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HOUSE BILL 2532

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State of Washington

62nd Legislature

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By Representatives Carlyle, Anderson, Haler, Eddy, Orwall, Sequist, Pedersen, Maxwell, Morris, Hansen, Springer, Haigh, and Kenney

Read first time 01/17/12. Referred to Committee on Ways & Means.

1 AN ACT Relating to modifying business and occupation tax credits  
2 and other provisions of the opportunity expansion program; amending RCW  
3 82.04.4452, 28B.145.060, and 28B.145.080; adding a new section to  
4 chapter 82.04 RCW; providing an effective date; and providing  
5 expiration dates.

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

7 **Sec. 1.** RCW 82.04.4452 and 2010 c 114 s 114 are each amended to  
8 read as follows:

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

13 (2)(a) The credit is calculated as follows:

14 ((+a)) (i) Determine the greater of the amount of qualified  
15 research and development expenditures of a person or eighty percent of  
16 amounts received by a person other than a public educational or  
17 research institution in compensation for the conduct of qualified  
18 research and development;

1       ~~((b))~~ (ii) Subtract 0.92 percent of the person's taxable amount  
2 from the amount determined under (a)(i) of this subsection;

3       ~~((e))~~ (iii) Multiply the amount determined under ~~((b))~~ (a)(ii)  
4 of this subsection by the following:

5       ~~((i))~~ (A) For the period June 10, 2004, through December 31,  
6 2006, the person's average tax rate for the calendar year for which the  
7 credit is claimed;

8       ~~((ii))~~ (B) For the calendar year ending December 31, 2007, the  
9 greater of the person's average tax rate for that calendar year or 0.75  
10 percent;

11       ~~((iii))~~ (C) For the calendar year ending December 31, 2008, the  
12 greater of the person's average tax rate for that calendar year or 1.0  
13 percent;

14       ~~((iv))~~ (D) For the calendar year ending December 31, 2009, the  
15 greater of the person's average tax rate for that calendar year or 1.25  
16 percent;

17       ~~((v))~~ (E) For the calendar year ending December 31, 2010, and  
18 thereafter, 1.50 percent.

19       (b) For purposes of calculating the credit, if a person's reporting  
20 period is less than annual, the person may use an estimated average tax  
21 rate for the calendar year for which the credit is claimed by using the  
22 person's average tax rate for each reporting period. A person who uses  
23 an estimated average tax rate must make an adjustment to the total  
24 credit claimed for the calendar year using the person's actual average  
25 tax rate for the calendar year when the person files its last return  
26 for the calendar year for which the credit is claimed.

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

32       (4) The credit, including any credit assigned to a person under  
33 subsection (3) of this section, must be claimed against taxes due for  
34 the same calendar year in which the qualified research and development  
35 expenditures are incurred. The credit, including any credit assigned  
36 to a person under subsection (3) of this section, for each calendar  
37 year may not exceed the lesser of ~~((two million))~~ four hundred thousand

1 dollars or the amount of tax otherwise due under this chapter for the  
2 calendar year.

3 (5) For any person claiming the credit, including any credit  
4 assigned to a person under subsection (3) of this section, whose  
5 research and development spending during the calendar year in which the  
6 credit is claimed fails to exceed 0.92 percent of the person's taxable  
7 amount during the same calendar year or who is otherwise ineligible,  
8 the department must declare the taxes against which the credit was  
9 claimed to be immediately due and payable. The department must assess  
10 interest, but not penalties, on the taxes against which the credit was  
11 claimed. Interest must be assessed at the rate provided for delinquent  
12 excise taxes under chapter 82.32 RCW, retroactively to the date the  
13 credit was claimed, and accrues until the taxes against which the  
14 credit was claimed are repaid. Any credit assigned to a person under  
15 subsection (3) of this section that is disallowed as a result of this  
16 section may be claimed by the person who performed the qualified  
17 research and development subject to the limitations set forth in  
18 subsection (4) of this section.

19 (6) A person may not claim a credit under this section if the  
20 person reported an annual gross amount of twenty-five million dollars  
21 or more in the prior calendar year.

22 (7) A person may not claim a credit under this section after the  
23 total length of time the credit has been claimed, based on the person's  
24 tax reporting periods in which a credit under this section has been  
25 claimed, exceeds eight years. The determination under this subsection  
26 (7) includes all tax reporting periods prior to the effective date of  
27 this section.

28 (8) A person claiming the credit provided in this section must file  
29 a complete annual survey with the department under RCW 82.32.585.

30 ~~((+7))~~ (9) For the purpose of this section:

31 (a) "Average tax rate" means a person's total tax liability under  
32 this chapter for the calendar year for which the credit is claimed  
33 divided by the taxpayer's total taxable amount under this chapter for  
34 the calendar year for which the credit is claimed.

35 (b) "Qualified research and development expenditures" means  
36 operating expenses, including wages, compensation of a proprietor or a  
37 partner in a partnership as determined under rules adopted by the  
38 department, benefits, supplies, and computer expenses, directly

1 incurred in qualified research and development by a person claiming the  
2 credit provided in this section. The term does not include amounts  
3 paid to a person other than a public educational or research  
4 institution to conduct qualified research and development. Nor does  
5 the term include capital costs and overhead, such as expenses for land,  
6 structures, or depreciable property.

7 (c) "Qualified research and development" (~~shall have~~) has the  
8 same meaning as provided in RCW 82.63.010.

9 (d) "Research and development spending" means qualified research  
10 and development expenditures plus eighty percent of amounts paid to a  
11 person other than a public educational or research institution to  
12 conduct qualified research and development.

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

18 (~~(+8)~~) (10) This section expires January 1, (~~(2015)~~) 2022.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW  
20 to read as follows:

21 (1) In computing tax owed under this chapter, a person may take a  
22 credit for contributions to the program administrator of the  
23 opportunity scholarship board. Contributions must be deposited into a  
24 separate account to be used for the opportunity expansion program.

25 (2) A person may take a credit under this section only if the  
26 person is prohibited from taking all or a portion of the high  
27 technology research and development credit as a result of the changes  
28 made in section 1, chapter . . ., Laws of 2012 (this act).

29 (3) A person may not take a credit under this section in an amount  
30 that exceeds two million five hundred thousand dollars for any calendar  
31 year.

32 (4) A credit claimed under this section may not exceed the person's  
33 tax liability under this chapter in the tax reporting period in which  
34 the credit is claimed. Unused credits may be carried forward until  
35 used.

36 (5) The definitions in this subsection apply to this section.

1 (a) "High technology research and development credit" means the  
2 credit under RCW 82.04.4452(2).

3 (b) "Opportunity expansion program," "opportunity scholarship  
4 board," "program administrator," and "scholarship account" have the  
5 same meanings as provided in chapter 28B.145 RCW.

6 (6) This section expires January 1, 2022.

7 **Sec. 3.** RCW 28B.145.060 and 2011 1st sp.s. c 13 s 7 are each  
8 amended to read as follows:

9 (1) The opportunity expansion program is established.

10 (2) The opportunity scholarship board (~~shall~~) must select  
11 institutions of higher education to receive opportunity expansion  
12 awards. In so doing, the opportunity scholarship board must:

13 (a) Solicit, receive, and evaluate proposals from institutions of  
14 higher education that are designed to directly increase the number of  
15 high-quality baccalaureate degrees produced in high employer demand and  
16 other programs of study, and that include annual numerical targets for  
17 the number of such degrees, with a strong emphasis on serving students  
18 who received their high school diploma or GED in Washington or are  
19 adult Washington residents who are returning to school to gain a  
20 baccalaureate degree;

21 (b) Develop criteria for evaluating proposals and awarding funds to  
22 the proposals deemed most likely to increase the number of  
23 baccalaureate degrees and degrees produced in high employer demand and  
24 other programs of study; however:

25 (i) The annual numeric targets referenced in (a) of this subsection  
26 must be set as a specific percentage increase from a rigorously defined  
27 baseline of the institution's science, technology, engineering, and  
28 math degree production. The baseline must represent the institution's  
29 production of science, technology, engineering, and math degrees for  
30 the five years before receipt of an opportunity expansion award;

31 (ii) Awards must specify that, if an institution fails to achieve  
32 their annual numeric target of degrees awarded that institution must  
33 refund their award in an amount proportional to the percentage of their  
34 target they did not achieve; and

35 (iii) Awards must only be made to institutions who demonstrate, to  
36 the board's satisfaction, that award funds will be used only for

1 increased degree production and not on unrelated administrative,  
2 capital, or other university costs;

3 (c) Give priority to proposals that include a partnership between  
4 public and private partnership entities that leverage additional  
5 private funds;

6 (d) Give priority to proposals that are innovative, efficient, and  
7 cost-effective, given the nature and cost of the particular program of  
8 study;

9 (e) Consult and operate in consultation with existing higher  
10 education stakeholders, including but not limited to: Faculty, labor,  
11 student organizations, and relevant higher education agencies; (~~and~~)

12 (f) Determine which proposals to improve and accelerate the  
13 production of baccalaureate degrees in high employer demand and other  
14 programs of study will receive opportunity expansion awards for the  
15 following state fiscal year, notify the state treasurer, and announce  
16 the awards; and

17 (g) Operate in consultation with program donors to ensure that  
18 awards are given to those programs most likely to meet workforce needs.

19 (3) The state treasurer, at the direction of the opportunity  
20 scholarship board, must distribute the funds that have been awarded to  
21 the institutions of higher education from the opportunity expansion  
22 account.

23 (4) Institutions of higher education receiving awards under this  
24 section may not supplant existing general fund state revenues with  
25 opportunity expansion awards.

26 (5) Annually, the office of financial management (~~shall~~) must  
27 report to the opportunity scholarship board, the governor, and the  
28 relevant committees of the legislature regarding the percentage of  
29 Washington households with incomes in the middle-income bracket or  
30 higher. For purposes of this section, "middle-income bracket" means  
31 household incomes between two hundred and five hundred percent of the  
32 2010 federal poverty level, as determined by the United States  
33 department of health and human services for a family of four, adjusted  
34 annually for inflation.

35 (6) Annually, the higher education coordinating board must report  
36 to the opportunity scholarship board, the governor, and the relevant  
37 committees of the legislature regarding the increase in the number of

1 degrees in high employer demand and other programs of study awarded by  
2 institutions of higher education over the average of the preceding ten  
3 academic years.

4 (7) In its comprehensive plan, the workforce training and education  
5 coordinating board (~~shall~~) must include specific strategies to reach  
6 the goal of increasing the percentage of Washington households living  
7 in the middle-income bracket or higher, as calculated by the office of  
8 financial management and developed by the agency or education  
9 institution that will lead the strategy.

10 **Sec. 4.** RCW 28B.145.080 and 2011 1st sp.s. c 13 s 9 are each  
11 amended to read as follows:

12 (1) Beginning in 2018, the joint legislative audit and review  
13 committee (~~shall~~) must evaluate the opportunity scholarship and  
14 opportunity expansion programs, and submit a report to the appropriate  
15 committees of the legislature by December 1, 2018. The committee's  
16 evaluation (~~shall~~) must include, but is not (~~be~~) limited to:

17 (a) The number and type of eligible education programs as  
18 determined by the opportunity scholarship board;

19 (b) The number of participants in the opportunity scholarship  
20 program in relation to the number of participants who completed a  
21 baccalaureate degree;

22 (c) The total cumulative number of students who received  
23 opportunity scholarships, and the total cumulative number of students  
24 who gained a baccalaureate degree after receiving an opportunity  
25 scholarship and the types of baccalaureate degrees awarded;

26 (d) The amount of private contributions to the opportunity  
27 scholarship program, annually and in total;

28 (e) The amount of state match moneys to the opportunity scholarship  
29 program, annually and in total;

30 (f) The amount of any administrative fees paid to the program  
31 administrator, annually and in total;

32 (g) The source and amount of funding, annually and cumulatively,  
33 for the opportunity expansion program;

34 (h) The number and type of proposals submitted by institutions for  
35 opportunity expansion awards, the number and type of proposals that  
36 received an award of opportunity expansion funds, and the amount of  
37 such awards;

1 (i) The total cumulative number of additional high employer demand  
2 degrees produced in Washington state due to the opportunity expansion  
3 program(~~(, including both the initial opportunity expansion awards and~~  
4 ~~the subsequent inclusion in base funding)~~); and

5 (j) Evidence that the existence of the opportunity scholarship and  
6 opportunity expansion programs have contributed to the achievement of  
7 the public policy objectives of helping to mitigate the impact of  
8 tuition increases, increasing the number of baccalaureate degrees in  
9 high employer demand and other programs, and investing in programs and  
10 students to meet market demands for a knowledge-based economy while  
11 filling middle-income jobs with a sufficient supply of skilled workers.

12 (2) In the event that the joint legislative audit and review  
13 committee is charged with completing an evaluation of other aspects of  
14 degree production, funding, or other aspects of higher education in  
15 2018, and to the extent that it is economical and feasible to do so,  
16 the committee (~~shall~~) must combine the multiple evaluations and  
17 submit a single report.

18 NEW SECTION. **Sec. 5.** This act takes effect July 1, 2012.

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