

Requested by Senator MEEK

**PROPOSED AMENDMENTS TO  
SENATE BILL 5**

- 1 On page 1 of the printed bill, line 3, after “ORS” insert “316.502,”.  
2 Delete lines 6 through 27 and delete pages 2 through 3 and insert:  
3 **“SECTION 1. Sections 2, 7 and 10 of this 2023 Act and ORS 317.152,**  
4 **317.153 and 317.154 are added to and made a part of ORS chapter 315.**  
5 **“SECTION 2. (1) If 80 percent of the amount allowable as a credit**  
6 **under ORS 317.152 or 317.154, when added to the sum of the amount**  
7 **of estimated tax paid under ORS 314.515 and any other tax prepayment**  
8 **amounts, exceeds the taxes imposed by ORS chapters 314 and 317 for**  
9 **the tax year after application of any nonrefundable credits allowable**  
10 **for purposes of ORS chapter 317 for the tax year, the amount of the**  
11 **excess determined under this subsection shall be refunded to the tax-**  
12 **payer as provided in ORS 314.415.**  
13 **“(2) If 80 percent of the amount allowable as a credit under ORS**  
14 **317.152 or 317.154, when added to the sum of the amounts allowable as**  
15 **payment of tax under ORS 316.187 or 316.583, other tax prepayment**  
16 **amounts and other refundable credit amounts, exceeds the taxes im-**  
17 **posed by ORS chapters 314 and 316 for the tax year after application**  
18 **of any nonrefundable credits allowable for purposes of ORS chapter**  
19 **316 for the tax year, the amount of the excess shall be refunded to the**  
20 **taxpayer as provided in ORS 316.502.**  
21 **“(3) This section applies only to taxpayers with fewer than 150 em-**

1 **ployees, wherever located, at the close of the tax year.**

2 **“SECTION 3.** ORS 317.152 is amended to read:

3 **“317.152. (1) As used in this section and ORS 317.154, ‘qualified**  
4 **semiconductor company’ means an entity whose primary business is**  
5 **the research, design, development, fabrication, assembly, testing,**  
6 **packaging or validation of semiconductors, or an entity whose primary**  
7 **business is the creation of semiconductor manufacturing equipment,**  
8 **semiconductor core intellectual property or electronic design auto-**  
9 **mation software that is primarily intended for use in the semicon-**  
10 **ductor industry.**

11 **[(1)] (2) A credit against taxes otherwise due under [this chapter] ORS**  
12 **chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317**  
13 **or 318 shall be allowed to eligible taxpayers for increases in qualified re-**  
14 **search expenses and basic research payments. The credit shall be determined**  
15 **in accordance with section 41 of the Internal Revenue Code, except as fol-**  
16 **lows:**

17 **“(a) The applicable percentage specified in section 41(a) of the Internal**  
18 **Revenue Code shall be [five] 15 percent.**

19 **“(b) ‘Qualified research’ and ‘basic research’ shall consist only of research**  
20 **conducted in Oregon by a qualified semiconductor company.**

21 **“(c) The following do not apply to the credit allowable under this section:**

22 **“(A) Section 41(c)(4) of the Internal Revenue Code (relating to the alter-**  
23 **native incremental credit).**

24 **“(B) Section 41(h) of the Internal Revenue Code (relating to termination**  
25 **of the federal credit).**

26 **“[(2) For purposes of this section, ‘eligible taxpayer’ means a corporation,**  
27 **other than a corporation excluded under Internal Revenue Code section**  
28 **41(e)(7)(E).]**

29 **“(3) The Income Tax Regulations as prescribed by the Secretary of the**  
30 **Treasury under authority of section 41 of the Internal Revenue Code apply**

1 for purposes of this section, except as modified by this section or as provided  
2 in rules adopted by the Department of Revenue.

3 “(4) The maximum credit under this section may not exceed [*\$1 million*]  
4 **\$15 million.**

5 “(5) **A person that has earned a tax credit under this section may**  
6 **transfer the credit to a taxpayer subject to tax under ORS chapter 316,**  
7 **317 or 318. The transfer must comply with ORS 315.056. Upon receipt**  
8 **of a notice of tax credit transfer as described in ORS 315.056, the de-**  
9 **partment shall notify the transferor and the transferee if the transfer**  
10 **is approved, and shall certify that the transferee is eligible to claim**  
11 **the credit within the limitation established under section 7 of this 2023**  
12 **Act.**

13 “(6) **The Director of the Department of Revenue may order the**  
14 **suspension or revocation of a credit allowed under this section, as**  
15 **provided in ORS 315.061.**

16 “[5] (7) A deduction may not be taken for the portion of expenses or  
17 payments, otherwise allowable as a deduction, that is equal to the amount  
18 of the credit claimed under this section.

19 “[6] (8) Any tax credit that is otherwise allowable under this section and  
20 that is not used by the taxpayer in that year may be carried forward and  
21 offset against the taxpayer’s tax liability for the next succeeding tax year.  
22 Any credit remaining unused in such next succeeding tax year may be car-  
23 ried forward and used in the second succeeding tax year, and likewise any  
24 credit not used in that second succeeding tax year may be carried forward  
25 and used in the third succeeding tax year, and any credit not used in that  
26 third succeeding tax year may be carried forward and used in the fourth  
27 succeeding tax year, and any credit not used in that fourth succeeding tax  
28 year may be carried forward and used in the fifth succeeding tax year, but  
29 may not be carried forward for any tax year thereafter.

30 “**SECTION 4.** ORS 317.154 is amended to read:

1 “317.154. (1) A credit against taxes otherwise due under [*this chapter*]  
2 **ORS chapter 316 or, if the taxpayer is a corporation, under ORS**  
3 **chapter 317 or 318** shall be allowed for qualified research expenses that ex-  
4 ceed 10 percent of Oregon sales.

5 “(2) For purposes of this section:

6 “(a) ‘Oregon sales’ shall be computed using the laws and administrative  
7 rules for calculating the numerator of the Oregon sales factor under ORS  
8 314.665.

9 “(b) ‘Qualified research’ has the meaning given the term under section  
10 41(d) of the Internal Revenue Code and shall consist only of research con-  
11 ducted in Oregon **by a qualified semiconductor company.**

12 “(3) The credit under this section is equal to five percent of the amount  
13 by which the qualified research expenses exceed 10 percent of Oregon sales.

14 “(4) The credit under this section [*shall*] **may** not exceed \$10,000 times the  
15 number of percentage points by which the qualifying research expenses ex-  
16 ceed 10 percent of Oregon sales.

17 “(5) The maximum credit under this section may not exceed [*\$1 million*]  
18 **\$15 million.**

19 “(6) A deduction may not be taken for the portion of expenses or pay-  
20 ments, otherwise allowable as a deduction, that is equal to the amount of the  
21 credit claimed under this section.

22 “(7) **A person that has earned a tax credit under this section may**  
23 **transfer the credit to a taxpayer subject to tax under ORS chapter 316,**  
24 **317 or 318. The transfer must comply with ORS 315.056. Upon receipt**  
25 **of a notice of tax credit transfer as described in ORS 315.056, the De-**  
26 **partment of Revenue shall notify the transferor and the transferee if**  
27 **the transfer is approved, and shall certify that the transferee is eligible**  
28 **to claim the credit within the limitation established under section 7**  
29 **of this 2023 Act.**

30 “(8) **The Director of the Department of Revenue may order the**

1 **suspension or revocation of a credit allowed under this section, as**  
2 **provided in ORS 315.061.**

3 “[7] (9) Any tax credit that is otherwise allowable under this section and  
4 that is not used by the taxpayer in that year may be carried forward and  
5 offset against the taxpayer’s tax liability for the next succeeding tax year.  
6 Any credit remaining unused in such next succeeding tax year may be car-  
7 ried forward and used in the second succeeding tax year, and likewise any  
8 credit not used in that second succeeding tax year may be carried forward  
9 and used in the third succeeding tax year, and any credit not used in that  
10 third succeeding tax year may be carried forward and used in the fourth  
11 succeeding tax year, and any credit not used in that fourth succeeding tax  
12 year may be carried forward and used in the fifth succeeding tax year, but  
13 may not be carried forward for any tax year thereafter.

14 **“SECTION 5.** ORS 316.502, as amended by section 13, chapter 115, Oregon  
15 Laws 2022, is amended to read:

16 “316.502. (1) The net revenue from the tax imposed by this chapter, after  
17 deducting refunds and amounts described in ORS 285B.630 and 285C.635, shall  
18 be paid over to the State Treasurer and held in the General Fund as mis-  
19 cellaneous receipts available generally to meet any expense or obligation of  
20 the State of Oregon lawfully incurred.

21 “(2) A working balance of unreceipted revenue from the tax imposed by  
22 this chapter may be retained for the payment of refunds, but such working  
23 balance shall not at the close of any fiscal year exceed the sum of \$1 million.

24 “(3) Moneys are continuously appropriated to the Department of Revenue  
25 to make:

26 “(a) The refunds authorized under subsection (2) of this section; and

27 “(b) The refund payments in excess of tax liability authorized under ORS  
28 315.174, 315.262, 315.264, 315.266 and 316.090 and section 3, chapter 589,  
29 Oregon Laws 2021, and section 8, chapter 115, Oregon Laws 2022, **and sec-**  
30 **tion 2 of this 2023 Act.**

1        **“SECTION 6.** ORS 317.850, as amended by section 14, chapter 115, Oregon  
2 Laws 2022, is amended to read:

3        “317.850. (1) The net revenue from the tax imposed by this chapter, after  
4 deduction of refunds, shall be paid over to the State Treasurer and held in  
5 the General Fund as miscellaneous receipts available generally to meet any  
6 expense or obligation of the State of Oregon lawfully incurred.

7        “(2) A working balance of unreceipted revenue from the tax imposed by  
8 this chapter may be retained for the payment of refunds, but such working  
9 balance [*shall*] **may** not at the close of any fiscal year exceed the sum of  
10 \$500,000.

11       “(3) Moneys are continuously appropriated to the Department of Revenue  
12 to make:

13       “(a) The refunds authorized under subsection (2) of this section; [*and*]

14       “(b) The refund payments in excess of tax liability authorized under sec-  
15 tion 8, chapter 115, Oregon Laws 2022[.]; **and**

16       **“(c) The refund payments in excess of tax liability authorized under**  
17 **section 2 of this 2023 Act.**

18       **“SECTION 7. The total amount of credits that may be claimed by**  
19 **transferees, as provided in ORS 315.056, 317.152 and 317.154, may not**  
20 **exceed \$100 million per tax year.**

21       **“SECTION 8.** Section 6, chapter 911, Oregon Laws 1989, as amended by  
22 section 14, chapter 746, Oregon Laws 1995, section 1, chapter 548, Oregon  
23 Laws 2001, section 15, chapter 739, Oregon Laws 2003, section 86, chapter 94,  
24 Oregon Laws 2005, and section 7, chapter 730, Oregon Laws 2011, is amended  
25 to read:

26       **“Sec. 6.** ORS 317.152 [*to*], **317.153 and 317.154** apply to amounts paid or  
27 incurred in tax years beginning on or after January 1, 1989, and before Jan-  
28 uary 1, 2018, **or in tax years beginning on or after January 1, 2024, and**  
29 **before January 1, 2030.**

30       **“SECTION 9. Sections 2, 7 and 10 of this 2023 Act and the amend-**

1 **ments to ORS 317.152 and 317.154 by sections 3 and 4 of this 2023 Act**  
2 **apply to tax years beginning on or after January 1, 2024, and before**  
3 **January 1, 2030.**

4 **“SECTION 10. The total combined amount of potential tax credits**  
5 **allowed under ORS 317.152 and 317.154 at the time of certification un-**  
6 **der ORS 317.152 or 317.154 may not exceed \$200 million for any**  
7 **biennium.**

8 **“SECTION 11. This 2023 Act takes effect on the 91st day after the**  
9 **date on which the 2023 regular session of the Eighty-second Legislative**  
10 **Assembly adjourns sine die.”.**

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