

SB 5529 - S AMD 368  
By Senator Brown

4/14/03 NOT ADOPTED

1 On page 1, beginning on line 5, strike all material down through  
2 line 32 on page 3 and insert the following:

3 "Sec. 1. RCW 82.04.4452 and 2000 c 103 s 7 are each amended to  
4 read as follows:

5 (1) In computing the tax imposed under this chapter, a credit is  
6 allowed for each person whose research and development spending during  
7 the year in which the credit is claimed exceeds 0.92 percent of the  
8 person's taxable amount during the same calendar year.

9 (2) The credit is equal to the greater of the amount of qualified  
10 research and development expenditures of a person or eighty percent of  
11 amounts received by a person other than a public educational or  
12 research institution in compensation for the conduct of qualified  
13 research and development, multiplied by the ~~((rate provided in RCW  
14 82.04.260(3) in the case of a nonprofit corporation or nonprofit  
15 association engaging within this state in research and development, and  
16 the rate provided in RCW 82.04.290(2) for every other person))~~ person's  
17 average tax rate.

18 (3) Any person entitled to the credit provided in subsection (2) of  
19 this section as a result of qualified research and development  
20 conducted under contract may assign all or any portion of the credit to  
21 the person contracting for the performance of the qualified research  
22 and development.

23 (4) The credit, including any credit assigned to a person under  
24 subsection (3) of this section, shall be taken against taxes due for  
25 the same calendar year in which the qualified research and development  
26 expenditures are incurred. The credit, including any credit assigned  
27 to a person under subsection (3) of this section, for each calendar  
28 year shall not exceed the lesser of two million dollars or the amount  
29 of tax otherwise due under this chapter for the calendar year.

30 (5) Any person taking the credit, including any credit assigned to  
31 a person under subsection (3) of this section, whose research and

1 development spending during the calendar year in which the credit is  
2 claimed fails to exceed 0.92 percent of the person's taxable amount  
3 during the same calendar year shall be liable for payment of the  
4 additional taxes represented by the amount of credit taken together  
5 with interest, but not penalties. Interest shall be due at the rate  
6 provided for delinquent excise taxes retroactively to the date the  
7 credit was taken until the taxes are paid. Any credit assigned to a  
8 person under subsection (3) of this section that is disallowed as a  
9 result of this section may be taken by the person who performed the  
10 qualified research and development subject to the limitations set forth  
11 in subsection (4) of this section.

12 (6) Any person claiming the credit, and any person assigning a  
13 credit as provided in subsection (3) of this section, shall file an  
14 affidavit form prescribed by the department which shall include the  
15 amount of the credit claimed, an estimate of the anticipated qualified  
16 research and development expenditures during the calendar year for  
17 which the credit is claimed, an estimate of the taxable amount during  
18 the calendar year for which the credit is claimed, and such additional  
19 information as the department may prescribe.

20 (7) A person claiming the credit shall agree to supply the  
21 department with information necessary to measure the results of the tax  
22 credit program for qualified research and development expenditures.

23 (8) The department shall use the information required under  
24 subsection (7) of this section to perform three assessments on the tax  
25 credit program authorized under this section. The assessments will  
26 take place in 1997, 2000, and 2003. The department shall prepare  
27 reports on each assessment and deliver their reports by September 1,  
28 1997, September 1, 2000, and September 1, 2003. The assessments shall  
29 measure the effect of the program on job creation, the number of jobs  
30 created for Washington residents, company growth, the introduction of  
31 new products, the diversification of the state's economy, growth in  
32 research and development investment, the movement of firms or the  
33 consolidation of firms' operations into the state, and such other  
34 factors as the department selects.

35 (9) For the purpose of this section:

36 (a) "Average tax rate" means a person's total tax under this  
37 chapter for the reporting period divided by the taxpayer's total  
38 taxable income under this chapter for the reporting period.

1        (b) "Qualified research and development expenditures" means  
2 operating expenses, including wages, compensation of a proprietor or a  
3 partner in a partnership as determined under rules adopted by the  
4 department, benefits, supplies, and computer expenses, directly  
5 incurred in qualified research and development by a person claiming the  
6 credit provided in this section. The term does not include amounts  
7 paid to a person other than a public educational or research  
8 institution to conduct qualified research and development. Nor does  
9 the term include capital costs and overhead, such as expenses for land,  
10 structures, or depreciable property.

11        (~~(b)~~) (c) "Qualified research and development" shall have the  
12 same meaning as in RCW 82.63.010.

13        (~~(c)~~) (d) "Research and development spending" means qualified  
14 research and development expenditures plus eighty percent of amounts  
15 paid to a person other than a public educational or research  
16 institution to conduct qualified research and development.

17        (~~(d)~~) (e) "Taxable amount" means the taxable amount subject to  
18 the tax imposed in this chapter required to be reported on the person's  
19 combined excise tax returns during the year in which the credit is  
20 claimed, less any taxable amount for which a credit is allowed under  
21 RCW 82.04.440."

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**EFFECT:** Uses the taxpayer's average tax rate for computing the hi-tech business and occupation tax credit rather than 1.5%.