

CHAPTER 63
UNIVERSITY-BASED RESEARCH UTILIZATION PROGRAM

261—63.1(80GA, HF692, HF683) Purpose. The purpose of the university-based research utilization program is to promote the adoption of new technology developed at the state universities of Iowa state university, the university of Iowa and the university of northern Iowa in a way that will spur the establishment and growth of new business enterprises and promote new economic development within the state.

261—63.2(80GA, HF692, HF683) Definitions.

“*Act*” means 2003 Iowa Acts, First Extraordinary Session, House File 692, sections 111 to 113, and House File 683, section 82.

“*Approved business*” means an eligible business that has been approved to receive benefits under this program.

“*Department*” means the Iowa department of economic development.

“*Director*” means the director of the Iowa department of economic development.

“*Eligible business*” means a business that meets the requirements of rule 261—63.3(80GA, HF692, HF683) and that is either a new business or a business that has been in existence for a period of less than one year prior to applying for benefits under this program.

“*Regents university*” means Iowa state university, the university of Iowa or the university of northern Iowa.

“*Tax credit certificate*” means a document issued by the department to an eligible business or university employee which indicates the amount of income tax credit to which the eligible business or university employee is entitled. A tax credit certificate shall contain the taxpayer’s name, address, tax identification number, the amount of the tax credit certificate, the tax year in which the credit may first be claimed and any other information required by the department or the Iowa department of revenue.

“*University employee*” means a regents university employee, or former regents university employee, who is responsible for developing the technology for which the regents university has received a patent which is then used by the eligible business and whose name is listed on the patent.

261—63.3(80GA, HF692, HF683) Business eligibility. A new or existing business may apply to the department to receive tax incentives if it meets all of the following:

63.3(1) The business utilizes a technology based on a patent awarded to a regents university.

63.3(2) The technology to be utilized by the business is based upon a patent awarded after July 1, 2003.

63.3(3) If the business has been in existence for more than one year prior to applying, the business shall organize a separate company to utilize the technology in order to be eligible for benefits under this program. The new business may then apply for benefits under this program.

63.3(4) The business shall develop a five-year business plan that must then be approved by the department. The five-year business plan shall include information concerning the applicant’s Iowa employment goals and projected positive impact on the Iowa economy. The department will only approve applications whose business plans show sufficient potential positive impact on Iowa employment and economic development.

63.3(5) The business must be an applicant that has at least one full-time equivalent employee or will have at least two full-time equivalent employees within one year of approval of the business’s application.

261—63.4(80GA, HF692, HF683) Program benefits.

63.4(1) Tax credit benefits to the business. An approved business under this program shall receive an income tax credit each year for up to five years to be used to offset taxes imposed in Iowa Code chapter 422, division II, personal income taxes, or division III, business income taxes. An individual may claim the business tax credit under this program by means of a partnership, limited liability company, S corporation, or estate or trust electing to have income taxed directly to the individual. The amount

claimed by the individual shall be based upon the pro-rata share of the individual's earnings from the partnership, limited liability company, corporation, or estate or trust.

63.4(2) *Tax credit benefits to university employee(s).* A university employee or group of employees who are responsible for developing the technology leading to the patent by the regents university which is then utilized by the approved business shall be eligible for an income tax credit under this program. This credit is available each year for up to five years, to be used to offset taxes imposed in Iowa Code chapter 422, division II, personal income taxes. To be eligible to receive this tax credit, the university employee's name or employees' names must be listed on the patent awarded to the regents university.

63.4(3) *Assigning tax credits.* A tax credit shall not be claimed under this program unless a tax credit certificate issued by the Iowa department of economic development is attached to the taxpayer's tax return for the tax year for which the tax credit is claimed. The amount of a tax credit allowed under this program shall equal the amount listed on a tax credit certificate issued by the Iowa department of economic development pursuant to the Act. A tax credit certificate shall not be transferable. Any tax credit in excess of the taxpayer's liability for the tax year may be credited to the taxpayer's tax liability for the following five years or until depleted, whichever occurs first. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer redeems the tax credit. The tax credit certificate issued to an approved business may be used by another business with which the approved business is affiliated and with whom the approved business files state income tax returns on a consolidated basis. The Iowa department of economic development shall notify the Iowa department of revenue when a tax credit certificate is issued. The notification shall include the name and tax identification number appearing on any tax credit certificate.

63.4(4) *Determination of level of the tax credit benefits.* For the five tax years following the tax year in which an eligible business is approved under the program, the Iowa department of revenue shall provide the department with summary information regarding the annual tax returns filed by the approved business. Upon receiving the summary tax return information, the department will make a determination of the amount of tax credits the approved business and university employee may receive.

a. Business tax benefits. Effective for the fiscal year beginning July 1, 2004, and for subsequent fiscal years, the department shall issue a tax credit certificate to the approved business. The value of the tax credit certificate issued by the department for each of the five years following the tax year in which the business is approved under the program shall equal 30 percent of the tax liability of the approved business's tax return for the previous tax year before the approved business's tax liability is lessened or eliminated by tax credits received under this program from prior years. The value of a tax credit certificate issued to an approved business shall not exceed \$225,000 in any single tax year and the total aggregate value of tax credit certificates issued to an approved business over a five-year period shall not exceed a total of \$600,000.

b. University employee(s) tax benefits. Effective for the fiscal year beginning July 1, 2004, and for subsequent fiscal years, the department shall issue a tax credit certificate to the eligible university employee(s). The value of the tax credit certificate issued by the department for each of the five years following the tax year in which the business is approved shall equal 10 percent of the tax liability for the previous tax year of the approved business before the approved business's tax liability is lessened or eliminated by tax credits received under this program from prior years. If more than one university employee is listed on the patent awarded to the regents university, the tax credit certificate value equal to 10 percent of the tax liability of the approved business shall be divided equally among the individuals listed on the patent and individual tax credit certificates shall be issued to each university employee listed on the patent. Each year the total value of a tax credit certificate or certificates issued to a university employee, or group of employees, for each technology utilized by an approved business shall not exceed \$75,000 and, for each technology utilized by an approved business, the total aggregate value of certificates issued to the university employee or employees over a five-year period shall not exceed \$200,000.

c. Fiscal limitations on tax credit certificates. For the fiscal year beginning July 1, 2004, not more than \$2 million worth of tax credit certificates in total shall be issued under this program. For the fiscal year beginning July 1, 2005, and every fiscal year thereafter, not more than \$10 million worth of tax

credit certificates shall be issued under this program. In the event that the aggregate amount of eligible tax credits exceeds the limitations stated in this paragraph, the department will prorate in a fair and equitable manner the amounts of the tax credit certificates that it issues.

261—63.5(80GA,HF692,HF683) Funding appropriation to the regents university. In accordance with 2003 Iowa Acts, First Extraordinary Session, House File 683, section 82, the department will annually make a determination of the amount that will equal 30 percent of the tax liability of the approved business before the approved business's tax liability is lessened or eliminated by tax credits received under this program from prior years. This amount will then be appropriated to the regents university budget from the general fund of the state. A regents university appropriation under this rule shall not exceed \$225,000 per year for each patented technology utilized by an approved business. For each patented technology utilized, the regents university's aggregate appropriation under this rule over a five-year period shall not exceed \$600,000. The department shall maintain records for each regents university during each fiscal year regarding the amount of appropriations each regents university is entitled to receive pursuant to 2003 Iowa Acts, House File 683, section 82.

261—63.6(80GA,HF692,HF683) Business application. To receive designation as an approved business for the university-based research utilization program, a business shall submit an application in the format specified by the Iowa department of economic development. An eligible business shall submit an application on its own behalf.

261—63.7(80GA,HF692,HF683) Application and award process. Iowa department of economic development staff will review completed applications. Department staff will prepare a summary for the director who shall make a final decision on the application. The director may approve, defer or deny the application. Applications will be approved if the eligible business can demonstrate that it will provide a sufficient positive impact on Iowa employment and economic development.

261—63.8(80GA,HF692,HF683) Program administration.

63.8(1) Compliance. An approved business shall submit an annual report to the department describing the business's success, or lack thereof, in meeting its goals as stated in its five-year business plan. The submitted annual report shall also include the Employers Contribution and Payroll Report filed by the business with the Iowa department of workforce development. This report includes employment statistics and taxable wages paid by the approved business, and will be used to measure the business's success in creating new jobs.

63.8(2) Nonperformance. If the department determines that the activities of the approved business are not providing the benefits to Iowa employment and economic development as projected in the business's approved five-year business plan, the department shall not issue tax credit certificates for that year to the business or university employee(s), and shall determine any related regents university appropriation for that particular approved business to be zero for that year.

These rules are intended to implement 2003 Iowa Acts, First Extraordinary Session, House File 692, sections 111 to 131, and 2003 Iowa Acts, House File 683, section 82.

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