

HOUSE BILL NO. 1480

Introduced by

Representatives Gulleson, Berg

Senators Grindberg, Krauter

1 A BILL for an Act to amend and reenact section 57-38-30.5 of the North Dakota Century Code,
2 relating to a corporate income tax credit for research and experimental expenditures; and to
3 provide an effective date.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 57-38-30.5 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **57-38-30.5. Corporate income tax credit for research and experimental**
8 **expenditures.** Any corporation is allowed a credit against the tax imposed under this chapter
9 for the taxable year equal to ~~eight~~ ten percent of the ~~first one and one-half million dollars of the~~
10 ~~qualified research expenses for the taxable year in excess of the base period research~~
11 ~~expenses and equal to four percent of all qualified research expenses for the taxable year more~~
12 ~~than one and one-half million dollars in excess of the base period research expenses~~ and
13 twelve percent of the qualified research expenses for the taxable year for qualified research
14 conducted within the boundaries of an Indian reservation or within an area designated by the
15 United States department of agriculture as an empowerment zone, enterprise community,
16 champion community, or rural economic area partnership zone.

17 1. For purposes of this section:

18 a. ~~"Base period research expenses" means base period research expenses as~~
19 ~~defined in section 41(c) of the Internal Revenue Code [26 U.S.C. 41(c)].~~

20 b. "Qualified research" means qualified research as defined in section 41(d) of
21 the Internal Revenue Code [26 U.S.C. 41(d)], except it does not include
22 research conducted outside the state of North Dakota.

23 e. b. "Qualified research expenses" means qualified research expenses as defined
24 in section 41(b) of the Internal Revenue Code [26 U.S.C. 41(b)], except it

1 does not include expenses incurred for basic research conducted outside the
2 state of North Dakota.

3 2. The credit allowed under this section for the taxable year may not exceed the
4 liability for tax under this chapter.

5 3. In the case of a corporation which is a partner in a partnership or a member in a
6 limited liability company, the credit allowed for the taxable year may not exceed an
7 amount separately computed with respect to the corporation's interest in the trade,
8 business, or entity equal to the amount of tax attributable to that portion of the
9 corporation's taxable income which is allocable or apportionable to the
10 corporation's interest in the trade, business, or entity.

11 4. If the amount of the credit determined under this section for any taxable year
12 exceeds the limitation under subsection 2, the excess may be used as a research
13 credit carryback to each of the three preceding taxable years and a research credit
14 carryover to each of the fifteen succeeding taxable years. The entire amount of the
15 excess unused credit for the taxable year must be carried first to the earliest of the
16 taxable years to which the credit may be carried and then to each successive year
17 to which the credit may be carried. The amount of the unused credit which may be
18 added under this subsection may not exceed the taxpayer's liability for tax less the
19 research credit for the taxable year. A corporation entitled to a credit under this
20 section may sell any valid unused credit to another corporation under terms
21 approved by the tax commissioner if the corporation purchasing the credit has fifty
22 or fewer employees in this state.

23 5. If a taxpayer acquires or disposes of the major portion of a trade or business or the
24 major portion of a separate unit of a trade or business in a transaction with another
25 taxpayer, the taxpayer's qualified research expenses and base period must be
26 adjusted in the manner provided by section 41(f)(3) of the Internal Revenue Code
27 [26 U.S.C. 41(f)(3)].

28 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
29 December 31, 2004.