
SENATE BILL 5639

State of Washington

59th Legislature

2005 Regular Session

By Senators Eide, Shin, Rasmussen and McAuliffe

Read first time 02/01/2005. Referred to Committee on International Trade & Economic Development.

1 AN ACT Relating to the high technology business and occupation tax
2 credit; adding a new section to chapter 82.04 RCW; creating a new
3 section; repealing RCW 82.04.4452; providing an effective date; and
4 providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW
7 to read as follows:

8 (1) In computing the tax imposed under this chapter, a credit is
9 allowed for each person whose research and development spending during
10 the year in which the credit is claimed exceeds the person's average
11 research and development spending during the past three calendar years.

12 (2) The credit shall be calculated as follows: (a) Determine the
13 amount of research and development spending of the person for the
14 calendar year in which the credit is claimed, or portion thereof, and
15 divide this amount by the number of reporting periods for the person
16 that have elapsed for the calendar year in which the credit is claimed;
17 (b) determine the average amount of research and development spending
18 for the three previous calendar years; (c) divide the amount determined
19 in (b) of this subsection by the total number of reporting periods for

1 the person for the calendar year in which the credit is claimed; (d)
2 subtract the amount determined in (c) of this subsection from the
3 amount determined under (a) of this subsection; and (e) multiply the
4 amount determined in (d) of this subsection by three percent if such
5 amount is greater than zero.

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

11 (4) The credit, including any credit assigned to a person under
12 subsection (3) of this section, shall be claimed against taxes due for
13 the same calendar year in which the qualified research and development
14 expenditures are incurred. The credit, including any credit assigned
15 to a person under subsection (3) of this section, for each calendar
16 year shall not exceed the lesser of one million dollars or the amount
17 of tax otherwise due under this chapter for the calendar year.

18 (5) If at any time the department finds that a person is not
19 eligible for the credit under this section, including any credit
20 assigned to a person under subsection (3) of this section, the
21 department shall declare the taxes against which the credit was claimed
22 to be immediately due and payable. The department shall assess
23 interest, but not penalties, on the taxes against which the credit was
24 claimed. Interest shall be assessed at the rate provided for
25 delinquent excise taxes under chapter 82.32 RCW, retroactively to the
26 date the credit was claimed, and shall accrue until the taxes against
27 which the credit was claimed are repaid.

28 (6)(a) The legislature finds that accountability and effectiveness
29 are important aspects of setting tax policy. In order to make policy
30 choices regarding the best use of limited state resources the
31 legislature needs information on how a tax incentive is used.

32 (b) A person claiming the credit shall file a complete annual
33 survey with the department. The survey is due by March 31st following
34 any year in which a credit is claimed. The survey shall include the
35 amount of the tax credit claimed, the qualified research and
36 development expenditures during the calendar year for which the credit
37 is claimed, the average research and development spending for the past
38 three calendar years, the taxable amount during the calendar year for

1 which the credit is claimed, the number of new products or research
2 projects by general classification, the number of trademarks, patents,
3 and copyrights associated with the research and development activities
4 for which a credit was claimed, and whether the credit has been
5 assigned under subsection (3) of this section and who assigned the
6 credit. The survey shall also include the following information for
7 employment positions in Washington:

8 (i) The number of total employment positions;

9 (ii) Full-time, part-time, and temporary employment positions as a
10 percent of total employment;

11 (iii) The number of employment positions according to the following
12 wage bands: Less than thirty thousand dollars; thirty thousand dollars
13 or greater, but less than sixty thousand dollars; and sixty thousand
14 dollars or greater. A wage band containing fewer than three
15 individuals may be combined with another wage band; and

16 (iv) The number of employment positions that have employer-provided
17 medical, dental, and retirement benefits, by each of the wage bands.

18 (c) The department may request additional information necessary to
19 measure the results of the tax credit program, to be submitted at the
20 same time as the survey.

21 (d) All information collected under this subsection, including the
22 amount of the tax credit claimed, is not taxpayer information under RCW
23 82.32.330.

24 (e)(i) If a person fails to file a complete annual survey required
25 under this subsection with the department by the due date, the
26 department shall declare the amount of taxes against which the credit
27 was claimed for the prior calendar year to be immediately due and
28 payable.

29 (ii) If a person who failed to file a complete annual survey
30 required under this subsection with the department by the due date,
31 claims the credit provided in subsection (2) of this section after the
32 due date of the annual survey, or any extension thereof, the department
33 shall declare the amount of taxes for which the credit was claimed to
34 be immediately due and payable, without penalties, but with interest as
35 provided in chapter 82.32 RCW.

36 (7) The department shall use the information from subsection (6) of
37 this section to prepare summary descriptive statistics by category. No

1 fewer than three taxpayers shall be included in any category. The
2 department shall report these statistics to the legislature each year
3 by September 1st.

4 (8) The department shall use the information from subsection (6) of
5 this section to study the tax credit program authorized under this
6 section. The department shall report to the legislature by December 1,
7 2009, and December 1, 2013. The reports shall measure the effect of
8 the program on job creation, the number of jobs created for Washington
9 residents, company growth, the introduction of new products, the
10 diversification of the state's economy, growth in research and
11 development investment, the movement of firms or the consolidation of
12 firms' operations into the state, and such other factors as the
13 department selects.

14 (9) For the purpose of this section:

15 (a) "Average amount of research and development spending" means the
16 sum of research and development spending for the three previous
17 calendar years divided by three.

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

28 (c) "Qualified research and development" has the same meaning as in
29 RCW 82.63.010.

30 (d) "Research and development spending" means qualified research
31 and development expenditures plus eighty percent of amounts paid to a
32 person other than a public educational or research institution to
33 conduct qualified research and development.

34 (e) "Taxable amount" means the taxable amount subject to the tax
35 imposed in this chapter required to be reported on the person's
36 combined excise tax returns for the calendar year for which the credit
37 is claimed, less any taxable amount for which a credit is allowed under
38 RCW 82.04.440.

1 (10) This section expires January 1, 2015.

2 NEW SECTION. **Sec. 2.** RCW 82.04.4452 (Credit--Research and
3 development spending) and 2004 c 2 s 2, 2000 c 103 s 7, 1997 c 7 s 4,
4 & 1994 sp.s. c 5 s 2 are each repealed.

5 NEW SECTION. **Sec. 3.** Credit may be claimed after January 1, 2006,
6 under RCW 82.04.4452 for research and development spending that
7 occurred during calendar year 2005, but has not been reported on the
8 final tax return for calendar year 2005.

9 NEW SECTION. **Sec. 4.** This act takes effect January 1, 2006.

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