# SB 55: Reject restoration of the the R&D tax credit

Senate Committee on Finance and Revenue – Bennett Minton – 2/14/2023

Chair Meek, Vice Chair Boquist, members of the committee:

My name is Bennett Minton, representing Tax Fairness Oregon, a network of volunteers who advocate a rational and equitable tax code. Our testimony represents the experience of John Calhoun, who has a conflict this afternoon.

John started with Intel in 1972. In 1981 he was the company rep when it lobbied Congress for the R&D tax credit to help the U.S. compete with Japan. The credit was intended to shoot capital into the industry. In 1983-84, John was a Commerce Department official and advocated within the administration for the R&D credit as part of trade policy.

That was another world. Semiconductor production facilities, which used to cost tens or hundreds of millions of dollars, now cost billions. The R&D tax credit is no longer a factor in providing capital or keeping industry employment in the U.S. That is why Congress passed the CHIPS bill: to provide massive funds for manufacturing plants and research centers.

Oregon enacted an R&D tax credit in 1989. In 2017 the credit was repealed because, as John testified then—and former House Revenue Chair Barnhart told you today—it changed no behavior and resulted in no additional R&D. The state's tax credit benefit totaled less than $20 million per biennium—when Oregon's companies spent $6 billion per year on R&D. Even the industry acknowledged the state credit made no difference.

SB 55 would increase costs in several ways. The credit would be refundable for small businesses—those with fewer than 150 employees—allowing startups to get the benefit. The rate of the credit, 5% before, would be either 15% or 24% of incremental expenses. The minimum credit, previously $1 million, would be $9 million. LRO has not estimated the cost, but we think it would be between $100 million and $200 million per biennium.

Business Oregon published an Innovation Index 2022. It reported that Oregon R&D was about $8 billion in 2019, double what it was in 2009. A $20 million tax expenditure, per biennium, is about 0.1% of total R&D spending. It would change no behavior. A tenfold increase, to $200 million per biennium, would equal only 1.25% of industry R&D—four years ago. Again, irrelevant to behavior.

Two hundred million dollars is the governor's target for additional spending for semiconductor incentives. If the legislature passed SB 55, how would it fund the other incentives?

Oregon has modified its tax policies over the years to accommodate manufacturing. The single-sales factor means companies like Intel, which sells most of its production outside the state, pay very little income tax. The formula for the Corporate Activities Tax is based on Oregon sales; again semiconductor companies will not pay much. Under the Strategic Investment Program, or SIP, companies pay little in property taxes on major investments.

Because Oregon has no sales tax, billions of dollars of purchased equipment go untaxed. Overall, the result is that major operations in Oregon pay minimal taxes.

Tax Fairness Oregon closely followed the Semiconductor Industry Task Force, chaired by Senator Wyden and Governor Brown and staffed by the Oregon Business Council. We analyzed its August 2022 interim report and found its recommendations concerning tax policy wanting in detail. We have testified several times before the Joint Committee on Semiconductors. We have consistently urged the legislature to fund incentives through appropriations, not the tax code, because the latter would be inefficient, spraying dollars across the business sector and failing to focus on what leaders have emphasized: attracting additional semiconductor production and research.

If the chair will indulge me, I will comment on the federal R&D credit, because I was involved in tax policy from the late 1980s to 2014, as a lobbyist or tax policy reporter. Congress never thought enough of the R&D to make it permanent. Instead it extended the R&D 16 times until 2015, when it finally made it permanent. Congress would extend it for a year or two, and sometimes the provision had expired when Congress got around to restoring it. Part of reason was budgetary legerdemain; another part, we understood, was ensuring campaign contributions for the annual “must-pass” tax bill. The R&D’s importance on K Street was as the locomotive for every interest to hitch a boxcar onto the train. Top congressional leaders mouthed the importance of passing the "R&D bill." But to the companies that benefited, it mattered less and less. It was free money, not a motivator, because as John explained, R&D spending far exceeded the incremental increase the provision rewarded.

SB 55 represents poor policy. We urge its rejection.