

2017 Regular Session

HOUSE BILL NO. 300

BY REPRESENTATIVE DAVIS AND SENATOR MORRELL AND REPRESENTATIVES FOIL AND STOKES

TAX CREDITS: Provides relative to the amount of the research and development tax credit and authorizes transferability of the credit under certain circumstances

1 AN ACT

2 To amend and reenact R.S. 47:6015(C)(2), (D), (E)(1), and (J) relative to the research and  
3 development tax credit program; to provide for definitions; to provide for credit  
4 rates; to provide for transferability of credits; to provide for application; and to  
5 provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 47:6015(C)(2), (D), (E)(1), and (J) are hereby amended and  
8 reenacted to read as follows:

9 §6015. Research and development tax credit

10 \* \* \*

11 C.

12 \* \* \*

13 (2) The amount of the credit authorized in this Section shall be equal to  
14 either:

15 (a) ~~Eight~~ Five percent of the difference, if any, of the Louisiana qualified  
16 research expenses for the taxable year minus the base amount, if the taxpayer is an  
17 entity that employs one hundred or more persons.

1 (b) ~~Twenty~~ Ten percent of the difference, if any, of the Louisiana qualified  
2 research expenses for the taxable year minus the base amount, if the taxpayer is an  
3 entity that employs fifty to ninety-nine persons.

4 (c) ~~Forty~~ Thirty percent of the difference, if any, of the Louisiana qualified  
5 research expenses for the taxable year minus the base amount, if the taxpayer is an  
6 entity that employs less than fifty persons.

7 \* \* \*

8 D.(1) A taxpayer who receives a federal Small Business Innovation Research  
9 Grant as created by the Small Business Innovation Development Act of 1982 (P.L.  
10 97-219), reauthorized by the Small Business Research and Development  
11 Enhancement Act (P.L. 102-564), and reauthorized again by the Small Business  
12 Reauthorization Act of 2000 (P.L. 106-554); shall be allowed a tax credit in an  
13 amount equal to ~~forty~~ thirty percent of the award received during the tax year.

14 (2) In addition to the credit utilization allowed by Paragraph (C)(3) of this  
15 Section, research and development tax credits for tax years 2018 and later that are  
16 based on participation in the Small Business Innovation Research Grant program and  
17 that were not previously claimed by any taxpayer against his income or corporation  
18 franchise tax may be transferred or sold to another Louisiana taxpayer, subject to the  
19 following conditions:

20 (a) A single transfer or sale may involve one or more transferees. The  
21 transferee of the tax credits may transfer or sell such tax credits subject to the  
22 conditions of this Paragraph.

23 (b) Transferors and transferees shall submit to the Department of Revenue  
24 in writing, a notification of any transfer or sale of tax credits within ten business days  
25 after the transfer or sale of such tax credits. No transfer or sale of tax credits shall  
26 be effective until recorded in the tax credit registry in accordance with R.S. 47:1524.  
27 The notification shall include the transferor's tax credit balance prior to transfer, a  
28 copy of any tax credit certification letter issued by the Department of Economic  
29 Development, the transferor's remaining tax credit balance after transfer, all tax

1 identification numbers for both transferor and transferee, the date of the transfer, the  
2 amount transferred, a copy of the credit certificate, the price paid by the transferee  
3 to the transferor, and any other information required by the Department of Revenue.

4 (c) Failure to comply with this Paragraph shall result in the disallowance of  
5 the tax credit until the taxpayers are in full compliance.

6 (d) The transfer or sale of this credit does not extend the time in which the  
7 credit can be used. The carryforward period for a credit that is transferred or sold  
8 begins on the date on which the credit was earned.

9 E. As used in this Section, the following terms shall have the meaning  
10 hereafter ascribed to them, unless the context clearly indicates otherwise:

11 (1) "Base amount" shall mean ~~seventy~~ the following:

12 (a) If the taxpayer is an entity that employs fifty or more persons, the base  
13 amount shall be eighty percent of the average annual qualified research expenses  
14 within Louisiana during the three years preceding the taxable years.

15 (b) If the taxpayer is an entity that employs less than fifty persons, the base  
16 amount shall be fifty percent of the average annual qualified research expenses  
17 within Louisiana during the three years preceding the taxable year taxable years.

18 \* \* \*

19 J. No credit shall be allowed pursuant to this Section for research  
20 expenditures incurred or Small Business Innovation Research Grant funds received  
21 after December 31, ~~2019~~ 2021.

22 \* \* \*

23 Section 2. The provisions of this Act shall apply to tax years beginning on or after  
24 January 1, 2017.

25 Section 3. This Act shall become effective upon signature by the governor or, if not  
26 signed by the governor, upon expiration of the time for bills to become law without signature  
27 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
28 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
29 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 300 Reengrossed

2017 Regular Session

Davis

**Abstract:** Extends the research and development tax credit program for three years, reduces the amount of the credits, and allows for transferability of the Small Business Innovation Research Grant credit.

Present law authorizes an income and corporation franchise tax credit for certain taxpayers who employ 50 or more persons and claim a federal income tax credit for increasing research activities. This tax credit is also available for tax payers who employ fewer than 50 employees if the employer meets certain eligibility requirements.

Present law authorizes the following credits as a percentage of increased research expenses for a taxpayer who employs the following number of employees:

Number of Employees	Tax Credit
100 or more	8%
50-99	20%
fewer than 50	40%

Proposed law authorizes the following credits:

Number of Employees	Tax Credit
100 or more	5%
50-99	10%
fewer than 50	30%

Present law allows a taxpayer receiving a federal Small Business Innovation Research Grant a tax credit in an amount equal to 40% of the award received during the tax year. Proposed law reduces the tax credit from 40% to 30% of the award received during the tax year.

Proposed law authorizes credits based upon participation in the Small Business Innovation Research Grant program for 2018 and thereafter to be transferred or sold to one or more La. taxpayers. To utilize the transferred tax credit, proposed law requires transferors and transferees to submit to the Dept. of Revenue written notification of any transfer or sale of this tax credit within 10 business days after the transfer or sale.

Proposed law further requires that a sale or transfer of the tax credit shall not be effective until recorded in the tax credit registry in accordance with present law.

Proposed law authorizes carryforward of the credit beginning on the date on which the credit was earned, regardless of when the credit was transferred or sold.

Present law defines "base amount" for purposes of calculating the amount of the credits as 70% of the average annual qualified research expenses in La. during the 3 years preceding the taxable year.

Proposed law changes present law by redefining "base amount" depending upon the number of persons the taxpayer employs.

Proposed law increases the "base amount" for purposes of a taxpayer that employs 50 or more persons from 70% to 80% of the average annual qualified research expenses in La. during the three years preceding the taxable year.

Proposed law decreases the "base amount" for purposes of a taxpayer that employs less than 50 persons from 70% to 50% of the average annual qualified research expenses in La. during the three preceding taxable years.

Present law provides that no credit shall be allowed for research expenditures incurred or Small Business Innovation Research Grant funds received after Dec. 31, 2019.

Proposed law extends the credit availability to research expenditures incurred on or before Dec. 31, 2021.

Proposed law shall apply to tax years beginning on or after Jan. 1, 2017.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 47:6015(C)(2), (D), (E)(1), and (J))

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Change the employee threshold for the 5% tax credit in proposed law from one that employs fifty or more persons to one that employ 100 or more.
2. Reduce the amount of the tax credit for a taxpayer that employs 50 - 99 persons from 20% to 10%.
3. Redefine "base amount" for purposes of calculating the credit based on the number of employees.

The House Floor Amendments to the engrossed bill:

1. Made technical amendments.