
SENATE BILL 5531

State of Washington

55th Legislature

1997 Regular Session

By Senators West, Wood, Finkbeiner, Bauer, Jacobsen, Hale, Patterson, Oke and Winsley

Read first time 01/30/97. Referred to Committee on Higher Education.

1 AN ACT Relating to a business and occupation or public utility tax
2 credit for persons making contributions to public institutions of
3 higher education in this state; adding a new chapter to Title 82 RCW;
4 providing an effective date; and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that innovations in
7 technology lead to a flow of new ideas, products, and jobs essential to
8 the economic, intellectual, and social well-being of the state and its
9 people.

10 The legislature further finds that technological innovations often
11 begin at institutions of higher education, which provide the academic
12 environment for research and development together with training for a
13 highly skilled work force.

14 The legislature further finds that a decline in public funding
15 negatively impacts the ability of institutions of higher education to
16 meet the technology challenge and that encouraging high-technology
17 companies to finance public research and scientific training will
18 protect the state's competitiveness.

1 Therefore, it is the policy of the legislature to provide
2 incentives for private contributions to the state's institutions of
3 higher education.

4 NEW SECTION. **Sec. 2.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires otherwise.

6 (1) "Contribution" means a gift to an eligible institution of
7 higher education of cash or tangible personal property that qualifies
8 as a charitable contribution as defined in 26 U.S.C. 170(c) and that is
9 used by the eligible institution of higher education for the purposes
10 of promoting study or research in the fields of aerospace, advanced
11 computing, advanced materials, agriculture, biotechnology, electronic
12 device technology, or environmental technology, or academic disciplines
13 related to these fields, including, but not limited to, biology,
14 chemistry, electrical engineering, mathematics, and physics. The term
15 does not include gifts for research in which the person making the gift
16 has a proprietary interest. For the purposes of this subsection,
17 "promoting study or research" includes, but is not limited to, funding
18 basic research, endowing a faculty chair, funding recruitment and
19 retention, and establishing scholarships.

20 (2) "Eligible institution of higher education" means a public
21 institution of higher education as that term is defined in RCW
22 28B.10.016(4) and 28B.20.287, and the joint center for higher education
23 established under chapter 28B.25 RCW.

24 (3) "Fair market value" in the case of a contribution of tangible
25 personal property means the price the donor would have received if the
26 property were sold in the customary market at the time of the
27 contribution.

28 NEW SECTION. **Sec. 3.** (1) A person may not receive a credit under
29 this chapter unless the person first files an application with the
30 department and receives approval of the application before making the
31 contribution. The application must be in a form and manner prescribed
32 by the department, and must be signed by the person making the
33 contribution and an authorized representative of the eligible
34 institution of higher education. The application must contain
35 information regarding the identity of the eligible institution of
36 higher education, the amount of the contribution, and other information
37 required by the department.

1 (2) The eligible institution of higher education shall certify on
2 the application that the contribution qualifies as a contribution as
3 defined in 26 U.S.C. 170(c) and that the contribution will be used for
4 the purposes specified in subsection (1) of this section. If the
5 contribution is tangible personal property, the eligible institution
6 shall also certify the fair market value of the tangible personal
7 property and that the tangible personal property is needed for and will
8 aid in carrying out the purposes specified in subsection (1) of this
9 section.

10 (3) The application for credit may be made for more than one year
11 if the identified eligible institution of higher education receiving
12 the contribution agrees to accept the contribution in the years for
13 which application is made. An application for more than one year must
14 specify the date upon which the contribution will be made in years
15 following the application year. Credit may not be allowed for any year
16 after termination of the credit authorized by this chapter.

17 (4) The department may not approve an application that would cause
18 the total amount of credits claimed by all persons claiming credits
19 under this chapter to exceed sixty million dollars in a biennium. The
20 department may approve an application in part in order to avoid
21 exceeding this amount.

22 (5) The department shall approve applications on a first-come,
23 first-served basis. If two or more persons file applications at the
24 same time, which if approved would cause the total amount of credits by
25 all persons claiming tax credits under this chapter to exceed sixty
26 million dollars in any biennium, the department shall approve the
27 applications in part on a pro rata basis in order to avoid exceeding
28 this amount.

29 (6) Within ninety days after receiving approval of the application
30 from the department, the person making a contribution for which a
31 credit is claimed under this chapter shall file an affidavit with the
32 department signed by an authorized representative of the eligible
33 institution of higher education receiving the contribution certifying
34 the date of receipt. For an application for credit of more than one
35 year, the affidavit must be filed within ninety days of each date
36 specified in the application. Failure to file the affidavit required
37 by this section will result in denial of the credit.

1 NEW SECTION. **Sec. 4.** (1) Subject to section 3 of this act, a
2 person is allowed a credit against taxes imposed under chapter 82.04 or
3 82.16 RCW for a contribution given by the person directly to an
4 eligible institution of higher education.

5 (2) For contributions made in the year ending December 31, 1997,
6 the credit is equal to the amount by which contributions in the current
7 year exceed charitable gifts made to eligible institutions in the year
8 ending December 31, 1996.

9 (3) For contributions made in the year ending December 31, 1998,
10 and in subsequent calendar years, the credit is computed as follows:

11 (a) If contributions in the current year are equal to or less than
12 contributions in the previous year, the credit is equal to sixty
13 percent of contributions in the current year; and

14 (b) If contributions in the current year are greater than
15 contributions in the previous year, the credit is equal to sixty
16 percent of contributions in the prior year plus the amount by which
17 contributions in the current year exceed contributions in the prior
18 year.

19 (4) A person may only take the credit against taxes due for the
20 same calendar year in which the contribution is made, and must be
21 claimed by the due date of the last tax return for the calendar year in
22 which the contribution is made. The credit may not exceed the amount
23 of taxes otherwise due under chapter 82.04 or 82.16 RCW after the
24 application of any other available credits.

25 NEW SECTION. **Sec. 5.** Chapter 82.32 RCW applies to the
26 administration of this chapter.

27 NEW SECTION. **Sec. 6.** The department may adopt such rules as are
28 necessary or desirable to carry out the purposes of this chapter.

29 NEW SECTION. **Sec. 7.** Applications, reports, and other information
30 received by the department under this chapter are not confidential and
31 are subject to disclosure.

32 NEW SECTION. **Sec. 8.** If any provision of this act or its
33 application to any person or circumstance is held invalid, the
34 remainder of the act or the application of the provision to other
35 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 9.** (1) The department shall perform an
2 assessment of the tax credit authorized by this chapter and deliver a
3 report on the assessment to the governor and the legislature by
4 September 1, 2005. The assessment must identify the institutions of
5 higher education receiving contributions subsequent to the enactment of
6 this credit, the amount of cash or tangible personal property
7 contributed, the name of the persons making contributions, whether
8 fluctuations in contribution trends give rise to concerns, and an
9 analysis of costs incurred by the department in administering the
10 credit established by this section, and such other factors as the
11 department selects.

12 (2) The higher education coordinating board established in chapter
13 28B.80 RCW shall perform an assessment of the impact on institutions of
14 higher education by the credit authorized in this chapter and deliver
15 a report on the assessment to the governor and the legislature by
16 September 1, 2005. The assessment must analyze fluctuations in student
17 enrollment in specified programs at eligible institutions of higher
18 education, impact on career opportunities for students attending
19 eligible institutions of higher education, identify benefits and
20 negatives, if any, experienced by the eligible institutions of higher
21 education by reason of the credit, and such other factors as the board
22 selects.

23 NEW SECTION. **Sec. 10.** Sections 1 through 9 of this act constitute
24 a new chapter in Title 82 RCW.

25 NEW SECTION. **Sec. 11.** This act is necessary for the immediate
26 preservation of the public peace, health, or safety, or support of the
27 state government and its existing public institutions, and takes effect
28 July 1, 1997.

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