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Testimony of

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Before the House Committee on Revenue

In Opposition to HB 2752

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I am here to oppose HB 2752. This tax expenditure is an expensive, ineffective and wasteful use of taxpayers' dollars that could be spent in better ways that would more certainly promote innovation. Thus, it ought not be expanded nor be made refundable.

The current credit is used to reduce liability below the minimum tax, sometimes to zero.

This credit uses the same language as the credit used by Con-way that the Supreme Court said could be relied upon to reduce liability below the corporate minimum tax. In 2012 some 279 corporations used the credit to reduce their tax liability, some, if not all, reduced their liability below the minimum tax, and some of those reduced their liability to zero. Of those 279, 43 percent of them had profits and 87 percent of the credit's cost was used by those profitable corporations.

It is not an incentive. A nickel is not an incentive to spend a buck. It is a small but expensive gift to companies already planning to engage in R&D.

Proponents of the tax break argue that it provides an incentive to Oregon companies to engage in research and development. The credit, however, is tantamount to offering someone a nickel if they will spend one dollar over a base amount. That's not an incentive to do something you were not planning to do anyway. Instead of being an incentive, it's a small but expensive gift to corporations who were already planning to engage in R&D. In the tax expenditure report Business Oregon notes that the "expenditure does favor one group of industries in Oregon over another—*i.e.*, sectors substantially and directly oriented to R&D efforts in general."

The credit pays for activity that is already going to happen.

Research and development will occur and will increase even if the credit is not expanded. Some companies, particularly high-tech companies such as Intel, engage in aggressive research and development to maintain market share and expand. It makes no sense to pay a company to do an activity that it has to undertake to remain competitive or to continue to exist. If you want to target small start-ups who need funds to engage in R&D, create an accountable need- and performance-based grant program. If you want more innovation, improve funding for engineering programs in Oregon universities to produce more and better engineers.

Increasing the size of the credit will only help a handful of corporations.

In 2005 when the legislature was considering an increase in the credit from $750,000 to $1 million, the Legislative Revenue Office calculated that only 6 to 12 companies would claim the full $250,000 increase to $1 million. There's no reason to believe that increasing it to $2 million won't also primarily benefit just a handful of corporations.

Making the credit refundable will be very expensive.

For tax year 2012, while the credit cost taxpayers $11.6 million from the 297 corporations who used it to reduce their tax liability, 307 corporations claimed $81 million in R&D credits. Thus, the cost of the credit will skyrocket – go up more than sevenfold – if you make it refundable (that's not including the doubling of the allowable credit). I can think of many more accountable and better uses of $140 each biennium.

Unaccountable and no jobs.

Business Oregon's evaluation of the credit in the tax expenditure report makes it painfully clear that this credit is unaccountable. There's evidence of a causal relationship between this credit and new R&D that otherwise would not have taken place. Nor is there any proof it has led to jobs being created in Oregon. In fact, Business Oregon notes that the "expenditure does favor one group of industries in Oregon over another—*i.e.*, sectors substantially and directly oriented to R&D efforts in general."

The Ways and Means and Committee would never fund this.

If the activity supported by a tax credit could not pass muster as a direct appropriation, or if the tax credit does not improve the progressivity of the tax system, it ought not to be approved. Tax credits should be limited to (1) efficient mechanisms for funding activities that the Legislature could and would otherwise fund through the appropriations process, or (2) credits that increase the progressivity of Oregon's tax system (i.e., make it based more on taxpayers' ability to pay.) It is doubtful, at best, that the Legislature would vote to approve an appropriations bill that gives taxpayers' money to a few unnamed, profitable corporations to support their research efforts that they were already planning to undertake. The R&D credit does nothing to improve how the tax code treats taxpayers based on ability to pay.

The credit is not targeted to new industries or products.

An argument could be made that Oregon may wish to encourage research into certain types of products. This credit, however, is not targeted. The proposed increase in the existing R&D credit rewards companies conducting a broad range of research. Economic development subsidies should be carefully targeted toward particular types of beneficial private investment as efficiently as possible.

The largest beneficiaries would get a subsidy, not just a tax cut.

The largest beneficiaries are likely multistate corporations who pay little or nothing in state income taxes due to single sales factor apportionment. So if the credit is made refundable or transferable, other state taxpayers – your constituents – will be directly subsidizing the R&D spending, not just reducing the company's corporate income tax liability.