share of the credit.

18 4. The credit under this section applies only to expenses incurred  
19 from and after December 31, 1993.

20 5. The termination provisions of section 41 of the internal revenue  
21 code do not apply.

22 B. Except as provided by ~~subsection~~ SUBSECTIONS D AND E of this  
23 section, if the allowable credit under this section exceeds the taxes  
24 otherwise due under this title on the claimant's income, or if there are no  
25 taxes due under this title, the amount of the credit not used to offset taxes  
26 may be carried forward to the next fifteen consecutive taxable years. The  
27 amount of credit carryforward from taxable years beginning from and after  
28 December 31, 2000 through December 31, 2002 that may be used under this  
29 subsection in any taxable year may not exceed the taxpayer's tax liability  
30 under this title or five hundred thousand dollars, whichever is less, minus  
31 the credit under this section for the current taxable year's qualified  
32 research expenses. The amount of credit carryforward from taxable years  
33 beginning from and after December 31, 2002 that may be used under this  
34 subsection in any taxable year may not exceed the taxpayer's tax liability  
35 under this title minus the credit under this section for the current taxable  
36 year's qualified research expenses. A taxpayer that carries forward any  
37 amount of credit under this subsection may not thereafter claim a refund of  
38 any amount of the credit under subsection D of this section.

39 C. If a taxpayer has qualified research expenses that are carried  
40 forward from taxable years beginning before January 1, 2001, the amount of  
41 the expenses carried forward shall be converted to a credit carryforward by  
42 multiplying the amount of the qualified expenses carried forward by twenty  
43 ~~per cent~~ PERCENT. A credit carryforward determined under this subsection may  
44 be carried forward to not more than fifteen years from the year in which the  
45 expenses were incurred. The amount of credit carryforward from taxable years

1 beginning before January 1, 2001 that may be used under this subsection in  
2 any taxable year may not exceed the taxpayer's tax liability under this title  
3 or five hundred thousand dollars, whichever is less, minus the credit under  
4 this section for the current taxable year's qualified research expenses. The  
5 total amount of credit carryforward from taxable years beginning before  
6 January 1, 2003 that may be used in any taxable year under subsection B and  
7 this subsection may not exceed the taxpayer's tax liability under this title  
8 or five hundred thousand dollars, whichever is less, minus the credit under  
9 this section for the current taxable year's qualified research expenses.

10 D. For taxable years beginning from and after December 31, 2009, if a  
11 taxpayer ~~who~~ THAT claims a credit under this section employs fewer than one  
12 hundred fifty persons in the taxpayer's trade or business and if the  
13 allowable credit under this section exceeds the taxes otherwise due under  
14 this title on the claimant's income, or if there are no taxes due under this  
15 title, in lieu of carrying the excess amount of credit forward to subsequent  
16 taxable years under subsection B of this section, the taxpayer may elect to  
17 receive a refund as follows:

18 1. The taxpayer must apply to the Arizona commerce authority for  
19 qualification for the refund pursuant to section 41-1507 and submit a copy of  
20 the authority's certificate of qualification to the department of revenue  
21 with the taxpayer's income tax return.

22 2. The amount of the refund is limited to seventy-five ~~per-cent~~  
23 PERCENT of the amount by which the allowable credit under this section  
24 exceeds the taxpayer's tax liability under this title for the taxable year.  
25 The remainder of the excess amount of the credit is waived.

26 3. The refund shall be paid in the manner prescribed by section  
27 42-1118.

28 4. The refund is subject to setoff under section 42-1122.

29 5. If the department determines that a credit refunded pursuant to  
30 this subsection is incorrect or invalid, the excess credit issued may be  
31 treated as a tax deficiency pursuant to section 42-1108.

32 E. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2016, IF A  
33 TAXPAYER CLAIMS A CREDIT UNDER THIS SECTION AND IF THE ALLOWABLE CREDIT UNDER  
34 THIS SECTION EXCEEDS THE TAXES OTHERWISE DUE UNDER THIS TITLE, OR IF THERE  
35 ARE NO TAXES DUE UNDER THIS TITLE, IN LIEU OF CARRYING THE EXCESS AMOUNT OF  
36 CREDIT FORWARD TO SUBSEQUENT TAXABLE YEARS UNDER SUBSECTION B OF THIS  
37 SECTION, THE TAXPAYER MAY ELECT TO CONVERT A PORTION OF THE UNUSED BALANCE OF  
38 THE CREDIT EITHER TO OFFSET THE TRANSACTION PRIVILEGE TAX BURDEN WITH RESPECT  
39 TO CONTRACTS FOR THE CONSTRUCTION OF FIXED CAPITAL ASSETS IN THIS STATE THAT  
40 ARE OWNED BY THE TAXPAYER OR INTO CASH REIMBURSEMENTS FOR INFRASTRUCTURE  
41 IMPROVEMENTS AND OTHER CAPITAL EXPENDITURES ASSOCIATED WITH PROJECTS IN THIS  
42 STATE. THE AMOUNT OF THE TAX CREDIT THAT MAY BE CONVERTED UNDER THIS  
43 SUBSECTION IS EIGHTY-FIVE PERCENT OF THE AMOUNT REQUESTED FOR CONVERSION ON  
44 THE DATE OF APPLYING FOR THE CONVERSION. THE TAXPAYER WAIVES THE REMAINING  
45 FIFTEEN PERCENT OF THE UNUSED AMOUNT OF THE TAX CREDITS REQUESTED ON APPROVAL

1 OF THE CONVERSION. TO BE ELIGIBLE FOR THE CONVERSION OF UNUSED TAX CREDITS  
2 UNDER THIS SUBSECTION, THE TAXPAYER MUST MAKE NEW CAPITAL INVESTMENT OR  
3 CREATE OR RETAIN EMPLOYMENT IN THIS STATE AFTER DECEMBER 31, 2016, AND APPLY  
4 TO THE ARIZONA COMMERCE AUTHORITY AS PRESCRIBED BY SECTION 41-1507.02.

5 ~~E-~~ F. A taxpayer that claims a credit for increased research and  
6 development activity under this section shall not claim a credit under  
7 section 43-1164.02 for the same expenses.

8 Sec. 6. Section 43-1168, Arizona Revised Statutes, as amended by Laws  
9 2014, chapter 168, section 10, is amended to read:

10 43-1168. Credit for increased research activity

11 A. A credit is allowed against the taxes imposed by this title in an  
12 amount determined pursuant to section 41 of the internal revenue code, except  
13 that:

14 1. The amount of the credit is computed as follows:

15 (a) Add:

16 (i) The excess, if any, of the qualified research expenses for the  
17 taxable year over the base amount as defined in section 41(c) of the internal  
18 revenue code.

19 (ii) The basic research payments determined under section 41(e)(1)(A)  
20 of the internal revenue code.

21 (b) If the sum computed under subdivision (a) is two million five  
22 hundred thousand dollars or less, the credit is equal to twenty ~~per-cent~~  
23 PERCENT of that amount.

24 (c) If the sum computed under subdivision (a) is over two million five  
25 hundred thousand dollars, the credit is equal to five hundred thousand  
26 dollars plus eleven ~~per-cent~~ PERCENT of any amount exceeding two million five  
27 hundred thousand dollars, except that:

28 (i) For taxable years beginning from and after December 31, 2000  
29 through December 31, 2001, the credit shall not exceed one million five  
30 hundred thousand dollars.

31 (ii) For taxable years beginning from and after December 31, 2001  
32 through December 31, 2002, the credit shall not exceed two million five  
33 hundred thousand dollars.

34 (d) For taxable years beginning from and after December 31, 2011, an  
35 additional credit amount is allowed if the taxpayer made basic research  
36 payments during the taxable year to a university under the jurisdiction of  
37 the Arizona board of regents. The additional credit amount is equal to ten  
38 ~~per-cent~~ PERCENT of the excess, if any, of the basic research payments over  
39 the qualified organization base period amount for the taxable year. The  
40 department shall not allow credit amounts under this subdivision and section  
41 43-1074.01, subsection A, paragraph 1, subdivision (c) that exceed, in the  
42 aggregate, a combined total of ten million dollars in any calendar year.  
43 Subject to that limit, on application by the taxpayer, the department shall  
44 certify credit amounts under this subdivision and section 43-1074.01,  
45 subsection A, paragraph 1, subdivision (c) based on priority placement

1 established by the date that the taxpayer filed the application. For taxable  
2 years beginning from and after December 31, 2014, any basic research payments  
3 used to determine the additional credit under this subdivision must first  
4 receive certification from the Arizona commerce authority pursuant to section  
5 41-1507.01. The additional credit amount under this subdivision shall not  
6 exceed the amount allowed based on actual basic research payments or the  
7 department's certification, whichever is less. If an application, if  
8 certified in full, would exceed the ten million dollar limit, the department  
9 shall certify only an amount within that limit. After the limit is attained,  
10 the department shall deny any subsequent applications regardless of whether  
11 other certified amounts are not actually claimed as a credit or other  
12 taxpayers fail to qualify to actually claim certified amounts.  
13 Notwithstanding subsections B and D of this section, any amount of the  
14 additional credit under this subdivision that exceeds the taxes otherwise due  
15 under this title is not refundable, but may be carried forward to the next  
16 five consecutive taxable years. For the purposes of this subdivision, "basic  
17 research payments" and "qualified organization base period amount" have the  
18 same meanings prescribed by section 41(e) of the internal revenue code.

19 2. Qualified research includes only research conducted in this state,  
20 including research conducted at a university in this state and paid for by  
21 the taxpayer.

22 3. If two or more taxpayers, including corporate partners in a  
23 partnership, share in the eligible expenses, each taxpayer is eligible to  
24 receive a proportionate share of the credit.

25 4. The credit under this section applies only to expenses incurred  
26 from and after December 31, 1993.

27 5. The termination provisions of section 41 of the internal revenue  
28 code do not apply.

29 B. Except as provided by ~~subsection~~ SUBSECTIONS D AND E of this  
30 section, if the allowable credit under this section exceeds the taxes  
31 otherwise due under this title on the claimant's income, or if there are no  
32 taxes due under this title, the amount of the credit not used to offset taxes  
33 may be carried forward to the next fifteen consecutive taxable years. The  
34 amount of credit carryforward from taxable years beginning from and after  
35 December 31, 2000 through December 31, 2002 that may be used under this  
36 subsection in any taxable year may not exceed the taxpayer's tax liability  
37 under this title or five hundred thousand dollars, whichever is less, minus  
38 the credit under this section for the current taxable year's qualified  
39 research expenses. The amount of credit carryforward from taxable years  
40 beginning from and after December 31, 2002 that may be used under this  
41 subsection in any taxable year may not exceed the taxpayer's tax liability  
42 under this title minus the credit under this section for the current taxable  
43 year's qualified research expenses. A taxpayer that carries forward any  
44 amount of credit under this subsection may not thereafter claim a refund of  
45 any amount of the credit under subsection D of this section.

1 C. If a taxpayer has qualified research expenses that are carried  
2 forward from taxable years beginning before January 1, 2001, the amount of  
3 the expenses carried forward shall be converted to a credit carryforward by  
4 multiplying the amount of the qualified expenses carried forward by twenty  
5 ~~per-cent~~ PERCENT. A credit carryforward determined under this subsection may  
6 be carried forward to not more than fifteen years from the year in which the  
7 expenses were incurred. The amount of credit carryforward from taxable years  
8 beginning before January 1, 2001 that may be used under this subsection in  
9 any taxable year may not exceed the taxpayer's tax liability under this title  
10 or five hundred thousand dollars, whichever is less, minus the credit under  
11 this section for the current taxable year's qualified research expenses. The  
12 total amount of credit carryforward from taxable years beginning before  
13 January 1, 2003 that may be used in any taxable year under subsection B and  
14 this subsection may not exceed the taxpayer's tax liability under this title  
15 or five hundred thousand dollars, whichever is less, minus the credit under  
16 this section for the current taxable year's qualified research expenses.

17 D. For taxable years beginning from and after December 31, 2009, if a  
18 taxpayer ~~who~~ THAT claims a credit under this section employs fewer than one  
19 hundred fifty persons in the taxpayer's trade or business and if the  
20 allowable credit under this section exceeds the taxes otherwise due under  
21 this title on the claimant's income, or if there are no taxes due under this  
22 title, in lieu of carrying the excess amount of credit forward to subsequent  
23 taxable years under subsection B of this section, the taxpayer may elect to  
24 receive a refund as follows:

25 1. The taxpayer must apply to the Arizona commerce authority for  
26 qualification for the refund pursuant to section 41-1507 and submit a copy of  
27 the authority's certificate of qualification to the department of revenue  
28 with the taxpayer's income tax return.

29 2. The amount of the refund is limited to seventy-five ~~per-cent~~  
30 PERCENT of the amount by which the allowable credit under this section  
31 exceeds the taxpayer's tax liability under this title for the taxable  
32 year. The remainder of the excess amount of the credit is waived.

33 3. The refund shall be paid in the manner prescribed by section  
34 42-1118.

35 4. The refund is subject to setoff under section 42-1122.

36 5. If the department determines that a credit refunded pursuant to  
37 this subsection is incorrect or invalid, the excess credit issued may be  
38 treated as a tax deficiency pursuant to section 42-1108.

39 E. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2016, IF A  
40 TAXPAYER CLAIMS A CREDIT UNDER THIS SECTION AND IF THE ALLOWABLE CREDIT UNDER  
41 THIS SECTION EXCEEDS THE TAXES OTHERWISE DUE UNDER THIS TITLE, OR IF THERE  
42 ARE NO TAXES DUE UNDER THIS TITLE, IN LIEU OF CARRYING THE EXCESS AMOUNT OF  
43 CREDIT FORWARD TO SUBSEQUENT TAXABLE YEARS UNDER SUBSECTION B OF THIS  
44 SECTION, THE TAXPAYER MAY ELECT TO CONVERT A PORTION OF THE UNUSED BALANCE OF  
45 THE CREDIT EITHER TO OFFSET THE TRANSACTION PRIVILEGE TAX BURDEN WITH RESPECT

1 TO CONTRACTS FOR THE CONSTRUCTION OF FIXED CAPITAL ASSETS IN THIS STATE THAT  
2 ARE OWNED BY THE TAXPAYER OR INTO CASH REIMBURSEMENTS FOR INFRASTRUCTURE  
3 IMPROVEMENTS AND OTHER CAPITAL EXPENDITURES ASSOCIATED WITH PROJECTS IN THIS  
4 STATE. THE AMOUNT OF THE TAX CREDIT THAT MAY BE CONVERTED UNDER THIS  
5 SUBSECTION IS EIGHTY-FIVE PERCENT OF THE AMOUNT REQUESTED FOR CONVERSION ON  
6 THE DATE OF APPLYING FOR THE CONVERSION. THE TAXPAYER WAIVES THE REMAINING  
7 FIFTEEN PERCENT OF THE UNUSED AMOUNT OF THE TAX CREDITS REQUESTED ON APPROVAL  
8 OF THE CONVERSION. TO BE ELIGIBLE FOR THE CONVERSION OF UNUSED TAX CREDITS  
9 UNDER THIS SUBSECTION, THE TAXPAYER MUST MAKE NEW CAPITAL INVESTMENT OR  
10 CREATE OR RETAIN EMPLOYMENT IN THIS STATE AFTER DECEMBER 31, 2016, AND APPLY  
11 TO THE ARIZONA COMMERCE AUTHORITY AS PRESCRIBED BY SECTION 41-1507.02.

12 ~~E.~~ F. A taxpayer that claims a credit for increased research and  
13 development activity under this section shall not claim a credit under  
14 section 43-1164.02 for the same expenses.

15 Sec. 7. Effective date

16 Section 43-1174.01, Arizona Revised Statutes, as amended by Laws 2014,  
17 chapter 168, section 6 and this act and section 43-1168, Arizona Revised  
18 Statutes, as amended by Laws 2014, chapter 168, section 10 and this act, are  
19 effective from and after December 31, 2017.