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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)

READ FIRST TIME 02/21/22.

1 AN ACT Relating to economic development through advanced  
2 technology leadership and security; adding a new section to chapter  
3 43.330 RCW; adding a new section to chapter 82.04 RCW; creating new  
4 sections; providing an effective date; and providing an expiration  
5 date.

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

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

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

1 preparation and workforce development in the fields connected to  
2 these foundational technologies.

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

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

23 NEW SECTION. **Sec. 2.** This act may be known and cited as the  
24 advanced technology leadership and security act, or ATLAS act.

25 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.330  
26 RCW to read as follows:

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

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

32 (3) Expenditures from the account may be made solely for the  
33 purpose of recruiting or retaining a researcher or instructor with  
34 the requisite skills to assist in clean technology innovation at a  
35 Washington state academic institution, state, or national laboratory.  
36 The president of any Washington state academic institution, state, or  
37 national laboratory, wishing to access the funds in the account for  
38 these purposes must submit a signed declaration to the director on

1 such form, and with such supporting materials, as the director may  
2 proscribe for these purposes.

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

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

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

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

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

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

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

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

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

1 person files the last return for the calendar year for which the  
2 credit is claimed.

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

8 (4) The credit, including any credit assigned to a person under  
9 subsection (3) of this section, must be claimed against taxes due for  
10 the same calendar year in which the qualified clean technology  
11 research and development expenditures are incurred. The credit,  
12 including any credit assigned to a person under subsection (3) of  
13 this section, for each calendar year may not exceed the lesser of  
14 \$900,000 or the amount of tax otherwise due under this chapter for  
15 the calendar year.

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

32 (6) A person claiming the credit provided in this section must  
33 file a complete annual report with the department under RCW  
34 82.32.534.

35 (7) For the purpose of this section:

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

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

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

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

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

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

40 (8) This section expires January 1, 2033.

1        NEW SECTION.    **Sec. 5.**    (1) This section is the tax preference  
2 performance statement for the tax preference contained in section 4,  
3 chapter . . ., Laws of 2022 (section 4 of this act). This performance  
4 statement is only intended to be used for subsequent evaluation of  
5 the tax preference. It is not intended to create a private right of  
6 action by any party or to be used to determine eligibility for  
7 preferential tax treatment.

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

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

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

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

22        NEW SECTION.    **Sec. 6.**    This act takes effect January 1, 2023.

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