

SSB 6239 - S AMD 609

By Senators Poulsen and Fraser

1/28/04 ADOPTED

1 On page 2, beginning on line 20, strike all material down through  
2 line 5 on page 5 and insert the following:

3 "(2) The credit is equal to the greater of the amount of qualified  
4 research and development expenditures of a person or eighty percent of  
5 amounts received by a person other than a public educational or  
6 research institution in compensation for the conduct of qualified  
7 research and development, multiplied by the rate provided in RCW  
8 82.04.260(3) in the case of a nonprofit corporation or nonprofit  
9 association engaging within this state in research and development, and  
10 the (~~rate provided in RCW 82.04.290(2)~~) person's average tax rate for  
11 every other person.

12 (3) Any person entitled to the credit provided in subsection (2) of  
13 this section as a result of qualified research and development  
14 conducted under contract may assign all or any portion of the credit to  
15 the person contracting for the performance of the qualified research  
16 and development.

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

24 (5) Any person taking the credit, including any credit assigned to  
25 a person under subsection (3) of this section, whose research and  
26 development spending during the calendar year in which the credit is  
27 claimed fails to exceed 0.92 percent of the person's taxable amount  
28 during the same calendar year shall be liable for payment of the  
29 additional taxes represented by the amount of credit taken together  
30 with interest, but not penalties. Interest shall be due at the rate  
31 provided for delinquent excise taxes retroactively to the date the  
32 credit was taken until the taxes are paid. Any credit assigned to a

1 person under subsection (3) of this section that is disallowed as a  
2 result of this section may be taken by the person who performed the  
3 qualified research and development subject to the limitations set forth  
4 in subsection (4) of this section.

5 (6) Any person claiming the credit, and any person assigning a  
6 credit as provided in subsection (3) of this section, shall file an  
7 affidavit form prescribed by the department which shall include the  
8 amount of the credit claimed, ~~((an estimate of))~~ the ~~((anticipated))~~  
9 qualified research and development expenditures during the calendar  
10 year for which the credit is claimed, ~~((an estimate of))~~ and the  
11 taxable amount during the calendar year for which the credit is  
12 claimed, and such additional information as the department may  
13 prescribe. The report is due by March 31st following any year a credit  
14 is taken.

15 (7)(a) A person claiming the credit shall agree to supply the  
16 department with information ~~((necessary to measure the results of the~~  
17 ~~tax credit program for qualified research and development~~  
18 ~~expenditures))~~ on research and development spending, and product  
19 development, which may be measured by a proxy such as research  
20 projects, copyrights, trademarks, or patents issued. The survey  
21 information is deemed tax information under RCW 82.32.330.

22 (b) If a person fails to provide the information required under  
23 this subsection by the due date, the person entitled to the credit  
24 provided in subsection (2) of this section is not eligible to take or  
25 assign the credit provided in subsection (2) of this section in the  
26 year the person failed to complete the survey.

27 (8) The ~~((department))~~ joint legislative audit and review committee  
28 shall use the information ~~((required under))~~ from subsection (7) of  
29 this section and from other state agency sources to ~~((perform three~~  
30 ~~assessments on))~~ study the tax credit program authorized under this  
31 section. ~~((The assessments will take place in 1997, 2000, and 2003.~~  
32 The department shall prepare reports on each assessment and deliver  
33 their reports by September 1, 1997, September 1, 2000, and September 1,  
34 2003. The assessments)) The committee shall report to the legislature  
35 by December 1, 2013. The study shall measure the effect of the program  
36 on ~~((job creation, the number of jobs created for Washington~~  
37 residents,)) company growth, the introduction of new products as  
38 measured by copyrights, trademarks, and overall patent issuance, the  
39 diversification of the state's economy, growth in research and

1 development investment, and the movement of firms or the consolidation  
2 of firms' operations into the state(~~(, and such other factors as the~~  
3 ~~department selects)~~). In conducting this evaluation, the committee  
4 shall:

5 (a) Use a generally accepted econometric model and contract with  
6 outside experts; and

7 (b) Evaluate the direct, indirect, and induced impacts of this  
8 program together with the program authorized under RCW 82.63.020.

9 (9) For the purpose of this section:

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

13 (b) "Qualified research and development expenditures" means  
14 operating expenses, including wages, compensation of a proprietor or a  
15 partner in a partnership as determined under rules adopted by the  
16 department, benefits, supplies, and computer expenses, directly  
17 incurred in qualified research and development by a person claiming the  
18 credit provided in this section. The term does not include amounts  
19 paid to a person other than a public educational or research  
20 institution to conduct qualified research and development. Nor does  
21 the term include capital costs and overhead, such as expenses for land,  
22 structures, or depreciable property.

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

25 ~~((c))~~ (d) "Research and development spending" means qualified  
26 research and development expenditures plus eighty percent of amounts  
27 paid to a person other than a public educational or research  
28 institution to conduct qualified research and development.

29 ~~((d))~~ (e) "Taxable amount" means the taxable amount subject to  
30 the tax imposed in this chapter required to be reported on the person's  
31 combined excise tax returns during the year in which the credit is  
32 claimed, less any taxable amount for which a credit is allowed under  
33 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%.