

2023 Regular Session

HOUSE BILL NO. 408

BY REPRESENTATIVES WILLARD, DAVIS, AND PRESSLY

TAX CREDITS: Exempts certain research and development tax credit recipients from detailed examinations by the Department of Economic Development

1 AN ACT

2 To amend and reenact R.S. 47:6015(D)(1), (E)(3) and (4), (G)(1), and (I) and to enact R.S.
3 47:6015(E)(5), relative to the research and development tax credit; to provide for
4 definitions; to exempt certain applications from detailed examinations by the
5 Department of Economic Development; to provide with respect to incentives
6 administered by the Department of Economic Development; to provide for
7 applicability; to provide for an effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:6015(D)(1), (E)(3) and (4), (G)(1), and (I) are hereby amended
10 and reenacted and R.S. 47:6015(E)(5) is hereby enacted to read as follows:

11 §6015. Research and development tax credit

12 * * *

13 D.(1) A taxpayer who receives a Phase I or II grant or contract from the
14 federal Small Business Technology Transfer Program or a federal Small Business
15 Innovation Research Grant as created by the Small Business Innovation
16 Development Act of 1982 (P.L. 97-219), reauthorized by the Small Business
17 Research and Development Enhancement Act (P.L. 102-564), ~~and reauthorized again~~
18 by the Small Business Reauthorization Act of 2000 (P.L. 106-554) and reauthorized
19 again by the SBIR and STTR Extension Act of 2022 (P.L. 117-183) shall be allowed

1 a tax credit in an amount equal to thirty percent of the award received during the tax
2 year.

3 * * *

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

6 * * *

7 (3) "Incentive" shall mean a tax credit, deduction, or exclusion administered
8 by the Department of Economic Development.

9 (4) "Person" shall mean a natural person.

10 ~~(4)~~(5) "Qualified research expenses" and "qualified research" shall have the
11 same meanings as those terms are defined in 26 U.S.C. 41, as amended.

12 * * *

13 G.(1)(a) Except as provided for in Subparagraph (b) of this Paragraph, each
14 Each year, prior to the issuance of credits, the department shall perform a detailed
15 examination of at least ten percent of all applications received. The department shall
16 select applications for examination based on one or more of the following: a random
17 sampling of applications, the applicant's business sector, and other selection criteria
18 as determined by the department.

19 (b) The provisions of Subparagraph (a) of this Paragraph shall not apply to
20 applications submitted by participants receiving incentives pursuant to the federal
21 Small Business Technology Transfer Program or the Small Business Innovation
22 Research Program.

23 * * *

24 I.(1) Except as provided in Paragraph (2) of this Subsection, a ~~★~~ taxpayer
25 shall not receive any other incentive administered by the Department of Economic
26 Development for any expenditures for which the taxpayer has received a credit
27 pursuant to this Section.

1 (2) The limitation provided in Paragraph (1) of this Subsection shall not
 2 apply to small businesses that have received a state grant pursuant to the provisions
 3 of R.S. 51:2401 or 2402.

4 * * *

5 Section 2. The provisions of this Act shall apply to tax years beginning on or after
 6 January 1, 2023.

7 Section 3. This Act shall become effective upon signature by the governor or, if not
 8 signed by the governor, upon expiration of the time for bills to become law without signature
 9 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 10 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 11 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 408 Engrossed 2023 Regular Session Willard

Abstract: Exempts certain credit recipients from detailed examinations by the Dept. of Economic Development (DED), and authorizes certain taxpayers to receive incentives from multiple programs.

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 taxpayers 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 employed the following number of employees:

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

Proposed law retains present law.

Present law authorizes an additional tax credit for taxpayers who receive a federal Small Business Innovation Research (SBIR) Grant and Phase I or Phase II grants from the Federal Small Business Technology Transfer (SBTT) program to be eligible for a tax credit equal to 30% of the award received during the tax year.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

Proposed law retains present law but adds a reference to the SBIR and STTR Extension Act of 2022 (P.L. 117-183) which is the latest federal authorization for these grants and programs and specifies that the state tax credit extends to applicants who receive grants *or contracts* from these federal programs.

Proposed law defines "incentive" for purposes of present law as a tax credit, deduction, or exclusion administered by DED.

Present law requires DED, each year, prior to the issuance of credits, to perform a detailed examination of at least 10% percent of all applications received. Further requires DED to select applications for examination based on a random sampling of applications, the applicant's business sector, or other selection criteria as determined by the department.

Proposed law retains present law but excepts applications submitted by participants receiving incentives pursuant to the SBTT program or the SBIR program from the random sampling of applications.

Present law prohibits a taxpayer that receives a credit for research activity expenditures pursuant to present law from receiving any other incentive administered by DED for the same expenditures.

Proposed law retains present law but adds an exception to the prohibition of receiving other incentives administered by DED for a taxpayer who receives a state grant pursuant to present law from the Small Business Innovation Retention fund or the Small Business Innovation Recruitment fund.

Present law prohibits tax credits for research expenditures incurred, SBTT Program funds received, or SBIR Grant funds received after Dec. 31, 2025.

Proposed law retains present law.

Proposed law is applicable to tax years beginning on or after Jan. 1, 2023.

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

(Amends R.S. 47:6015(D)(1), (E)(3) and (4), (G)(1), and (I); Adds R.S. 47:6015(E)(5))

Summary of Amendments Adopted by House

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

1. Remove extension of the sunset date of the tax credit program for research expenditures incurred, SBTT Program funds received, or SBIR Grant funds received.