

SENATE BILL No. 266

By Senators Steineger, Adkins, Gilstrap, Jordan and Vratil

2-7

AN ACT relating to income taxation; authorizing research and development credits.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) For taxable years 2001, 2002, 2003, 2004 and 2005, a credit shall be allowed against the tax imposed by the Kansas income tax act on the Kansas taxable income of a taxpayer for expenditures in research and development activities conducted within this state in an amount equal to 6½% of the amount by which the amount expended for such activities in the taxable year of the taxpayer exceeds the taxpayer's average of the actual expenditures for such purposes made in such taxable year and the next preceding two taxable years.

(b) In any one taxable year, the amount of such credit allowable for deduction from the taxpayer's tax liability shall not exceed 30% of the total amount of such credit plus any applicable carry forward amount. The amount by which that portion of the credit allowed by subsections (a) and (b) to be claimed in any one taxable year exceeds the taxpayer's tax liability in such year may be carried forward until the total amount of the credit is used.

(c) As used in this section, the term "expenditures in research and development activities" means expenditures made for such purposes, other than expenditures of moneys made available to the taxpayer pursuant to federal or state law, which are treated as expenses allowable for deduction under the provisions of the federal internal revenue code of 1986, and amendments thereto.

Sec. 2. (a) For taxable years commencing after December 31, 2001, a firm engaged in research and development in the physical, engineering and life sciences as described by 1997 North American industrial classification code 54171 in cooperation with a school governed by the state board of regents or that firm's assignee shall be entitled to a credit against the tax imposed by the Kansas income tax act in an amount equal to the firm's cash investment in such cooperative research. The maximum amount of the credit that may be claimed by a single firm in any single tax year under this section shall not exceed \$30,000. Tax credits earned under this section must be claimed in their entirety in the tax year eligible.

1 If the taxpayer is a corporation having an election in effect under sub-
2 chapter S of the federal internal revenue code, a partnership or a limited
3 liability company, the credit provided by this section shall be claimed by
4 the shareholders of such corporation, the partners of such partnership or
5 the members of such limited liability company in the same manner as
6 such shareholders, partners or members account for their proportionate
7 shares of the income or loss of the corporation, partnership or limited
8 liability company.

9 (b) In order to qualify for the credit provided pursuant to subsection
10 (a), the firm must enter into a written agreement with such a school and
11 file a copy of the agreement with the state board of regents. The agree-
12 ment shall describe the nature of the research to be performed, an esti-
13 mate of the cost involved and the anticipated duration of the research
14 project. The firm or the firm's assignee shall then attach a copy of such
15 agreement with the appropriate tax return for each tax year in which the
16 taxpayer was eligible for such credit.

17 (c) Any firm eligible for the credit provided in subsection (a), here-
18 inafter designated the assignor, may sell, assign, convey or otherwise
19 transfer tax credits allowed and earned pursuant to this section, and
20 amendments thereto. The person acquiring the credits, hereinafter des-
21 ignated the assignee, may claim the assigned credit to offset up to 100%
22 of its tax liability pursuant to the Kansas income tax act, the premium tax
23 or privilege fee imposed pursuant to K.S.A. 40-252, and amendments
24 thereto, or the privilege tax as measured by net income of financial in-
25 stitutions imposed pursuant to chapter 79, article 11 of the Kansas Stat-
26 utes Annotated for the tax year in which the credit was acquired. Only
27 the full amount of the credit may be transferred and the credit may be
28 transferred but once. Unused credit amounts claimed by the assignee
29 may be carried over for deduction from the assignee's tax liability in the
30 next succeeding taxable year or years until the entire amount of the ac-
31 quired credit is exhausted. The amount received by the assignor of such
32 tax credit shall be taxable income of the assignor, and the excess of the
33 value of such credit over the amount paid by the assignee shall be taxable
34 as income of the assignee.

35 (d) In no event shall the total amount of credits allowed under this
36 section exceed \$2,000,000 for any single fiscal year.

37 Sec. 3. (a) For taxable years commencing after December 31, 2001,
38 a firm a firm engaged in research and development in the physical, en-
39 gineering and life sciences as described by 1997 North American indus-
40 trial classification code 54171 or that firm's assignee shall be entitled to
41 a credit against the tax imposed by the Kansas income tax act in an amount
42 equal to 30% of the firm's cash investment in the training and education
43 of the firm's employees. The maximum amount of the credit that may be

1 claimed by a single firm in any single tax year under this section shall not
2 exceed \$30,000. Tax credits earned under this section must be claimed
3 in their entirety in the tax year eligible. If the taxpayer is a corporation
4 having an election in effect under subchapter S of the federal internal
5 revenue code, a partnership or a limited liability company, the credit
6 provided by this section shall be claimed by the shareholders of such
7 corporation, the partners of such partnership or the members of such
8 limited liability company in the same manner as such shareholders, part-
9 ners or members account for their proportionate shares of the income or
10 loss of the corporation, partnership or limited liability company.

11 (b) Any firm eligible for the credit provided in subsection (a), here-
12 inafter designated the assignor, may sell, assign, convey or otherwise
13 transfer tax credits allowed and earned pursuant to this section, and
14 amendments thereto. The person acquiring the credits, hereinafter des-
15 ignated the assignee, may claim the assigned credit to offset up to 100%
16 of its tax liability pursuant to the Kansas income tax act, the premium tax
17 or privilege fee imposed pursuant to K.S.A. 40-252, and amendments
18 thereto or the privilege tax as measured by net income of financial insti-
19 tutions imposed pursuant to chapter 79, article 11 of the Kansas Statutes
20 Annotated for the tax year in which the credit was acquired. Only the full
21 amount of the credit may be transferred and the credit may be transferred
22 but once. Unused credit amounts claimed by the assignee may be carried
23 over for deduction from the assignee's tax liability in the next succeeding
24 taxable year or years until the entire amount of the acquired credit is
25 exhausted. The amount received by the assignor of such tax credit shall
26 be taxable income of the assignor, and the excess of the value of such
27 credit over the amount paid by the assignee shall be taxable as income of
28 the assignee.

29 (c) In no event shall the total amount of credits allowed under this
30 section exceed \$2,000,000 for any single fiscal year.

31 Sec. 4. The secretary of revenue shall allow not more than
32 \$5,000,000 to be claimed in any single fiscal year for the credits author-
33 ized in section 1, 2 or 3 and not more than \$15,000,000 to be claimed in
34 any single fiscal year for the aggregate amount of all three credits.

35 Sec. 5. For taxable years commencing after December 31, 2001, any
36 firm eligible for the credit provided in the job expansion and investment
37 credit act, K.S.A. 79-32,153 *et seq.*, and amendments thereto, the com-
38 munity service program credit as provided in K.S.A. 79-32,196 *et seq.*,
39 and amendments thereto and the small employer health benefit plan
40 credit as provided by K.S.A. 40-2246, and amendments thereto, herein-
41 after designated the assignor, may sell, assign, convey or otherwise trans-
42 fer tax credits allowed and earned pursuant to the acts, and amendments
43 thereto. The person acquiring the credits, hereinafter designated the as-

1 signee, may claim the assigned credit to offset up to 100% of its tax liability
2 pursuant to the Kansas income tax act, the premium tax or privilege fee
3 imposed pursuant to K.S.A. 40-252, and amendments thereto, or the priv-
4 ilege tax as measured by net income of financial institutions imposed
5 pursuant to chapter 79, article 11 of the Kansas Statutes Annotated for
6 the tax year in which the credit was acquired. Only the full amount of the
7 credit may be transferred and the credit may be transferred but once.
8 Unused credit amounts claimed by the assignee may be carried over for
9 deduction from the assignee's tax liability in the next succeeding taxable
10 year or years until the entire amount of the acquired credit is exhausted.
11 The amount received by the assignor of such tax credit shall be taxable
12 income of the assignor, and the excess of the value of such credit over
13 the amount paid by the assignee shall be taxable as income of the assignee.

14 Sec. 6. This act shall take effect and be in force from and after its
15 publication in the statute book.

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