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**SUBSTITUTE HOUSE BILL 1864**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** House Finance (originally sponsored by Representative Boehnke)

AN ACT Relating to economic development through advanced technology leadership and security; adding a new section to chapter 43.330 RCW; adding a new section to chapter 82.04 RCW; creating new sections; providing an effective date; and providing an expiration date.

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

NEW SECTION. **Sec.**  (1) The legislature finds that surmounting global challenges like climate change will require the best in entrepreneurship and innovation from global talent, and that the surest path to economic development and security for Washington in an uncertain and changing world is advanced technology leadership.

(2) The legislature finds that the foundational technologies transforming the economy of the 21st century are artificial intelligence, machine learning, semiconductors, advanced wireless, quantum information science, data sciences, biotechnology, life sciences, and clean technology. Authentic and robust leadership in these fields of research and development will have a great impact on the economic security and environmental sustainability of our state and nation. For these reasons, the legislature intends to financially support a long-term strategy for unrivaled excellence in academic preparation and workforce development in the fields connected to these foundational technologies.

(3) The legislature declares that the state strategy to accomplish advanced technology leadership and security must rest on two pillars. First, Washington must consistently recruit and retain the best researchers and instructors in these fields connected to foundational technologies. Second, because a premier workforce can only be developed where there are great places to work, Washington must offer a full spectrum of public policy support for entrepreneurship and commercialization of technologically advanced products and services.

(4) Therefore, the legislature intends to establish a strategic fund for the recruitment and retention of the most talented academics in science, technology, engineering, and mathematics. The legislature also intends to provide a business and occupation tax credit for certain qualifying research and development activity. While Washington is committed to advanced technology leadership efforts in foundational technologies of the 21st century, the legislature intends initially to emphasize research and development activity and the recruitment of academic talent in the clean technology sector to enhance our economic development during the transition to a net zero greenhouse gas emissions economy.

NEW SECTION. **Sec.**  This act may be known and cited as the advanced technology leadership and security act, or ATLAS act.

NEW SECTION. **Sec.**  A new section is added to chapter 43.330 RCW to read as follows:

(1) The advanced technology leadership and security strategic reserve account is created in the state treasury to be used only for the purposes specified in subsections (3) and (4) of this section.

(2) The director may authorize expenditures from the account that are consistent with this section.

(3) Expenditures from the account may be made solely for the purpose of recruiting or retaining a researcher or instructor with the requisite skills to assist in clean technology innovation at a Washington state academic institution, state, or national laboratory. The president of any Washington state academic institution, state, or national laboratory, wishing to access the funds in the account for these purposes must submit a signed declaration to the director on such form, and with such supporting materials, as the director may proscribe for these purposes.

(4) In connection with the analysis and decision making on award of funds from the account, the department may draw upon the account to provide such assistance as may be requested by the academic institution or as may be deemed necessary by the director for due diligence.

(5) When the director determines it is prudent to make an award, the director shall make factual findings establishing the nexus between the amount awarded and the furtherance of the purposes of advanced technology leadership and security for Washington's economy. Each year, the department shall compile a report on any awards from this account, together with any findings supporting the award of funds and submit the report to the economic development committees of the legislature.

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

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

(2)(a) The credit is equal to:

(i) The greater of the amount of qualified clean technology research and development expenditures of a person or 80 percent of amounts received by a person other than a public educational or research institution in compensation for the conduct of qualified clean technology research and development;

(ii) Less 0.92 percent of the person's taxable amount from the amount determined under (a)(i) of this subsection;

(iii) Multiplied the amount determined under (a)(ii) of this subsection by 1.50 percent.

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

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

(4) The credit, including any credit assigned to a person under subsection (3) of this section, must be claimed against taxes due for the same calendar year in which the qualified clean technology research and development expenditures are incurred. The credit, including any credit assigned to a person under subsection (3) of this section, for each calendar year may not exceed the lesser of $900,000 or the amount of tax otherwise due under this chapter for the calendar year.

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

(6) A person claiming the credit provided in this section must file a complete annual report with the department under RCW 82.32.534.

(7) For the purpose of this section:

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

(b) "Qualified clean technology research and development" means research and development activity pursuing innovations that are key to success in achieving a net zero greenhouse gas emissions economy in Washington state, including clean, electrolytic hydrogen production and storage technologies, next generation nuclear fission and fusion, marine renewable energy, solar energy, wind energy storage, electrofuels, advanced biofuels, sustainable aviation fuel, low carbon advanced manufacturing, carbon capture, transmission and distribution grid modernization technologies, zero carbon and energy efficient building technologies, energy grid cyber security, electric and zero carbon transportation technologies, zero carbon plastics, geothermal energy, pumped hydropower, thermal storage, advanced agriculture and food technology, recycling, earth-abundant materials technologies, and technologies that allow transition from hydrofluorocarbons.

(c)(i) "Qualified clean technology research and development expenditures" means operating expenses, including wages, compensation of a proprietor or a partner in a partnership as determined under rules adopted by the department, benefits, supplies, money spent on research and development laboratory build-out and equipment, and computer expenses, directly incurred in qualified clean technology research and development by a person claiming the credit provided in this section.

(ii) "Qualified clean technology research and development expenditures" does not include amounts paid to a person other than a public educational or research institution to conduct qualified clean technology research and development, capital costs that are not specified under this subsection (c), or overhead, such as expenses for land, structures, or depreciable property.

(d) "Research and development spending" means qualified clean technology research and development expenditures plus 80 percent of amounts paid to a person other than a public educational or research institution to conduct qualified clean technology research and development.

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

(8) This section expires January 1, 2033.

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preference contained in section 4, chapter . . ., Laws of 2022 (section 4 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or to be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to provide tax relief for certain businesses or individuals, as indicated in RCW 82.32.808(2)(e).

(3) It is the legislature's specific public policy objective to create and retain businesses that are forming to take on the challenge of creating a modern net zero greenhouse gas emissions economy that outperforms fossil fuel-dependent economies.

(4) If the review finds that there is growth in the clean technology industry cluster in Washington as measured by the number of businesses claiming the tax credit year over year, then the legislature intends to extend the expiration of this tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to any data collected by the state.

NEW SECTION. **Sec.**  This act takes effect January 1, 2023.

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