

2 2SSB 6347 - S AMD - 000568
3 By Senators Rinehart and Owen

4 ADOPTED 3/14/94

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 each calendar
28 year shall not exceed the lesser of two million dollars or the amount
29 of tax otherwise due under this chapter for the calendar year.

30 (5) Any person taking the credit, including any credit assigned to
31 a person under subsection (3) of this section, whose research and
32 development spending during the calendar year in which the credit is
33 claimed fails to exceed 0.92 percent of the person's taxable amount
34 during the same calendar year shall be liable for payment of the
35 additional taxes represented by the amount of credit taken together
36 with interest, but not penalties. Interest shall be due at the rate
37 provided for delinquent excise taxes retroactively to the date the
38 credit was taken until the taxes are paid. Any credit assigned to a

1 person under subsection (3) of this section that is disallowed as a
2 result of this section may be taken by the person who performed the
3 qualified research and development subject to the limitations set forth
4 in subsection (4) of this section.

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

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

16 (8) The department shall use the information required under
17 subsection (7) of this section to perform three assessments on the tax
18 credit program authorized under this section. The assessments will
19 take place in 1997, 2000, and 2003. The department shall prepare
20 reports on each assessment and deliver their reports by September 1,
21 1997, September 1, 2000, and September 1, 2003. The assessments shall
22 measure the effect of the program on job creation, the number of jobs
23 created for Washington residents, company growth, the introduction of
24 new products, the diversification of the state's economy, growth in
25 research and development investment, the movement of firms or the
26 consolidation of firms' operations into the state, and such other
27 factors as the department selects.

28 (9) For the purpose of this section:

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

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

3 (c) "Research and development spending" means qualified research
4 and development expenditures plus eighty percent of amounts paid to a
5 person other than a public educational or research institution to
6 conduct qualified research and development.

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

12 (10) This section shall expire December 31, 2004.

13 NEW SECTION. **Sec. 3.** Unless the context clearly requires
14 otherwise, the definitions in this section apply throughout this
15 chapter.

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

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

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

26 (4) "Biotechnology" means the application of technologies, such as
27 recombinant DNA techniques, biochemistry, molecular and cellular
28 biology, genetics and genetic engineering, cell fusion techniques, and
29 new bioprocesses, using living organisms, or parts of organisms, to
30 produce or modify products, to improve plants or animals, to develop
31 microorganisms for specific uses, to identify targets for small
32 molecule pharmaceutical development, or to transform biological systems
33 into useful processes and products or to develop microorganisms for
34 specific uses.

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

36 (6) "Electronic device technology" means technologies involving
37 microelectronics; semiconductors; electronic equipment and
38 instrumentation; radio frequency, microwave, and millimeter

1 electronics; and optical and optic-electrical devices; and data and
2 digital communications and imaging devices.

3 (7) "Eligible investment project" means that portion of an
4 investment project which either initiates a new operation, or expands
5 or diversifies a current operation by expanding, renovating, or
6 equipping an existing facility with costs in excess of twenty-five
7 percent of the true and fair value of the facility prior to
8 improvement. The lessor or owner of the qualified building is not
9 eligible for a deferral unless the underlying ownership of the
10 buildings, machinery, and equipment vests exclusively in the same
11 person, or unless the lessor by written contract agrees to pass the
12 economic benefit of the deferral to the lessee in the form of reduced
13 rent payments.

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

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

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

22 (11) "Pilot scale manufacturing" means design, construction, and
23 testing of preproduction prototypes and models in the fields of
24 biotechnology, advanced computing, electronic device technology,
25 advanced materials, and environmental technology other than for
26 commercial sale. As used in this subsection, "commercial sale"
27 excludes sales of prototypes or sales for market testing if the total
28 gross receipts from such sales of the product, service, or process do
29 not exceed one million dollars.

30 (12) "Qualified buildings" means structures used for pilot scale
31 manufacturing or qualified research and development, including plant
32 offices and other facilities that are an essential or an integral part
33 of a structure used for pilot scale manufacturing or qualified research
34 and development. If a building is used partly for pilot scale
35 manufacturing or qualified research and development, and partly for
36 other purposes, the applicable tax deferral shall be determined by
37 apportionment of the costs of construction under rules adopted by the
38 department.

1 (13) "Qualified machinery and equipment" means fixtures, equipment,
2 and support facilities that are an integral and necessary part of a
3 pilot scale manufacturing or qualified research and development
4 operation. "Qualified machinery and equipment" includes: Computers;
5 software; data processing equipment; laboratory equipment,
6 instrumentation, and other devices used in a process of experimentation
7 to develop a new or improved pilot model, plant process, product,
8 formula, invention, or similar property; manufacturing components such
9 as belts, pulleys, shafts, and moving parts; molds, tools, and dies;
10 vats, tanks, and fermenters; operating structures; and all other
11 equipment used to control, monitor, or operate the machinery. For
12 purposes of this chapter, qualified machinery and equipment must be
13 either new to the taxing jurisdiction of the state or new to the
14 certificate holder, except that used machinery and equipment may be
15 treated as qualified machinery and equipment if the certificate holder
16 either brings the machinery and equipment into Washington or makes a
17 retail purchase of the machinery and equipment in Washington or
18 elsewhere.

19 (14) "Qualified research and development" means research and
20 development performed within this state in the fields of advanced
21 computing, advanced materials, biotechnology, electronic device
22 technology, and environmental technology.

23 (15) "Recipient" means a person receiving a tax deferral under this
24 chapter.

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

1 NEW SECTION. **Sec. 4.** Application for deferral of taxes under this
2 chapter must be made before initiation of construction of, or
3 acquisition of equipment or machinery for the investment project. The
4 application shall be made to the department in a form and manner
5 prescribed by the department. The application shall contain
6 information regarding the location of the investment project, the
7 applicant's average employment in the state for the prior year,
8 estimated or actual new employment related to the project, estimated or
9 actual wages of employees related to the project, estimated or actual
10 costs, time schedules for completion and operation, and other
11 information required by the department. The department shall rule on
12 the application within sixty days.

13 Applicants for deferral of taxes under this chapter shall agree to
14 supply the department with nonproprietary information necessary to
15 measure the results of the tax deferral program for high-technology
16 research and development and pilot scale manufacturing facilities. The
17 department shall use the information to perform three assessments on
18 the tax deferral program authorized under sections 1 and 3 through 9 of
19 this act. The assessments will take place in 1997, 2000, and 2003.
20 The department shall prepare reports on each assessment and deliver
21 their reports by September 1, 1997, September 1, 2000, and September 1,
22 2003. The assessments shall measure the effect of the program on job
23 creation, the number of jobs created for Washington residents, company
24 growth, the introduction of new products, the diversification of the
25 state's economy, growth in research and development investment, the
26 movement of firms or the consolidation of firms' operations into the
27 state, and such other factors as the department selects.

28 NEW SECTION. **Sec. 5.** (1) Except as provided in subsection (2) of
29 this section, the department shall issue a sales and use tax deferral
30 certificate for state and local sales and use taxes due under chapters
31 82.08, 82.12, and 82.14 RCW on each eligible investment project.

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

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

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

10	Repayment Year	% of Deferred Tax Repaid
11	1	10%
12	2	15%
13	3	20%
14	4	25%
15	5	30%

16 (2) A recipient that is an institution recognized as a
17 comprehensive cancer center by the national cancer institute before
18 April 20, 1983, shall begin paying taxes deferred under this chapter on
19 December 31st of the third calendar year after the date certified by
20 the department as the date on which the investment project has been
21 operationally completed, or on December 31st of the fifth calendar year
22 after the certificate was granted, whichever is sooner. Subsequent
23 annual payments shall be due on December 31st of the following four
24 years with amounts of payment scheduled as follows:

25	Repayment Year	% of Deferred Tax Repaid
26	1	10%
27	2	12%
28	3	14%
29	4	28%
30	5	36%

31 (3) A recipient of a tax deferral on an investment project for
32 qualified research and development on, or pilot scale manufacturing of,
33 a drug, device, or biological product that requires licensing by the
34 federal food and drug administration under chapter 21, C.F.R., as
35 amended, shall begin paying taxes deferred under this chapter on

1 December 31st of the fifth 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 seventh calendar
4 year after the certificate was granted, whichever is sooner.
5 Subsequent annual payments shall be due on December 31st of the
6 following five years with amounts of payment scheduled as follows:

7	Repayment Year	% of Deferred Tax Repaid
8	1	10%
9	2	10%
10	3	15%
11	4	20%
12	5	20%
13	6	25%

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

16 (5) Interest may not be charged on taxes deferred under this
17 chapter for the period of deferral, although all other penalties and
18 interest applicable to delinquent excise taxes may be assessed and
19 imposed for delinquent payments under this chapter. The debt for
20 deferred taxes will not be extinguished by insolvency or other failure
21 of the recipient.

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

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

29 NEW SECTION. **Sec. 9.** Applications and other information received
30 by the department under this chapter are not confidential and are
31 subject to disclosure.

32 NEW SECTION. **Sec. 10.** The department shall perform an assessment
33 of the results of the tax credit and tax deferral programs authorized

1 under chapters 82.60, 82.61, and 82.62 RCW and deliver a report on the
2 assessment to the governor and the legislature by September 1, 1996.
3 The assessments shall measure the effect of the programs on job
4 creation, the number of jobs created for Washington residents, company
5 growth, the introduction of new products, the diversification of the
6 state's economy, growth in research and development investment, the
7 movement of firms or the consolidation of firms' operations into the
8 state, and such other factors as the department selects.

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

11 NEW SECTION. **Sec. 12.** This act shall take effect January 1,
12 1995."

13 **2SSB 6347** - S AMD
14 By Senators Rinehart and Owen

15 ADOPTED 3/14/94

16 On page 1, line 4 of the title, after "facilities;" strike the
17 remainder of the title and insert "adding a new section to chapter
18 82.04 RCW; adding a new chapter to Title 82 RCW; creating a new
19 section; and providing an effective date."

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