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Potential Use of the R&D Tax Credit in 2024

House Bill 2009 from the 2023 Legislative session requires the Legislative Revenue Officer to submit a report to the 2024 committees of the Legislative Assembly related to revenue. This report is required to describe the information submitted to the Oregon Business Development Department (OBDD) by taxpayers expecting to claim the research and development (R&D) tax credit in 2024. This memo provides that information to the Legislature.

House Bill 2009 created a one-time registration process and an annual certification process for the R&D tax credit. The goal of the registration process was to gather specific information to inform the Legislature about the potential use of the tax credit in the initial year of the program. The annual certification process was created to ensure company qualification and enforce statutory limits on credit certifications. In August of 2023, OBDD convened an interagency advisory team to determine the best approach for the registration process.

Ultimately, OBDD required potential claimants to submit a one-time registration form. They were required to provide information related to the calculation of the tax credit: data on their semiconductor research and development activity, related expenses over the prior three years, projected expenses for 2024, and their number of employees. The registration was open from October 11, 2023, through December 1, 2023. In January of 2024, OBDD made all relevant data available to the Legislative Revenue Office (LRO) for analysis. These registration data are the basis for the information provided in this memo.

In brief, 26 taxpayers registered, projecting \$600 million of R&D expenses in 2024. The tax credit is roughly 15 percent of 2024 expenses minus fifty percent of average expenses for the prior three years, but no more than \$4 million. The information below provides combined totals of the collected data for all registered taxpayers, providing some insight as to the potential use of the tax credit in 2024. Information is required to be aggregated to protect confidentiality. While the usage estimates are based on the registration materials, missing data required the use of additional imputed or estimated amounts made by LRO, as necessary.

Number of eligible taxpayers: **26**

Estimated qualified R&D expenditures in 2024: **\$600 Million**

Estimated average qualified R&D expenditures for prior three years: **\$500 Million¹**

Total estimated potential tax credit amount for tax year 2024: **\$35 Million**

Total estimated revenue loss in fiscal year 2024-25: **\$23.9 Million**

As mentioned above, HB 2009 provides limits for the total certification of potential tax credits for the six years of tax credit applicability. The cap covers the current biennium, the next two biennia, and fiscal year 2029-30. Specifically, Section 8 reads as follows.

SECTION 8. The total amount of potential tax credits for all qualified semiconductor companies in this state may not, at the time of certification under section 4 of this 2023 Act, exceed:

- (1) \$35 million for the biennium beginning July 1, 2023;**
- (2) \$80 million for the biennium beginning July 1, 2025;**
- (3) \$90 million for the biennium beginning July 1, 2027; and**
- (4) \$50 million for the fiscal year beginning July 1, 2029.**

Analysis of the registration data indicates that the potential tax credits for the program’s first year will not exceed the statutory cap. That said, the certification process to be conducted in 2024 will determine if OBDD needs to take steps to manage tax credit usage.

While potential tax credits reflect the expected usage by taxpayers at the time of certification, the revenue impact includes the timing for when the tax credits are projected to affect the revenue stream. For example, the Legislature structured the tax credit such that it is partially refundable for taxpayers meeting specified criteria. Other taxpayers are allowed a non-refundable tax credit that may be carried forward for five years. The estimated revenue impact accounts for tax credits earned in one tax year but used (i.e., “carried forward”) to a later year.

For reference purposes, the estimates from the HB 2009 Revenue Impact Statement are provided in the first row of the table below. The estimate based on registration data is provided in the second row. While the registration data indicate potential tax credits of \$35M in 2024-25, credit usage is projected to be \$23.9M. Consequently, the estimated revenue loss — or tax credit usage — in the first year of the program currently appears to be roughly \$0.9 million less than estimated in 2023.

Estimated Revenue Impact from the R&D Tax Credit

\$ Millions

	Biennium		
	2023-25	2025-27	2027-29
2023 Revenue Impact Statement	-\$24.8	-\$55.5	-\$63.6
2024 Registration Data	-\$23.9		

¹ Start-up companies may not have a full three-year history of qualified research expenses and therefore a comparison of total R&D expenditures in 2024 to the average of the three previous years will include year-over-year growth of existing companies and expected 2024 R&D expenditures of new companies. Federal law provides a formula to calculate qualified R&D expenditures of start-up companies.