

2 **2SSB 6347 - H AMD 1320 ADOPTED 3-8-94**

3 By Representative G. Fisher and Finkbeiner

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5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature finds that high-wage, high-
8 skilled jobs are vital to the economic health of the state's citizens,
9 and that targeted tax incentives will encourage the formation of high-
10 wage, high-skilled jobs. The legislature also finds that tax
11 incentives should be subject to the same rigorous requirements for
12 efficiency and accountability as are other expenditure programs, and
13 that tax incentives should therefore be focused to provide the greatest
14 possible return on the state's investment.

15 The legislature also finds that high-technology businesses are a
16 vital and growing source of high-wage, high-skilled jobs in this state,
17 and that the high-technology sector is a key component of the state's
18 effort to encourage economic diversification. However, the legislature
19 finds that many high-technology businesses incur significant costs
20 associated with research and development and pilot scale manufacturing
21 many years before a marketable product can be produced, and that
22 current state tax policy discourages the growth of these companies by
23 taxing them long before they become profitable.

24 The legislature further finds that stimulating growth of high-
25 technology businesses early in their development cycle, when they are
26 turning ideas into marketable products, will build upon the state's
27 established high-technology base, creating additional research and
28 development jobs and subsequent manufacturing facilities.

29 For these reasons, the legislature hereby establishes a program of
30 business and occupation tax credits for qualified research and
31 development expenditures. The legislature also hereby establishes a
32 tax deferral program for high-technology research and development and
33 pilot scale manufacturing facilities. The legislature declares that
34 these limited programs serve the vital public purpose of creating
35 employment opportunities in this state. The legislature further
36 declares its intent to create a contract within the meaning of Article

1 I, section 23 of the state Constitution as to those businesses that
2 make capital investments in consideration of the tax deferral program
3 established in this chapter.

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

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

10 (2) The credit is equal to the greater of the amount of qualified
11 research and development expenditures of a person or eighty percent of
12 amounts received by a person other than a public educational or
13 research institution in compensation for the conduct of qualified
14 research and development, multiplied by the rate of 0.515 percent in
15 the case of a nonprofit corporation or nonprofit association engaging
16 within this state in research and development, and 2.5 percent for
17 every other person.

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

23 (4) The credit, including any credit assigned to a person under
24 subsection (3) of this section, shall be taken against taxes due for
25 the same calendar year in which the qualified research and development
26 expenditures are incurred. The credit, including any credit assigned
27 to a person under subsection (3) of this section, for calendar year
28 1994 shall not exceed the lesser of one million dollars or the taxes
29 otherwise due under this chapter for the period July 1, 1994 through
30 December 31, 1994. The credit, including any credit assigned to a
31 person under subsection (3) of this section, for each calendar year
32 thereafter shall not exceed the lesser of two million dollars or the
33 amount of tax otherwise due under this chapter for the calendar year.

34 (5) Any person taking the credit, including any credit assigned to
35 a person under subsection (3) of this section, whose research and
36 development spending during the calendar year in which the credit is
37 claimed fails to exceed 0.92 percent of the person's taxable amount
38 during the same calendar year shall be liable for payment of the

1 additional taxes represented by the amount of credit taken together
2 with interest, but not penalties. Interest shall be due at the rate
3 provided for delinquent excise taxes retroactively to the date the
4 credit was taken until the taxes are paid. Any credit assigned to a
5 person under subsection (3) of this section that is disallowed as a
6 result of this section may be taken by the person who performed the
7 qualified research and development subject to the limitations set forth
8 in subsection (4) of this section.

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

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

20 (8) For the purpose of this section:

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

31 (b) "Qualified research and development" shall have the same
32 meaning as in section 3 of this act.

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

37 (d) "Taxable amount" means the taxable amount subject to the tax
38 imposed in this chapter required to be reported on the person's
39 combined excise tax returns during the year in which the credit is

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

3 (9) This section shall expire July 1, 1997.

4 NEW SECTION. **Sec. 3.** Unless the context clearly requires
5 otherwise, the definitions in this section apply throughout this
6 chapter.

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

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

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

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

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

27 (6) "Electronic device technology" means technologies involving
28 microelectronics; semiconductors; electronic equipment and
29 instrumentation; radio frequency, microwave, and millimeter
30 electronics; and optical and optic-electrical devices; and data and
31 digital communications and imaging devices.

32 (7) "Eligible investment project" means that portion of an
33 investment project which either initiates a new operation, or expands
34 or diversifies a current operation by expanding, renovating, or
35 equipping an existing facility with costs in excess of twenty-five
36 percent of the true and fair value of the facility prior to
37 improvement. The lessor or owner of the qualified building is not
38 eligible for a deferral unless the underlying ownership of the

1 buildings, machinery, and equipment vests exclusively in the same
2 person, or unless the lessor by written contract agrees to pass the
3 economic benefit of the deferral to the lessee in the form of reduced
4 rent payments.

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

8 (9) "Investment project" means an investment in qualified buildings
9 or qualified machinery and equipment, including labor and services
10 rendered in the planning, installation, and construction or improvement
11 of the project.

12 (10) "Person" has the meaning given in RCW 82.04.030.

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

21 (12) "Qualified buildings" means structures used for pilot scale
22 manufacturing or qualified research and development, including plant
23 offices and other facilities that are an essential or an integral part
24 of a structure used for pilot scale manufacturing or qualifying
25 research and development. If a building is used partly for pilot scale
26 manufacturing or qualifying research and development, and partly for
27 other purposes, the applicable tax deferral shall be determined by
28 apportionment of the costs of construction under rules adopted by the
29 department.

30 (13) "Qualified machinery and equipment" means fixtures, equipment,
31 and support facilities that are an integral and necessary part of a
32 pilot scale manufacturing or qualified research and development
33 operation. "Qualified machinery and equipment" includes: Computers;
34 software; data processing equipment; laboratory equipment,
35 instrumentation, and other devices used in a process of experimentation
36 to develop a new or improved pilot model, plant process, product,
37 formula, invention, or similar property; manufacturing components such
38 as belts, pulleys, shafts, and moving parts; molds, tools, and dies;
39 vats, tanks, and fermenters; operating structures; and all other

1 equipment used to control, monitor, or operate the machinery. For
2 purposes of this chapter, qualified machinery and equipment must be
3 either new to the taxing jurisdiction of the state or new to the
4 certificate holder, except that used machinery and equipment may be
5 treated as qualified machinery and equipment if the certificate holder
6 either brings the machinery and equipment into Washington or makes a
7 retail purchase of the machinery and equipment in Washington or
8 elsewhere.

9 (14) "Qualified research and development" means research and
10 development performed within this state in the fields of advanced
11 computing, advanced materials, biotechnology, electronic device
12 technology, and environmental technology.

13 (15) "Recipient" means a person receiving a tax deferral under this
14 chapter.

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

29 NEW SECTION. **Sec. 4.** Application for deferral of taxes under this
30 chapter must be made before July 1, 1997, and before initiation of
31 construction of, or acquisition of equipment or machinery for the
32 investment project. The application shall be made to the department in
33 a form and manner prescribed by the department. The application shall
34 contain information regarding the location of the investment project,
35 the applicant's average employment in the state for the prior year,
36 estimated or actual new employment related to the project, estimated or
37 actual wages of employees related to the project, estimated or actual
38 costs, time schedules for completion and operation, and other

1 information required by the department. The department shall rule on
2 the application within sixty days.

3 Applicants for deferral of taxes under this chapter shall agree to
4 supply the department with nonproprietary information necessary to
5 measure the results of the tax deferral program for high-technology
6 research and development and pilot scale manufacturing facilities.

7 NEW SECTION. **Sec. 5.** (1) Except as provided in subsection (2) of
8 this section, the department shall issue a sales and use tax deferral
9 certificate for state and local sales and use taxes due under chapters
10 82.08, 82.12, and 82.14 RCW on each eligible investment project.

11 (2) No certificate may be issued for an investment project that has
12 already received a deferral under chapters 82.60 or 82.61 RCW or this
13 chapter, except that an investment project for qualified research and
14 development that has already received a deferral may also receive an
15 additional deferral certificate for adapting the investment project for
16 use in pilot scale manufacturing.

17 (3) This section shall expire July 1, 1997.

18 NEW SECTION. **Sec. 6.** (1) Except as provided in subsections (2)
19 and (3) of this section, a recipient shall begin paying taxes deferred
20 under this chapter on December 31st of the third calendar year after
21 the date certified by the department as the date on which the
22 investment project has been operationally completed, or on December
23 31st of the fifth calendar year after the certificate was granted,
24 whichever is sooner. Subsequent annual payments shall be due on
25 December 31st of the following four years with amounts of payment
26 scheduled as follows:

27	Repayment Year	% of Deferred Tax Repaid
28	1	10%
29	2	15%
30	3	20%
31	4	25%
32	5	30%

33 (2) A recipient that is an institution recognized as a
34 comprehensive cancer center by the national cancer institute before
35 April 20, 1983, shall begin paying taxes deferred under this chapter on

1 December 31st of the third calendar year after the date certified by
2 the department as the date on which the investment project has been
3 operationally completed, or on December 31st of the fifth calendar year
4 after the certificate was granted, whichever is sooner. Subsequent
5 annual payments shall be due on December 31st of the following four
6 years with amounts of payment scheduled as follows:

7	Repayment Year	% of Deferred Tax Repaid
8	1	10%
9	2	12%
10	3	14%
11	4	28%
12	5	36%

13 (3) A recipient of a tax deferral on an investment project for
14 qualified research and development on, or pilot scale manufacturing of,
15 a drug, device, or biological product that requires licensing by the
16 federal food and drug administration under chapter 21, C.F.R., as
17 amended, shall begin paying taxes deferred under this chapter on
18 December 31st of the fifth calendar year after the date certified by
19 the department as the date on which the investment project has been
20 operationally completed, or on December 31st of the seventh calendar
21 year after the certificate was granted, whichever is sooner.
22 Subsequent annual payments shall be due on December 31st of the
23 following five years with amounts of payment scheduled as follows:

24	Repayment Year	% of Deferred Tax Repaid
25	1	10%
26	2	10%
27	3	15%
28	4	20%
29	5	20%
30	6	25%

31 (4) The department may authorize an accelerated repayment schedule
32 upon request of the recipient.

33 (5) Interest may not be charged on taxes deferred under this
34 chapter for the period of deferral, although all other penalties and
35 interest applicable to delinquent excise taxes may be assessed and

1 imposed for delinquent payments under this chapter. The debt for
2 deferred taxes will not be extinguished by insolvency or other failure
3 of the recipient.

4 NEW SECTION. **Sec. 7.** If an investment project is used for
5 purposes other than qualified research and development or pilot scale
6 manufacturing prior to repayment of the taxes deferred under this
7 chapter, the amount of the deferred taxes outstanding for the project
8 is immediately due.

9 NEW SECTION. **Sec. 8.** Chapter 82.32 RCW applies to the
10 administration of this chapter.

11 NEW SECTION. **Sec. 9.** Applications and other information received
12 by the department under this chapter are not confidential and are
13 subject to disclosure.

14 NEW SECTION. **Sec. 10.** The department shall perform an assessment
15 of the results of the tax credit and tax deferral programs authorized
16 under chapters 82.60, 82.61, and 82.62 RCW and deliver a report on the
17 assessment to the governor and the legislature by January 1, 1997. The
18 assessments shall measure the effect of the programs on job creation,
19 company growth, the introduction of new products, the diversification
20 of the state's economy, growth in research and development investment,
21 the movement of firms or the consolidation of firms' operations into
22 the state, and such other factors as the department selects.

23 NEW SECTION. **Sec. 11.** Sections 1 and 3 through 9 of this act
24 shall constitute a new chapter in Title 82 RCW.

25 NEW SECTION. **Sec. 12.** This act shall take effect July 1, 1994."

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