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SENATE BILL 6267

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State of Washington

63rd Legislature

2014 Regular Session

By Senators Hill and Benton; by request of Office of Financial Management

Read first time 01/20/14. Referred to Committee on Trade & Economic Development.

1 AN ACT Relating to high-technology research and development tax  
2 incentives; amending RCW 82.04.4452 and 82.63.030; creating a new  
3 section; and providing expiration dates.

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

5 **Sec. 1.** RCW 82.04.4452 and 2010 c 114 s 114 are each amended to  
6 read 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 calculated as follows:

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

17 (b) Subtract 0.92 percent of the person's taxable amount from the  
18 amount determined under (a) of this subsection;

1 (c) Multiply the amount determined under (b) of this subsection by  
2 the following:

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

6 (ii) For the calendar year ending December 31, 2007, the greater of  
7 the person's average tax rate for that calendar year or 0.75 percent;

8 (iii) For the calendar year ending December 31, 2008, the greater  
9 of the person's average tax rate for that calendar year or 1.0 percent;

10 (iv) For the calendar year ending December 31, 2009, the greater of  
11 the person's average tax rate for that calendar year or 1.25 percent;

12 (v) For the calendar year ending December 31, 2010, and thereafter,  
13 1.50 percent.

14 For purposes of calculating the credit, if a person's reporting  
15 period is less than annual, the person may use an estimated average tax  
16 rate for the calendar year for which the credit is claimed by using the  
17 person's average tax rate for each reporting period. A person who uses  
18 an estimated average tax rate must make an adjustment to the total  
19 credit claimed for the calendar year using the person's actual average  
20 tax rate for the calendar year when the person files its last return  
21 for the calendar year for which the credit is claimed.

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

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

34 (5) For any person claiming the credit, including any credit  
35 assigned to a person under subsection (3) of this section, whose  
36 research and development spending during the calendar year in which the  
37 credit is claimed fails to exceed 0.92 percent of the person's taxable  
38 amount during the same calendar year or who is otherwise ineligible,

1 the department must declare the taxes against which the credit was  
2 claimed to be immediately due and payable. The department must assess  
3 interest, but not penalties, on the taxes against which the credit was  
4 claimed. Interest must be assessed at the rate provided for delinquent  
5 excise taxes under chapter 82.32 RCW, retroactively to the date the  
6 credit was claimed, and accrues until the taxes against which the  
7 credit was claimed are repaid. Any credit assigned to a person under  
8 subsection (3) of this section that is disallowed as a result of this  
9 section may be claimed by the person who performed the qualified  
10 research and development subject to the limitations set forth in  
11 subsection (4) of this section.

12 (6) A person claiming the credit provided in this section must file  
13 a complete annual survey with the department under RCW 82.32.585.

14 (7) For the purpose of this section:

15 (a) "Average tax rate" means a person's total tax liability under  
16 this chapter for the calendar year for which the credit is claimed  
17 divided by the taxpayer's total taxable amount under this chapter for  
18 the calendar year for which the credit is claimed.

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

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

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

35 (e) "Taxable amount" means the taxable amount subject to the tax  
36 imposed in this chapter required to be reported on the person's  
37 combined excise tax returns for the calendar year for which the credit

1 is claimed, less any taxable amount for which a credit is allowed under  
2 RCW 82.04.440.

3 (8) This section expires January 1, (~~(2015)~~) 2016.

4 **Sec. 2.** RCW 82.63.030 and 2008 c 15 s 4 are each amended to read  
5 as follows:

6 (1) Except as provided in subsection (2) of this section, the  
7 department (~~(shall)~~) must issue a sales and use tax deferral  
8 certificate for state and local sales and use taxes due under chapters  
9 82.08, 82.12, and 82.14 RCW on each eligible investment project.

10 (2) No certificate may be issued for an investment project that has  
11 already received a deferral under chapter 82.60 RCW or this chapter,  
12 except that an investment project for qualified research and  
13 development that has already received a deferral may also receive an  
14 additional deferral certificate for adapting the investment project for  
15 use in pilot scale manufacturing.

16 (3) This section (~~(shall)~~) expires January 1, (~~(2015)~~) 2016.

17 NEW SECTION. **Sec. 3.** (1) The high-technology research and  
18 development investment working group is established. The working group  
19 consists of the following members:

20 (a) The director of the department of commerce who must serve as  
21 chair of the working group;

22 (b) The director of the department of revenue or his or her  
23 designee;

24 (c) The presidents of the University of Washington and Washington  
25 State University or their designees;

26 (d)(i) One representative from each of the following industries  
27 appointed by the governor:

28 (A) Advanced computing;

29 (B) Advanced materials;

30 (C) Biotechnology;

31 (D) Electronic device technology; and

32 (E) Environmental technology.

33 (ii) A statewide organization representing each of the industries  
34 listed in this subsection (1)(d) must submit a list of three names to  
35 the governor. The governor must make each appointment from each list

1 submitted or request the statewide organization to submit a new list  
2 with up to three additional names.

3 (2)(a) The working group must develop recommendations for the  
4 legislature that integrates high-technology research and development  
5 activities with investments in higher education. At minimum, the  
6 recommendations must include provisions addressing the following:

7 (i) Ways to improve the coordination of research and development  
8 spending with higher education institutions, including:

9 (A) Developing and integrating technology in new or enhanced  
10 products and services, and launching those products and services in  
11 sustainable businesses in Washington state; and

12 (B) Attracting new high-technology research and development  
13 investment at higher education institutions.

14 (ii) The design, size, and scope of high-technology research and  
15 development tax preference programs after January 1, 2016.

16 (b) In developing these recommendations, the working group must  
17 reprioritize current resources devoted to high-technology research and  
18 development tax preferences to provide additional funding for higher  
19 education institutions with a focus on science, technology,  
20 engineering, and math programs of study.

21 (c) The working group must submit its proposal to the governor and  
22 fiscal committees of the legislature by December 1, 2014.

23 (3) This section expires January 1, 2015.

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