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Bill Text Version: ENROLLED	Legislative Fiscal Office			Fiscal Note	Fiscal Note Or	n: <b>SB 135</b>	SLS 11RS 196		

#### **EXPENDITURE EXPLANATION**

There is no anticipated direct material effect on governmental expenditures as a result of this measure.

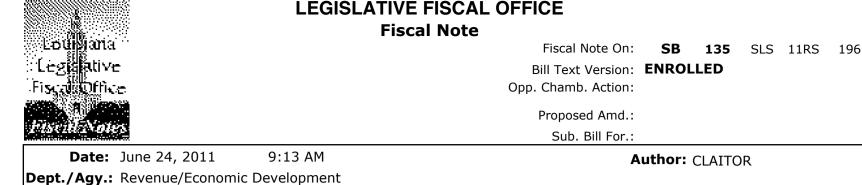
#### **REVENUE EXPLANATION**

The proposed legislation extends the program for six years beyond the current expiration date of December 31, 2013, and makes several material changes to the parameters of the program which would become effective prior to the extension. Removing transferability has no impact on annual costs since the credit is refundable. According to the Department of Revenue, claims of this credit have grown by 97% between FY 08 and FY 09 to \$14.6 million and by 23% from FY 09 to FY 10 to \$17.9 million. The analysis below assumes that 20% annual growth continues throughout the fiscal note horizon. In general, the first year impact of extending the tax credit by six years begins in FY 13/14 with a half year impact and FY 14/15 showing full year impacts. The changes to the parameters of the program will become effective with all credits earned after 1/1/11 and after the signing of the law. Those impacts begin in FY 11/12. The table below summarizes the impacts and the following explanations detail the assumptions.

	FY12	FY13	FY14	FY15	FY16
Credits In Current Program	(25,791,435)	(30,949,722)	(18,569,833)	-	-
Extension: Base w/ 20% annual growth	-	-	(18,569,833)	(44,567,600)	(53,481,120)
Base Calc or Application Timing	4,878,287	5,909,944	7,147,933	8,633,520	10,416,224
Repeal of the 25% AIC credit	900,000	900,000	900,000	900,000	900,000
Employee Count including Affiliates	500,000	500,000	500,000	500,000	500,000
New Base	(19,513,148)	(23,639,778)	(28,591,734)	(34,534,080)	(41,664,896)
Change from current program Fiscal Note	6,278,287 <b>6,300,000</b>	7,309,944 <b>7,300,000</b>	(10,021,900) <b>(10,000,000)</b>	(34,534,080) <b>(34,500,000)</b>	(41,664,896) <b>(41,700,000)</b>

While the analysis makes use of as much actual data as possible, the bill makes changes to a number of parameters that are material to the program's fiscal results, and various assumptions are necessary to arrive at conclusions. <u>The noteworthy aspects of the results are the changing signs and magnitudes</u>, but high degrees of confidence can not be assigned to the <u>specific values of the results</u>. More discussion of these changes and others are continued on the second page of this note.

Senate Dual Referra		\$500,000 Annual Fiscal Cost {S}	- Huggy V. allect
x 13.5.2 >= \$500,000 Annual Ta Change {S&H}	x or Fee 6.8(G) >= \$	\$100,000 Annual SGF Cost {H&S} 5500,000 Tax or Fee Increase or a Net Fee Decrease {S}	Gregory V. Albrecht Chief Economist



CONTINUED EXPLANATION from page one:

Revenue Explanation (Continued)

## Six Year Extension and Removal of Transferability

Subject: R&D credit calculation changes and 6 year extension

The credit expires on December 31, 2013 and this legislation extends the expiration to December 31, 2019, or six years. Removing the transferability of the credit is not expected to impact the annual cost of the program since the credit is refundable. The current expiration on December 31, 2013 implies that the first impact due to the extension will occur in FY 13/14 with six months allowed for credits to be processed during the remainder of the year (-\$18.6 million in state general fund) with subsequent years sustaining a full year state general fund impact (-\$44.6 million in FY 15 and -\$53.5 million in FY 16).

### Change in the Base Calculation or Timing of Application

Currently, the base is calculated in the same manner as the federal R&D tax credit, which considers a company's total expenditures for R&D then apportions it to the state. The proposed legislation defines the base calculation as 70% of the three year average of only those research expenditures made in the state. Current LED evaluation expects that the new base calculation will be budget neutral, though definitive data was not available. It is possible that potential applicants will rush to apply for the program prior to its January 1, 2013 expiration, boosting the baseline credit cost of the program, and that this legislation will keep the application process at a more consistent pace, resulting in a lower credit realization baseline (shown as increasing state general fund revenue. Based on original LED assumptions that a change in the base calculation could reduce eligible expenditures by 20%, credits generated under the proposed law could be reduced by 20% under the current rate structure, if all other things are held constant. The base change would be assumed to take place after all other adjustments from the bill are made. Regardless, in early periods smaller credit realizations are likely and in later periods larger credit realizations are likely.

### Repeal of the 25% Credit for Claimants of the Alternative Incremental Credit

Currently, credits are in the amount of 8% of the state's apportioned share of the taxpayer's expenditures for increasing research activities for those employing 100 or more Louisiana residents, 20% of the state's apportioned share of increasing research activities for those employing 50-99 Louisiana residents, 25% of the state apportioned share of the federal research credit claimed for research expenditures in the state if the taxpayer claims the alternative incremental tax credit, and 40% of qualified research expenses for those employing fewer than 50 Louisiana residents. There is also a 40% credit for those receiving SBIR grants. The proposed legislation repeals the 25% credit for those claiming the alternative incremental tax credit bracket. Without this bracket, it is presumed that these companies would continue to be eligible for the credit but the applicable rate would be lowered to 20% or 8%, depending on the employee count of all affiliated companies. Assuming that all would be eligible for an 8% credit, state general fund would increase by about 900,000 annually.

# Including all Affiliated Companies in the Employee Count

Currently, only Louisiana employees are considered in the employee count which, in some instances, determines the rate of the benefit because the smaller the employee count, the larger the credit. Companies that form subsidiaries can currently qualify for a larger credit since only those employees in Louisiana are counted. The proposed legislation will require that all employees of all affiliated companies are counted to determine the appropriate rate. Larger corporations (100 or more employees) will obtain the lowest rate of 8% of qualifying expenditures and the smallest companies (up to 50 employees) receiving the highest rate of 40% of qualifying expenditures. Without the requirement that employees are limited to those in Louisiana, it is expected that more applicants will be subject to the lower brackets, which will increase state general fund. LED can identify credits totaling at least \$500,000 that would no longer qualify under the proposed legislation. if the employee count of more applicants are increased beyond the current thresholds, state general fund could increase by a larger amount.

# **Audit Authority**

The proposed legislation will allow LED to have audit authority at any time. To the extent that companies are currently obtaining credits inappropriately and that audits deter such claims, state general fund will increase (smaller credit realizations will occur). However, there is no audit history to rely on to estimate any potential effect.

# Prohibiting Multiple Benefits

The proposed legislation prohibits the taxpayer from receiving any other LED administered tax incentives for expenditures subject to the R&D credit. To the extent that taxpayers are currently obtaining multiple credits for the same expenditures, state general fund will increase as this practice will no longer be allowed. According to LED, an indication of the prevalence of this practice is not currently available but, if it is occurring, is expected to be limited to a small number of applicants.

SenateDual Referral RulesHouse13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}6.8(F)1 >= \$500,000 Annual Fiscal Cost {S}<br/>6.8(F)2 >= \$100,000 Annual SGF Cost {H&S}<br/>6.8(G) >= \$500,000 Tax or Fee Increase<br/>or a Net Fee Decrease {S}Gregory V. Albrecht<br/>Chief Economist

Analyst: Deborah Vivien

Page 2 of 2



# LEGISLATIVE FISCAL OFFICE **Fiscal Note**

Fiscal Note On: SB Bill Text Version: ENROLLED

135 SLS 11RS 196

Proposed Amd.:

Sub. Bill For .:

Opp. Chamb. Action:

Date: June 24, 2011 9:13 AM **Dept./Agy.:** Revenue/Economic Development Subject: R&D credit calculation changes and 6 year extension

Author: CLAITOR

Analyst: Deborah Vivien

eggy V. allerta Dual Referral Rules Senate House 6.8(F)1 >= \$500,000 Annual Fiscal Cost {S} 6.8(F)2 >= \$100,000 Annual SGF Cost {H&S} 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H} **Gregory V. Albrecht x** 13.5.2 >= \$500,000 Annual Tax or Fee 6.8(G) >= \$500,000 Tax or Fee Increase **Chief Economist** Change {S&H} or a Net Fee Decrease {S}