
SUBSTITUTE SENATE BILL 5530

State of Washington

58th Legislature

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By Senate Committee on Technology & Communications (originally sponsored by Senators Finkbeiner, Reardon, Sheahan, Schmidt, Esser, T. Sheldon, Doumit, Hale, Rasmussen, Roach, Rossi, West and Eide)

READ FIRST TIME 02/12/03.

1 AN ACT Relating to business and occupation tax credits and
2 deferrals for research and development and high technology job
3 creation; and amending RCW 82.04.4452, 82.63.010, and 82.63.030.

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

5 **Sec. 1.** RCW 82.04.4452 and 2000 c 103 s 7 are each amended to read
6 as follows:

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

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

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

6 (4) The credit, including any credit assigned to a person under
7 subsection (3) of this section, shall be taken against taxes due for
8 the same calendar year in which the qualified research and development
9 expenditures are incurred. The credit, including any credit assigned
10 to a person under subsection (3) of this section, for each calendar
11 year shall not exceed the lesser of two million dollars or the amount
12 of tax otherwise due under this chapter for the calendar year.

13 (5) Any person taking the credit, including any credit assigned to
14 a person under subsection (3) of this section, whose research and
15 development spending during the calendar year in which the credit is
16 claimed fails to exceed 0.92 percent of the person's taxable amount
17 during the same calendar year shall be liable for payment of the
18 additional taxes represented by the amount of credit taken together
19 with interest, but not penalties. Interest shall be due at the rate
20 provided for delinquent excise taxes retroactively to the date the
21 credit was taken until the taxes are paid. Any credit assigned to a
22 person under subsection (3) of this section that is disallowed as a
23 result of this section may be taken by the person who performed the
24 qualified research and development subject to the limitations set forth
25 in subsection (4) of this section.

26 (6) Any person claiming the credit, and any person assigning a
27 credit as provided in subsection (3) of this section, shall file an
28 affidavit form prescribed by the department which shall include the
29 amount of the credit claimed, an estimate of the anticipated qualified
30 research and development expenditures during the calendar year for
31 which the credit is claimed, an estimate of the taxable amount during
32 the calendar year for which the credit is claimed, and such additional
33 information as the department may prescribe.

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

37 (8) The department shall use the information required under
38 subsection (7) of this section to perform three assessments on the tax

1 credit program authorized under this section. The assessments will
2 take place in 1997, 2000, and 2003. The department shall prepare
3 reports on each assessment and deliver their reports by September 1,
4 1997, September 1, 2000, and September 1, 2003. The assessments shall
5 measure the effect of the program on job creation, the number of jobs
6 created for Washington residents, company growth, the introduction of
7 new products, the diversification of the state's economy, growth in
8 research and development investment, the movement of firms or the
9 consolidation of firms' operations into the state, and such other
10 factors as the department selects.

11 (9) For the purpose of this section:

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

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

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

28 (d) "Taxable amount" means the taxable amount subject to the tax
29 imposed in this chapter required to be reported on the person's
30 combined excise tax returns during the year in which the credit is
31 claimed, less any taxable amount for which a credit is allowed under
32 RCW 82.04.440.

33 (~~(10) This section expires December 31, 2004.~~)

34 **Sec. 2.** RCW 82.63.010 and 1995 1st sp.s. c 3 s 12 are each amended
35 to read as follows:

36 Unless the context clearly requires otherwise, the definitions in
37 this section apply throughout this chapter.

1 (1) "Advanced computing" means technologies used in the designing
2 and developing of computing hardware and software, including
3 innovations in designing the full spectrum of hardware from hand-held
4 calculators to super computers, and peripheral equipment.

5 (2) "Advanced materials" means materials with engineered properties
6 created through the development of specialized processing and synthesis
7 technology, including ceramics, high value-added metals, electronic
8 materials, composites, polymers, and biomaterials.

9 (3) "Applicant" means a person applying for a tax deferral under
10 this chapter.

11 (4) "Biotechnology" means the application of technologies, such as
12 recombinant DNA techniques, biochemistry, molecular and cellular
13 biology, genetics and genetic engineering, cell fusion techniques, and
14 new bioprocesses, using living organisms, or parts of organisms, to
15 produce or modify products, to improve plants or animals, to develop
16 microorganisms for specific uses, to identify targets for small
17 molecule pharmaceutical development, or to transform biological systems
18 into useful processes and products or to develop microorganisms for
19 specific uses.

20 (5) "Department" means the department of revenue.

21 (6) "Electronic device technology" means technologies involving
22 microelectronics; semiconductors; electronic equipment and
23 instrumentation; radio frequency, microwave, and millimeter
24 electronics; optical and optic-electrical devices; and data and digital
25 communications and imaging devices.

26 (7) "Eligible investment project" means an investment project which
27 either initiates a new operation, or expands or diversifies a current
28 operation by expanding, renovating, or equipping an existing facility.
29 The lessor or owner of the qualified building is not eligible for a
30 deferral unless the underlying ownership of the buildings, machinery,
31 and equipment vests exclusively in the same person, or unless the
32 lessor by written contract agrees to pass the economic benefit of the
33 deferral to the lessee in the form of reduced rent payments.

34 (8) "Environmental technology" means assessment and prevention of
35 threats or damage to human health or the environment, environmental
36 cleanup, and the development of alternative energy sources.

37 (9) "Investment project" means an investment in qualified buildings

1 or qualified machinery and equipment, including labor and services
2 rendered in the planning, installation, and construction or improvement
3 of the project.

4 (10) "Person" has the meaning given in RCW 82.04.030 and also means
5 any research university.

6 (11) "Pilot scale manufacturing" means design, construction, and
7 testing of preproduction prototypes and models in the fields of
8 biotechnology, advanced computing, electronic device technology,
9 advanced materials, and environmental technology other than for
10 commercial sale. As used in this subsection, "commercial sale"
11 excludes sales of prototypes or sales for market testing if the total
12 gross receipts from such sales of the product, service, or process do
13 not exceed one million dollars.

14 (12) "Qualified buildings" means construction of new structures,
15 and expansion or renovation of existing structures for the purpose of
16 increasing floor space or production capacity used for pilot scale
17 manufacturing or qualified research and development, including plant
18 offices and other facilities that are an essential or an integral part
19 of a structure used for pilot scale manufacturing or qualified research
20 and development. If a building is used partly for pilot scale
21 manufacturing or qualified research and development, and partly for
22 other purposes, the applicable tax deferral shall be determined by
23 apportionment of the costs of construction under rules adopted by the
24 department.

25 (13) "Qualified machinery and equipment" means fixtures, equipment,
26 and support facilities that are an integral and necessary part of a
27 pilot scale manufacturing or qualified research and development
28 operation. "Qualified machinery and equipment" includes: Computers;
29 software; data processing equipment; laboratory equipment,
30 instrumentation, and other devices used in a process of experimentation
31 to develop a new or improved pilot model, plant process, product,
32 formula, invention, or similar property; manufacturing components such
33 as belts, pulleys, shafts, and moving parts; molds, tools, and dies;
34 vats, tanks, and fermenters; operating structures; and all other
35 equipment used to control, monitor, or operate the machinery. For
36 purposes of this chapter, qualified machinery and equipment must be
37 either new to the taxing jurisdiction of the state or new to the
38 certificate holder, except that used machinery and equipment may be

1 treated as qualified machinery and equipment if the certificate holder
2 either brings the machinery and equipment into Washington or makes a
3 retail purchase of the machinery and equipment in Washington or
4 elsewhere.

5 (14) "Qualified research and development" means research and
6 development performed within this state in the fields of advanced
7 computing, advanced materials, biotechnology, electronic device
8 technology, and environmental technology.

9 (15) "Recipient" means a person receiving a tax deferral under this
10 chapter.

11 (16) "Research and development" means activities performed to
12 discover technological information, and technical and nonroutine
13 activities concerned with translating technological information into
14 new or improved products, processes, techniques, formulas, inventions,
15 or software. The term includes exploration of a new use for an
16 existing drug, device, or biological product if the new use requires
17 separate licensing by the federal food and drug administration under
18 chapter 21, C.F.R., as amended. The term does not include adaptation
19 or duplication of existing products where the products are not
20 substantially improved by application of the technology, nor does the
21 term include surveys and studies, social science and humanities
22 research, market research or testing, quality control, sale promotion
23 and service, computer software developed for internal use, and research
24 in areas such as improved style, taste, and seasonal design.

25 **Sec. 3.** RCW 82.63.030 and 1994 sp.s. c 5 s 5 are each amended to
26 read as follows:

27 (1) Except as provided in subsection (2) of this section, the
28 department shall issue a sales and use tax deferral certificate for
29 state and local sales and use taxes due under chapters 82.08, 82.12,
30 and 82.14 RCW on each eligible investment project.

31 (2) No certificate may be issued for an investment project that has
32 already received a deferral under chapter 82.60 or 82.61 RCW or this
33 chapter, except that an investment project for qualified research and
34 development that has already received a deferral may also receive an
35 additional deferral certificate for adapting the investment project for

1 use in pilot scale manufacturing.

2 (~~(3) This section shall expire July 1, 2004.~~)

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