

ARIZONA STATE SENATE

RESEARCH STAFF



TO: MEMBERS OF THE SENATE
APPROPRIATIONS COMMITTEE

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SUBJECT: Strike everything amendment to S.B. 1643, relating to research; development; tax credits

Purpose

Authorizes the Arizona Commerce Authority (ACA) to review and approve a portion of a taxpayer's unused balance of the Research and Development Credit (R&D Credit) for reinvestment and caps, at \$50,000,000 in a fiscal year, the total amount of the unused balance of income tax credits (unused credits) the ACA may approve for reinvestment. Appropriates \$55,075,000 from the state General Fund (state GF) in FY 2023 to the ACA for unused credit reinvestment implementation and administration and outlines unused credit reinvestment requirements. Increases the aggregate annual cap, from \$5,000,000 to \$10,000,000, on the refundable portion of the R&D Credit.

Background

The corporate and individual R&D Credit is allowed against income tax liability for increased research activities conducted in Arizona, including research conducted at a state university that is funded by the taxpayer. The R&D Credit is nonrefundable or refundable up to the aggregate statutory cap. The nonrefundable portion of the R&D Credit is administered by the Arizona Department of Revenue (ADOR) and the refundable portion is administered by the ACA.

The R&D Credit may be claimed for *basic research payments* and *qualified research expenses* above a base amount, which is determined based on the ratio of a company's qualified research expenses to its gross receipts during a specified base period. If the amount of the R&D Credit exceeds the taxpayer's income tax liability, the amount of the credit claimed that is not used to offset taxes may be carried forward for 15 consecutive taxable years. For taxable years beginning January 1, 2022, the amount of the credit claimed that is not used to offset taxes may be carried forward for 10 consecutive taxable years.

The ACA must evaluate and certify taxpayers who otherwise qualify for the R&D Credit to further qualify for income tax refunds. An application for refund must include outlined information, including the amount of the taxpayer's income tax credit for the taxable year. Within 30 days after receiving the application, the ACA must issue a certificate of qualification for the refund or notify the applicant of application denial. The ACA may not approve refunds exceeding a total of \$5,000,000 in any calendar year. If, at the end of any year, an unused balance occurs under the refund cap, the balance must be reallocated for a refund in the following year (A.R.S. §§ [41-1507](#); [43-1074.01](#); and [43-1168](#)).

The strike-everything amendment to S.B. 1643 appropriates \$55,075,000 from the state GF in FY 2023 to the ACA.

Provisions

Research and Development Credit

1. Increases the aggregate annual cap, from \$5,000,000 to \$10,000,000, on the refundable portion of the R&D Credit.

Appropriation

2. Appropriates \$55,075,000 from the state GF in FY 2023 to the ACA to be allocated as follows:
 - a) \$50,000,000 to implement the reinvestment of unused credits;
 - b) \$5,000,000 for the increased cap on the refundable portion of the R&D Credit; and
 - c) \$75,000 to administer the reinvestment of unused credits.
3. Exempts the appropriation from lapsing.

***Reinvestment of Unused Credits
(Retroactive to July 1, 2022)***

4. Requires the ACA to receive applications from and evaluate and certify taxpayers that carry forward a balance of unused credits to be used for:
 - a) sustainability or water capital projects;
 - b) building or updating the taxpayer's research and development facilities;
 - c) a capital expenditure project between the taxpayer and an institution of higher learning;
 - d) a workforce development project between the taxpayer and an institution of higher learning, including tuition reimbursement, hiring employees for the institution and apprenticeships; and
 - e) a project that demonstrates receipt of matching monies from a federal program or national grant program.
5. Caps, at \$50,000,000 in a fiscal year, the total amount of unused credits the ACA may approve for reinvestment and applies the approved amount against the cap for the fiscal year in which the ACA received the application.
6. Authorizes the ACA to approve a portion of the unused credits for reinvestment, if the tax credit:
 - a) is not expired; and
 - b) does not exceed \$10,000,000 per year per applicant.
7. Requires a taxpayer to annually apply to the ACA by December 31 for the reinvestment of the unused credits on an ACA-prescribed form that includes:
 - a) the taxpayer's name, address and taxpayer identification number and a telephone number and email address of the person responsible for the application;
 - b) a general description of the taxpayer's business and the qualifying activities that will be conducted with the potential tax credits; and
 - c) the amount of the taxpayer's outstanding tax credits to be converted.

8. Requires the ACA to process and evaluate each application and notify an applicant within 90 days after receiving a complete and correct application that:
 - a) the application was approved; or
 - b) the application was not approved, including specific reasons for the disapproval.
9. Requires the ACA, on application approval, to provide a portion of the unused credits to the applicant, subject to the statutory terms and conditions.
10. Specifies that an application disapproval does not preclude a subsequent application if the applicant is able to correct the error or deficiency.
11. Allows the ACA, if a taxpayer does not comply with reinvestment requirements, to recapture all or part of the unused credit reinvestment distributed to the taxpayer.
12. Prohibits the ACA from distributing monies to a taxpayer before reviewing and approving a qualifying project.
13. Allows reinvestments on a first-come, first-served basis according to the application filing date.
14. Requires ADOR to provide information related to the taxpayer's unused tax credits to the ACA on request.
15. Requires the ACA, in 2027 and 2030, to conduct an economic analysis on the investment of unused credits and submit the report to the Governor, President of the Senate, Speaker of the House of Representatives and Secretary of State.
16. Requires the ACA to communicate a taxpayer's credit status to ADOR and adopt rules and publish forms as prescribed.
17. Defines *unused balance of income tax credit* as \$0.75 per dollar.

Miscellaneous

18. Designates this legislation as the *Arizona Reinvestment Fund Act*.
19. Makes technical changes.
20. Becomes effective on the general effective date, with retroactive provisions as noted.