Senate Engrossed House Bill

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

CHAPTER 290

HOUSE BILL 2391

AN ACT

AMENDING SECTIONS 43-206 AND 43-1074.01, ARIZONA REVISED STATUTES; REPEALING SECTION 43-1074.01, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 43-1074.01; AMENDING SECTION 43-1168, ARIZONA REVISED STATUTES; REPEALING SECTION 43-1168, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 43-1168; RELATING TO GENERAL REVENUES FOR BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 43-206, Arizona Revised Statutes, is amended to read:

43-206. Urban revenue sharing fund; allocation; distribution

A. There is established an urban revenue sharing fund. ~~For fiscal year 2000-2001 and fiscal year 2001-2002, the urban revenue sharing fund shall consist of an amount equal to fifteen per cent of the net proceeds of the state income taxes for fiscal year 1998-1999 and 1999-2000, respectively. For fiscal years 2002-2003 and 2003-2004, the fund shall consist of an amount equal to fifteen per cent of the amount of monies transferred pursuant to law in fiscal year 2000-2001 and 2001-2002, respectively, from the budget stabilization fund to the tax refund account of the state general fund plus fourteen and eight-tenths per cent of the net proceeds of the state income taxes, not including any amounts transferred from the budget stabilization fund to the tax refund account, for fiscal year 2000-2001 and 2001-2002, respectively. For fiscal year 2004-2005 and each fiscal year thereafter,~~ The fund shall consist of an amount equal to fifteen per cent of the net proceeds of the state income taxes for the fiscal year two years preceding the current fiscal year. The fund shall be distributed to incorporated cities and towns as provided in this section, EXCEPT THAT A CITY OR TOWN SHALL RECEIVE AT LEAST AN AMOUNT EQUAL TO WHAT A CITY OR TOWN WITH A POPULATION OF FIFTEEN HUNDRED OR MORE PERSONS WOULD RECEIVE. The transfer of net proceeds prescribed by section 49-282, subsection B does not affect the calculation of net proceeds prescribed by this subsection.

B. Each city or town shall share in the urban revenue sharing fund in the proportion that the population of each bears to the population of all. Except as provided by sections 42-5033 and 42-5033.01, the population of a city or town as determined by the most recent United States decennial census plus any revisions to the decennial census certified by the United States bureau of the census shall be used as the basis for apportioning monies pursuant to this subsection.

C. The treasurer, upon instruction from the department, shall transmit, no later than the tenth day of each month, to each city or town an amount equal to one-twelfth of that city's or town's total entitlement for the current fiscal year from the urban revenue sharing fund as determined by the department.

D. A newly incorporated city or town shall share in the urban revenue sharing fund beginning the first month of the first full fiscal year following incorporation.

E. On receipt of a certificate of default from the greater Arizona development authority pursuant to section 41-1554.06 or 41-1554.07, the state treasurer, to the extent not otherwise expressly prohibited by law, shall withhold from the next succeeding distribution of monies pursuant to this section due to the city or town the amount specified in the certificate of default and immediately deposit the amount withheld in the greater Arizona

development authority revolving fund. The state treasurer shall continue to withhold and deposit the monies until the authority certifies to the state treasurer that the default has been cured. In no event shall the state treasurer withhold any amount that is necessary, as certified by the defaulting political subdivision to the state treasurer and the authority, to make any required deposits then due for the payment of principal and interest on bonds of the political subdivision that were issued prior to the date of the loan repayment agreement or bonds and that have been secured by a pledge of distributions made pursuant to this section.

Sec. 2. Section 43-1074.01, Arizona Revised Statutes, is amended to read:

43-1074.01. Credit for increased research activities

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

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

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

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

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

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

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

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

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

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

B. If the allowable credit under this section 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 credit not used to offset taxes

may be carried forward to the next fifteen consecutive taxable years. The amount of credit carryforward from taxable years beginning from and after December 31, 2000 through December 31, 2002 that may be used in any taxable year may not exceed the taxpayer's tax liability under this title or five hundred thousand dollars, whichever is less, minus the credit under this section for the current taxable year's qualified research expenses. The amount of credit carryforward from taxable years beginning from and after December 31, 2002 that may be used in any taxable year may not exceed the taxpayer's tax liability under this title minus the credit under this section for the current taxable year's qualified research expenses.

Sec. 3. Delayed repeal

Section 43-1074.01, Arizona Revised Statutes, as amended by this act, is repealed from and after December 31, 2017.

Sec. 4. Title 43, chapter 10, article 5, Arizona Revised Statutes, is amended by adding a new section 43-1074.01, to read:

43-1074.01. Credit for increased research activities

A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE IN AN AMOUNT DETERMINED PURSUANT TO SECTION 41 OF THE INTERNAL REVENUE CODE, EXCEPT THAT:

1. THE AMOUNT OF THE CREDIT IS BASED ON THE EXCESS, IF ANY, OF THE QUALIFIED RESEARCH EXPENSES FOR THE TAXABLE YEAR OVER THE BASE AMOUNT AS DEFINED IN SECTION 41(c) OF THE INTERNAL REVENUE CODE AND IS COMPUTED AS FOLLOWS:

(a) IF THE EXCESS IS TWO MILLION FIVE HUNDRED THOUSAND DOLLARS OR LESS, THE CREDIT IS EQUAL TO TWENTY PER CENT OF THAT AMOUNT.

(b) IF THE EXCESS IS OVER TWO MILLION FIVE HUNDRED THOUSAND DOLLARS, THE CREDIT IS EQUAL TO FIVE HUNDRED THOUSAND DOLLARS PLUS ELEVEN PER CENT OF ANY AMOUNT EXCEEDING TWO MILLION FIVE HUNDRED THOUSAND DOLLARS, EXCEPT THAT:

(i) FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2000 THROUGH DECEMBER 31, 2001, THE CREDIT SHALL NOT EXCEED ONE MILLION FIVE HUNDRED THOUSAND DOLLARS.

(ii) FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2001 THROUGH DECEMBER 31, 2002, THE CREDIT SHALL NOT EXCEED TWO MILLION FIVE HUNDRED THOUSAND DOLLARS.

2. QUALIFIED RESEARCH INCLUDES ONLY RESEARCH CONDUCTED IN THIS STATE INCLUDING RESEARCH CONDUCTED AT A UNIVERSITY IN THIS STATE AND PAID FOR BY THE TAXPAYER.

3. IF TWO OR MORE TAXPAYERS, INCLUDING PARTNERS IN A PARTNERSHIP AND SHAREHOLDERS OF AN S CORPORATION, AS DEFINED IN SECTION 1361 OF THE INTERNAL REVENUE CODE, SHARE IN THE ELIGIBLE EXPENSES, EACH TAXPAYER IS ELIGIBLE TO RECEIVE A PROPORTIONATE SHARE OF THE CREDIT.

4. THE CREDIT UNDER THIS SECTION APPLIES ONLY TO EXPENSES INCURRED FROM AND AFTER DECEMBER 31, 2000.

5. THE TERMINATION PROVISIONS OF SECTION 41 OF THE INTERNAL REVENUE CODE DO NOT APPLY.

B. IF THE ALLOWABLE CREDIT UNDER THIS SECTION 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 CREDIT NOT USED TO OFFSET TAXES MAY BE CARRIED FORWARD TO THE NEXT FIFTEEN CONSECUTIVE TAXABLE YEARS. THE AMOUNT OF CREDIT CARRYFORWARD FROM TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2000 THROUGH DECEMBER 31, 2002 THAT MAY BE USED IN ANY TAXABLE YEAR MAY NOT EXCEED THE TAXPAYER'S TAX LIABILITY UNDER THIS TITLE OR FIVE HUNDRED THOUSAND DOLLARS, WHICHEVER IS LESS, MINUS THE CREDIT UNDER THIS SECTION FOR THE CURRENT TAXABLE YEAR'S QUALIFIED RESEARCH EXPENSES. THE AMOUNT OF CREDIT CARRYFORWARD FROM TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2002 THAT MAY BE USED IN ANY TAXABLE YEAR MAY NOT EXCEED THE TAXPAYER'S TAX LIABILITY UNDER THIS TITLE MINUS THE CREDIT UNDER THIS SECTION FOR THE CURRENT TAXABLE YEAR'S QUALIFIED RESEARCH EXPENSES.

Sec. 5. Section 43-1168, Arizona Revised Statutes, is amended to read:

43-1168. Credit for increased research activities

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

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

(a) Add:

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

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

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

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

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

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

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

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

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

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

B. If the allowable credit under this section 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 credit not used to offset taxes may be carried forward to the next fifteen consecutive taxable years. The amount of credit carryforward from taxable years beginning from and after December 31, 2000 through December 31, 2002 that may be used under this subsection in any taxable year may not exceed the taxpayer's tax liability under this title or five hundred thousand dollars, whichever is less, minus the credit under this section for the current taxable year's qualified research expenses. The amount of credit carryforward from taxable years beginning from and after December 31, 2002 that may be used under this subsection in any taxable year may not exceed the taxpayer's tax liability under this title minus the credit under this section for the current taxable year's qualified research expenses.

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

Sec. 6. Delayed repeal

Section 43-1168, Arizona Revised Statutes, as amended by this act, is repealed from and after December 31, 2017.

Sec. 7. Title 43, chapter 11, article 6, Arizona Revised Statutes, is amended by adding a new section 43-1168, to read:

43-1168. Credit for increased research activity

A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE IN AN AMOUNT DETERMINED PURSUANT TO SECTION 41 OF THE INTERNAL REVENUE CODE, EXCEPT THAT:

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

(a) ADD:

(i) THE EXCESS, IF ANY, OF THE QUALIFIED RESEARCH EXPENSES FOR THE TAXABLE YEAR OVER THE BASE AMOUNT AS DEFINED IN SECTION 41(c) OF THE INTERNAL REVENUE CODE.

(ii) THE BASIC RESEARCH PAYMENTS DETERMINED UNDER SECTION 41(e)(1)(A) OF THE INTERNAL REVENUE CODE.

(b) IF THE SUM COMPUTED UNDER SUBDIVISION (a) IS TWO MILLION FIVE HUNDRED THOUSAND DOLLARS OR LESS, THE CREDIT IS EQUAL TO TWENTY PER CENT OF THAT AMOUNT.

(c) IF THE SUM COMPUTED UNDER SUBDIVISION (a) IS OVER TWO MILLION FIVE HUNDRED THOUSAND DOLLARS, THE CREDIT IS EQUAL TO FIVE HUNDRED THOUSAND DOLLARS PLUS ELEVEN PER CENT OF ANY AMOUNT EXCEEDING TWO MILLION FIVE HUNDRED THOUSAND DOLLARS, EXCEPT THAT:

(i) FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2000 THROUGH DECEMBER 31, 2001, THE CREDIT SHALL NOT EXCEED ONE MILLION FIVE HUNDRED THOUSAND DOLLARS.

(ii) FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2001 THROUGH DECEMBER 31, 2002, THE CREDIT SHALL NOT EXCEED TWO MILLION FIVE HUNDRED THOUSAND DOLLARS.

2. QUALIFIED RESEARCH INCLUDES ONLY RESEARCH CONDUCTED IN THIS STATE INCLUDING RESEARCH CONDUCTED AT A UNIVERSITY IN THIS STATE AND PAID FOR BY THE TAXPAYER.

3. IF TWO OR MORE TAXPAYERS, INCLUDING CORPORATE PARTNERS IN A PARTNERSHIP, SHARE IN THE ELIGIBLE EXPENSES, EACH TAXPAYER IS ELIGIBLE TO RECEIVE A PROPORTIONATE SHARE OF THE CREDIT.

4. THE CREDIT UNDER THIS SECTION APPLIES ONLY TO EXPENSES INCURRED FROM AND AFTER DECEMBER 31, 1993.

5. THE TERMINATION PROVISIONS OF SECTION 41 OF THE INTERNAL REVENUE CODE DO NOT APPLY.

B. IF THE ALLOWABLE CREDIT UNDER THIS SECTION 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 CREDIT NOT USED TO OFFSET TAXES MAY BE CARRIED FORWARD TO THE NEXT FIFTEEN CONSECUTIVE TAXABLE YEARS. THE AMOUNT OF CREDIT CARRYFORWARD FROM TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2000 THROUGH DECEMBER 31, 2002 THAT MAY BE USED UNDER THIS SUBSECTION IN ANY TAXABLE YEAR MAY NOT EXCEED THE TAXPAYER'S TAX LIABILITY UNDER THIS TITLE OR FIVE HUNDRED THOUSAND DOLLARS, WHICHEVER IS LESS, MINUS THE CREDIT UNDER THIS SECTION FOR THE CURRENT TAXABLE YEAR'S QUALIFIED RESEARCH EXPENSES. THE AMOUNT OF CREDIT CARRYFORWARD FROM TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2002 THAT MAY BE USED UNDER THIS SUBSECTION IN ANY TAXABLE YEAR MAY NOT EXCEED THE TAXPAYER'S TAX LIABILITY UNDER THIS TITLE MINUS THE CREDIT UNDER THIS SECTION FOR THE CURRENT TAXABLE YEAR'S QUALIFIED RESEARCH EXPENSES.

C. IF A TAXPAYER HAS QUALIFIED RESEARCH EXPENSES THAT ARE CARRIED FORWARD FROM TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 2001, THE AMOUNT OF THE EXPENSES CARRIED FORWARD SHALL BE CONVERTED TO A CREDIT CARRYFORWARD BY MULTIPLYING THE AMOUNT OF THE QUALIFIED EXPENSES CARRIED FORWARD BY TWENTY PER CENT. A CREDIT CARRYFORWARD DETERMINED UNDER THIS SUBSECTION MAY BE CARRIED FORWARD TO NOT MORE THAN FIFTEEN YEARS FROM THE YEAR IN WHICH THE EXPENSES WERE INCURRED. THE AMOUNT OF CREDIT CARRYFORWARD FROM TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 2001 THAT MAY BE USED UNDER THIS SUBSECTION IN ANY TAXABLE YEAR MAY NOT EXCEED THE TAXPAYER'S TAX LIABILITY UNDER THIS TITLE OR FIVE HUNDRED THOUSAND DOLLARS, WHICHEVER IS LESS, MINUS THE CREDIT UNDER THIS SECTION FOR THE CURRENT TAXABLE YEAR'S QUALIFIED RESEARCH EXPENSES. THE TOTAL AMOUNT OF CREDIT CARRYFORWARD FROM TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 2003 THAT MAY BE USED IN ANY TAXABLE YEAR UNDER SUBSECTION B AND THIS SUBSECTION MAY NOT EXCEED THE TAXPAYER'S TAX LIABILITY UNDER THIS TITLE OR FIVE HUNDRED THOUSAND DOLLARS, WHICHEVER IS LESS, MINUS THE CREDIT UNDER THIS SECTION FOR THE CURRENT TAXABLE YEAR'S QUALIFIED RESEARCH EXPENSES.

Sec. 8. Department of public safety; highway funds; limitation

Notwithstanding sections 28-6537 and 28-6993, Arizona Revised Statutes, the statutory caps limiting the level of highway user revenue fund monies and state highway fund monies available to fund department of public safety highway patrol costs are suspended for fiscal year 2008-2009.

Sec. 9. Business reengineering/integrated tax system contract extension; retroactivity

A. Notwithstanding any other law, before executing any extension or modification of the current business reengineering/integrated tax system contract with a fiscal impact that increases the contractor's share of gain-sharing proceeds from state revenues during fiscal year 2008-2009, the department of revenue shall submit the proposed changes to the joint legislative budget committee for its review.

B. This section is effective retroactively to from and after June 30, 2008.

Sec. 10. Data center charges

Notwithstanding any other law, the department of revenue may utilize up to $1,570,000 of general fund revenue deposits to pay data center charges after review of an expenditure plan by the joint legislative budget committee.

Sec. 11. Credit for increased research activities; 2010 tax credit amounts

A. Notwithstanding section 43-1074.01, subsection A, paragraph 1, Arizona Revised Statutes, as amended by this act, for taxable years beginning from and after December 31, 2009 through December 31, 2010, the amount of the credit is based on the excess, if any, of the qualified research expenses for the taxable year over the base amount as defined in section 41(c) of the internal revenue code and is computed as follows:

1. If the excess is two million five hundred thousand dollars or less, the credit is equal to twenty-two per cent of that amount.

2. If the excess is over two million five hundred thousand dollars, the credit is equal to five hundred fifty thousand dollars plus thirteen per cent of any amount exceeding two million five hundred thousand dollars.

B. Notwithstanding section 43-1168, subsection A, paragraph 1, Arizona Revised Statutes, as amended by this act, for taxable years beginning from and after December 31, 2009 through December 31, 2010, the amount of the credit is computed as follows:

1. Add:

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

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

2. If the sum computed under paragraph 1 of this subsection is two million five hundred thousand dollars or less, the credit is equal to twenty-two per cent of that amount.

3. If the sum computed under paragraph 1 of this subsection is over two million five hundred thousand dollars, the credit is equal to five hundred fifty thousand dollars plus thirteen per cent of any amount exceeding two million five hundred thousand dollars.

Sec. 12. Effective date

Sections 43-1074.01 and 43-1168, Arizona Revised Statutes, as amended by this act, are effective from and after December 31, 2009.

Sec. 13. Effective date

Sections 43-1074.01 and 43-1168, Arizona Revised Statutes, as added by this act, are effective from and after December 31, 2017.

APPROVED BY THE GOVERNOR JUNE 27, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 27, 2008.