

AMENDED IN ASSEMBLY MAY 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 79

Introduced by Assembly Member Beall

January 3, 2011

An act to add Article 7 (commencing with Section 92170) to Chapter 2 of Part 57 of Division 9 of Title 3 of the Education Code, and to add Sections 17053.49 and 23649 to the Revenue and Taxation Code, relating to qualified research expenses.

LEGISLATIVE COUNSEL'S DIGEST

AB 79, as amended, Beall. University of California: ~~venture development~~ *technology commercialization*: tax credit.

Existing law established the University of California under the administration of the Regents of the University of California.

This bill would authorize the ~~regents~~ *University of California* to create a ~~University—Venture—Development of California Technology Commercialization Acceleration~~ Fund for each campus of the university *and the university system* for the deposit of contributions made for ~~specified purposes of paying for qualified research expenses, as defined.~~ The bill would require the funds in each University Venture Development Fund to be used only for qualified research ~~expenses that are used for qualified research with direct application to the biotech, nanotech, and cleantech industries in California~~ *expenses, as defined.*

The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would authorize a credit against those taxes for each taxable year beginning on or after January 1, 2011, in an amount equal to 50% of the amount contributed during the taxable year to the University of

California for deposit into a University ~~Venture Development~~ of *California Technology Commercialization Acceleration Fund*, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 7 (commencing with Section 92170) is
2 added to Chapter 2 of Part 57 of Division 9 of Title 3 of the
3 Education Code, to read:

4
5 Article 7. University ~~Venture Development~~ of California
6 *Technology Commercialization Acceleration Fund*
7

8 92170. (a) (1) The regents *University of California* may create
9 a University ~~Venture Development~~ of *California Technology*
10 *Commercialization Acceleration Fund* for each campus of the
11 university *and for the university system* for the deposit of
12 contributions made for ~~purposes of paying for qualified research~~
13 ~~expenses~~ *the purpose of facilitating the commercialization of*
14 *university research and development.*

15 (2) The regents are requested to do both of the following:
16 (A) Notify the Franchise Tax Board of the establishment of each
17 fund.
18 (B) Issue to each contributor a letter that certifies the
19 contribution and its use for qualified research expenses.

20 (b) Funds in any University ~~Venture Development~~ of *California*
21 *Technology Commercialization Acceleration Fund* may be used
22 only for qualified research expenses *and direct expenses of*
23 *administering the fund.*

24 (c) For purposes of this section:
25 (1) “Qualified research expenses” means any of the following:
26 (A) Wages paid ~~to~~ or incurred by the university in regard to an
27 employee for qualified services performed by the employee.
28 (B) Amounts paid or incurred for supplies used in the conduct
29 of qualified research.
30 (C) Amounts paid or incurred to another person for the right to
31 use computers in the conduct of qualified research, except in regard
32 to the extent that the university receives or accrues any amount

1 from any other person for the right to use substantially identical
2 personal property.

3 *(D) Any expenditures incurred directly for qualified research*
4 *that would be deductible as a research or experimental*
5 *expenditures under Section 174 of the Internal Revenue Code.*

6 (2) (A) “Qualified services” means services consisting of either
7 of the following:

8 (i) Engaging in qualified research.

9 (ii) Engaging in the direct supervision or direct support of
10 research activities that constitute qualified research.

11 (B) If substantially all of the services performed by an individual
12 for the university during the taxable year consist of services
13 meeting the requirements of subparagraph (A), the term “qualified
14 services” means all of the services performed by that individual
15 for the university during the taxable year.

16 (3) (A) “Qualified research” means research that meets all of
17 the following requirements:

18 ~~(i) It is research with direct application to the biotech, nanotech,~~
19 ~~and cleantech industries in California.~~

20 ~~(ii)~~

21 (i) It is research with respect to which expenditures may be
22 treated as expenses under Section 174 of the Internal Revenue
23 Code.

24 ~~(iii)~~

25 (ii) It is undertaken for the purpose of discovering information
26 that is technological in nature, and the application of which is
27 intended to be useful in the development of a new or improved
28 business component.

29 ~~(iv)~~

30 (iii) Substantially all of the activities of the research constitute
31 elements of a process of experimentation for a purpose that is a
32 new or improved function, a performance, reliability, or quality.

33 (B) “Qualified research” shall not include any of the following:

34 (i) Research conducted after the beginning of commercial
35 production of the business component.

36 (ii) Research related to the adaptation of an existing business
37 component to a particular customer’s requirement or need.

38 (iii) Research related to the reproduction of an existing business
39 component, in whole or in part, from a physical examination of
40 the business component itself or from plans, blueprints, detailed

1 specifications, or publicly available information with respect to
2 the business component.

3 (iv) An efficiency survey; activity relating to a management
4 function or technique; market research, testing, or development,
5 including advertising or promotions; routine data collection; and
6 routine or ordinary testing or inspection for quality control.

7 (v) Research with respect to computer software that is developed
8 by, or for the benefit of, the university primarily for internal use
9 by the university, other than for use in an activity that constitutes
10 qualified research or a production process with respect to which
11 the requirements of subparagraph (A) are met.

12 SEC. 2. Section 17053.49 is added to the Revenue and Taxation
13 Code, to read:

14 17053.49. (a) (1) For each taxable year beginning on or after
15 January 1, 2011, there shall be allowed as a credit against the “net
16 tax,” as defined in Section 17039, an amount equal to 50 percent,
17 subject to paragraph (2), of the amount contributed by the taxpayer
18 during the taxable year to any University-Venture Development
19 of California Technology Commercialization Acceleration Fund
20 for purposes of qualified research expenses in accordance with
21 Article 7 (commencing with Section 92170) of Chapter 2 of Part
22 57 of Division 9 of Title 3 of the Education Code.

23 (2) The maximum aggregate amount of credit available under
24 this section and Section 23649 in all years for all taxpayers is two
25 hundred million dollars (\$200,000,000).

26 (b) No credit shall be allowed pursuant to this section unless
27 the taxpayer does both of the following:

28 (1) Obtains and retains a letter from the Regents of the
29 University of California certifying that the contribution shall be
30 used only for qualified research expenses in accordance with
31 Article 7 (commencing with Section 92170) of Chapter 2 of Part
32 57 of Division 9 of Title 3 of the Education Code.

33 (2) Provides the Franchise Tax Board with the certification
34 described in paragraph (1), at the Franchise Tax Board’s request.

35 (c) The Franchise Tax Board shall allow credits under this
36 section and Section 23649 on a first-to-file basis until the maximum
37 aggregate credit amount, pursuant to paragraph (2) of subdivision
38 (a), is reached.

1 (d) No credit shall be allowed under this section for any
2 contribution for which the taxpayer claims a credit or deduction
3 pursuant to any other section in this part.

4 (e) In the case where the credit allowed by this section exceeds
5 the “tax,” the excess may be carried over to reduce the “tax” in
6 the following year, and succeeding years if necessary, until the
7 credit is exhausted.

8 SEC. 3. Section 23649 is added to the Revenue and Taxation
9 Code, to read:

10 23649. (a) (1) For each taxable year beginning on or after
11 January 1, 2011, there shall be allowed as a credit against the “tax,”
12 as defined in Section 23036, an amount equal to 50 percent, subject
13 to paragraph (2), of the amount contributed by the taxpayer during
14 the taxable year to any ~~University–Venture Development of~~
15 *California Technology Commercialization Acceleration* Fund for
16 purposes of qualified research expenses in accordance with Article
17 7 (commencing with Section 92170) of Chapter 2 of Part 57 of
18 Division 9 of Title 3 of the Education Code.

19 (2) The maximum aggregate amount of credit available under
20 this section and Section 17053.49 in all years for all taxpayers is
21 two hundred million dollars (\$200,000,000).

22 (b) No credit shall be allowed pursuant to this section unless
23 the taxpayer does both of the following:

24 (1) Obtains and retains a letter from the Regents of the
25 University of California certifying that the contribution shall be
26 used only for qualified research expenses in accordance with
27 Article 7 (commencing with Section 92170) of Chapter 2 of Part
28 57 of Division 9 of Title 3 of the Education Code.

29 (2) Provides the Franchise Tax Board with the certification
30 described in paragraph (1), at the Franchise Tax Board’s request.

31 (c) The Franchise Tax Board shall allow credits under this
32 section and Section 17053.49 on a first-to-file basis until the
33 maximum aggregate credit amount, pursuant to paragraph (2) of
34 subdivision (a), is reached.

35 (d) No credit shall be allowed under this section for any
36 contribution for which the taxpayer claims a credit or deduction
37 pursuant to any other section of this part.

38 (e) In the case where the credit allowed by this section exceeds
39 the “tax,” the excess may be carried over to reduce the “tax” in

- 1 the following year, and succeeding years if necessary, until the
- 2 credit is exhausted.

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