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**SUBSTITUTE HOUSE BILL 1034**

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**State of Washington**

**58th Legislature**

**2003 Regular Session**

**By** House Committee on Technology, Telecommunications & Energy  
(originally sponsored by Representatives Morris, Linville, Anderson,  
Mielke, Conway, Kenney, Haigh, Sullivan and Upthegrove)

READ FIRST TIME 02/27/03.

1       AN ACT Relating to technology product development incentives;  
2 amending RCW 82.04.4452 and 82.63.030; and adding a new section to  
3 chapter 82.63 RCW.

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

5       **Sec. 1.** RCW 82.04.4452 and 2000 c 103 s 7 are each amended to read  
6 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 equal to the greater of the amount of qualified  
12 research and development expenditures of a person or eighty percent of  
13 amounts received by a person other than a public educational or  
14 research institution in compensation for the conduct of qualified  
15 research and development, multiplied by the rate provided in RCW  
16 82.04.260(3) in the case of a nonprofit corporation or nonprofit  
17 association engaging within this state in research and development, and  
18 the rate provided in RCW 82.04.290(2) for every other person.

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

6 (4) The credit, including any credit assigned to a person under  
7 subsection (3) of this section, shall be taken against taxes due for  
8 the same calendar year in which the qualified research and development  
9 expenditures are incurred. The credit, including any credit assigned  
10 to a person under subsection (3) of this section, for each calendar  
11 year shall not exceed the lesser of two million dollars or the amount  
12 of tax otherwise due under this chapter for the calendar year.

13 (5) Any person taking the credit, including any credit assigned to  
14 a person under subsection (3) of this section, whose research and  
15 development spending during the calendar year in which the credit is  
16 claimed fails to exceed 0.92 percent of the person's taxable amount  
17 during the same calendar year shall be liable for payment of the  
18 additional taxes represented by the amount of credit taken together  
19 with interest, but not penalties. Interest shall be due at the rate  
20 provided for delinquent excise taxes retroactively to the date the  
21 credit was taken until the taxes are paid. Any credit assigned to a  
22 person under subsection (3) of this section that is disallowed as a  
23 result of this section may be taken by the person who performed the  
24 qualified research and development subject to the limitations set forth  
25 in subsection (4) of this section.

26 (6)(a) Any person claiming the credit, and any person assigning a  
27 credit as provided in subsection (3) of this section, shall file an  
28 affidavit form prescribed by the department which shall include the  
29 amount of the credit claimed, an estimate of the anticipated qualified  
30 research and development expenditures during the calendar year for  
31 which the credit is claimed, an estimate of the taxable amount during  
32 the calendar year for which the credit is claimed, and such additional  
33 information as the department may prescribe.

34 (b) In addition to the requirements of this subsection (6), the  
35 person taking or assigning the credit must submit an annual report as  
36 provided under section 3 of this act.

37 (7) A person claiming the credit shall agree to supply the

1 department with information necessary to measure the results of the tax  
2 credit program for qualified research and development expenditures.

3 (8) The department shall use the information required under  
4 subsection (7) of this section to perform three assessments on the tax  
5 credit program authorized under this section. The assessments will  
6 take place in 1997, 2000, and 2003. The department shall prepare  
7 reports on each assessment and deliver their reports by September 1,  
8 1997, September 1, 2000, and September 1, 2003. The assessments shall  
9 measure the effect of the program on job creation, the number of jobs  
10 created for Washington residents, company growth, the introduction of  
11 new products, the diversification of the state's economy, growth in  
12 research and development investment, the movement of firms or the  
13 consolidation of firms' operations into the state, and such other  
14 factors as the department selects.

15 (9) For the purpose of this section:

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

26 (b) "Qualified research and development" shall have the same  
27 meaning as in RCW 82.63.010.

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

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

37 (~~(10) This section expires December 31, 2004.~~)

1       **Sec. 2.** RCW 82.63.030 and 1994 sp.s. c 5 s 5 are each amended to  
2 read as follows:

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

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

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

14       NEW SECTION. **Sec. 3.** A new section is added to chapter 82.63 RCW  
15 to read as follows:

16       (1) A recipient claiming a credit under RCW 82.04.4452 during a  
17 calendar year or who has received a sales and use tax deferral  
18 certificate under RCW 82.63.030 must file an annual report to the  
19 department of revenue as required by this section.

20       (2) The following information must be provided to the department:

21       (a) Name and address of recipient of business incentive;

22       (b) Business registration number;

23       (c) Identification of project/location of project;

24       (d) Signature and phone number of person filling out form;

25       (e) Date business incentive was provided;

26       (f) Dollar value of business incentive;

27       (g) Job creation/retention goals for business receiving the  
28 incentive (please specify);

29       (h) Average hourly wage goals for business receiving the incentive  
30 (per hour);

31       (i) Actual jobs created/retained since business received the  
32 incentive (please specify);

33       (j) Actual average hourly wage paid to employees hired since  
34 receiving the incentive;

35       (k) Goals of business incentive received, as a result of the  
36 business incentive: (Please indicate number of employees by category

1 of job, e.g. full-time, part-time, or contingent/temporary job, number  
2 of employees per wage band, and indicate if employee benefits are  
3 provided);

4 (l) Actual performance since project placed in service, as a result  
5 of the business incentive: (Please indicate number of employees by  
6 category of job, e.g. full-time, part-time, or contingent/temporary  
7 job, number of employees per wage band, and indicate if employee  
8 benefits are provided);

9 (m) Last date actual wage and job creation/retention levels  
10 documented;

11 (n) Have all wage and job goals been achieved?  
12 [ ] Yes - do not submit future forms for this project.  
13 [ ] No - please submit another form next year;

14 (o) Did you take the machinery and equipment exemption in the last  
15 year, and if the answer is "yes" please estimate the amount of tax  
16 exempted; and

17 (p) Date this disclosure form completed.

18 (3) A recipient who fails to submit a complete report under this  
19 section is ineligible on a prospective basis for the credit under RCW  
20 82.04.4452 or for the sales and use tax deferral under chapter 82.63  
21 RCW. If the recipient is no longer eligible for the deferral, then  
22 one-eighth of all deferred taxes are due. The department of revenue  
23 shall notify the recipient in writing by mail that he or she is no  
24 longer eligible. The recipient is ineligible on the effective date of  
25 the postmark of the notice letter from the department of revenue. If  
26 the recipient satisfactorily completes the form after ineligibility,  
27 the department of revenue shall send a letter to the recipient  
28 indicating that the basis for the ineligibility has been corrected.  
29 The letter from the department of revenue is proof that eligibility on  
30 this basis has been restored, and is effective prospectively on the  
31 date the letter is postmarked.

32 (4) The department shall establish due dates for the report  
33 required by this section.

34 (5) The department shall report information on the effectiveness of  
35 RCW 82.04.4452 and chapter 82.63 RCW to the legislature on an annual  
36 basis.

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