

# Senate Bill 1084

Sponsored by Senators KNOPP, MEEK, Representative WALLAN; Senator FINDLEY

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Restores tax credit allowed for qualified research activities at increased maximum credit amount. Expands availability of credit to personal income taxpayers. Provides for refundability of portion of credit for taxpayer with fewer than 150 employees and for transferability of credit. Sets limit for credits allowed for transfer in state per tax year. Increases maximum amount of alternative qualified research credit allowed to taxpayer with insufficient increase in research expenses to claim standard credit.

Exempts from commercial activity subject to corporate activity tax amount of qualified research credit allowed against corporate excise tax.

Applies to tax years beginning on or after January 1, 2024, and before January 1, 2030.

Extends sunsets of certain programs providing economic incentives.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to economic incentives; creating new provisions; amending ORS 285B.627, 285C.255,  
3 285C.406, 316.502, 317.152, 317.154 and 317.850 and section 6, chapter 911, Oregon Laws 1989,  
4 and section 6, chapter 905, Oregon Laws 2007; and prescribing an effective date.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1. Section 2 of this 2023 Act and ORS 317.152, 317.153 and 317.154 are added to**  
7 **and made a part of ORS chapter 315.**

8 **SECTION 2. (1) If 80 percent of the amount allowable as a credit under ORS 317.152 or**  
9 **317.154, when added to the sum of the amount of estimated tax paid under ORS 314.515 and**  
10 **any other tax prepayment amounts, exceeds the taxes imposed by ORS chapters 314 and 317**  
11 **for the tax year after application of any nonrefundable credits allowable for purposes of ORS**  
12 **chapter 317 for the tax year, the amount of the excess determined under this subsection shall**  
13 **be refunded to the taxpayer as provided in ORS 314.415.**

14 **(2) If 80 percent of the amount the amount allowable as a credit under ORS 317.152 or**  
15 **317.154, when added to the sum of the amounts allowable as payment of tax under ORS**  
16 **316.187 or 316.583, other tax prepayment amounts and other refundable credit amounts, ex-**  
17 **ceeds the taxes imposed by ORS chapters 314 and 316 for the tax year after application of**  
18 **any nonrefundable credits allowable for purposes of ORS chapter 316 for the tax year, the**  
19 **amount of the excess shall be refunded to the taxpayer as provided in ORS 316.502.**

20 **(3) This section applies only to taxpayers with fewer than 150 employees, wherever lo-**  
21 **cated, at the close of the tax year.**

22 **SECTION 3. ORS 317.152 is amended to read:**

23 317.152. (1) A credit against taxes otherwise due under [*this chapter*] **ORS chapter 316 or, if**  
24 **the taxpayer is a corporation, under ORS chapter 317 or 318** shall be allowed to eligible tax-  
25 payers for increases in qualified research expenses and basic research payments. The credit shall  
26 be determined in accordance with section 41 of the Internal Revenue Code, except as follows:

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (a) The applicable percentage specified in section 41(a) of the Internal Revenue Code shall be  
2 *five* **15** percent.

3 (b) “Qualified research” and “basic research” shall consist only of research conducted in  
4 Oregon.

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

6 (A) Section 41(c)(4) of the Internal Revenue Code (relating to the alternative incremental credit).

7 (B) Section 41(h) of the Internal Revenue Code (relating to termination of the federal credit).

8 (2) For purposes of this section, “eligible taxpayer” means a corporation, other than a corpo-  
9 ration excluded under Internal Revenue Code section 41(e)(7)(E).

10 (3) The Income Tax Regulations as prescribed by the Secretary of the Treasury under authority  
11 of section 41 of the Internal Revenue Code apply for purposes of this section, except as modified by  
12 this section or as provided in rules adopted by the Department of Revenue.

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

14 (5) **A person that has earned a tax credit under this section may transfer the credit to**  
15 **a taxpayer subject to tax under ORS chapter 316, 317 or 318. The transfer must comply with**  
16 **ORS 315.056. Upon receipt of a notice of tax credit transfer as described in ORS 315.056, the**  
17 **department shall notify the transferor and the transferee if the transfer is approved, and**  
18 **shall certify that the transferee is eligible to claim the credit within the limitation estab-**  
19 **lished under section 7 of this 2023 Act.**

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

22 *[(5)]* (7) A deduction may not be taken for the portion of expenses or payments, otherwise al-  
23 lowable as a deduction, that is equal to the amount of the credit claimed under this section.

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

33 **SECTION 4.** ORS 317.154 is amended to read:

34 317.154. (1) A credit against taxes otherwise due under *[this chapter]* **ORS chapter 316 or, if**  
35 **the taxpayer is a corporation, under ORS chapter 317 or 318** shall be allowed for qualified re-  
36 search expenses that exceed 10 percent of Oregon sales.

37 (2) For purposes of this section:

38 (a) “Oregon sales” shall be computed using the laws and administrative rules for calculating the  
39 numerator of the Oregon sales factor under ORS 314.665.

40 (b) “Qualified research” has the meaning given the term under section 41(d) of the Internal Re-  
41 venue Code and shall consist only of research conducted in Oregon.

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

44 (4) The credit under this section *[shall]* **may** not exceed \$10,000 times the number of percentage  
45 points by which the qualifying research expenses exceed 10 percent of Oregon sales.

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

2 (6) A deduction may not be taken for the portion of expenses or payments, otherwise allowable  
3 as a deduction, that is equal to the amount of the credit claimed under this section.

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

10 **(8) The Director of the Department of Revenue may order the suspension or revocation**  
11 **of a credit allowed under this section, as provided in ORS 315.061.**

12 [(7)] (9) Any tax credit that is otherwise allowable under this section and that is not used by  
13 the taxpayer in that year may be carried forward and offset against the taxpayer's tax liability for  
14 the next succeeding tax year. Any credit remaining unused in such next succeeding tax year may  
15 be carried forward and used in the second succeeding tax year, and likewise any credit not used in  
16 that second succeeding tax year may be carried forward and used in the third succeeding tax year,  
17 and any credit not used in that third succeeding tax year may be carried forward and used in the  
18 fourth succeeding tax year, and any credit not used in that fourth succeeding tax year may be car-  
19 ried forward and used in the fifth succeeding tax year, but may not be carried forward for any tax  
20 year thereafter.

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

23 316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds and  
24 amounts described in ORS 285B.630 and 285C.635, shall be paid over to the State Treasurer and held  
25 in the General Fund as miscellaneous receipts available generally to meet any expense or obligation  
26 of the State of Oregon lawfully incurred.

27 (2) A working balance of unreceipted revenue from the tax imposed by this chapter may be re-  
28 tained for the payment of refunds, but such working balance shall not at the close of any fiscal year  
29 exceed the sum of \$1 million.

30 (3) Moneys are continuously appropriated to the Department of Revenue to make:

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

32 (b) The refund payments in excess of tax liability authorized under ORS 315.174, 315.262, 315.264,  
33 315.266 and 316.090 and section 3, chapter 589, Oregon Laws 2021, and section 8, chapter 115,  
34 Oregon Laws 2022, **and section 2 of this 2023 Act.**

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

37 317.850. (1) The net revenue from the tax imposed by this chapter, after deduction of refunds,  
38 shall be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts  
39 available generally to meet any expense or obligation of the State of Oregon lawfully incurred.

40 (2) A working balance of unreceipted revenue from the tax imposed by this chapter may be re-  
41 tained for the payment of refunds, but such working balance [*shall*] **may** not at the close of any  
42 fiscal year exceed the sum of \$500,000.

43 (3) Moneys are continuously appropriated to the Department of Revenue to make:

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

45 (b) The refund payments in excess of tax liability authorized under section 8, chapter 115,

1 Oregon Laws 2022[.]; and

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

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

6 **SECTION 8. Section 9 of this 2023 Act is added to and made a part of ORS 317A.100 to**  
7 **317A.158.**

8 **SECTION 9. Notwithstanding ORS 317A.100, any amounts of credit against taxes imposed**  
9 **under ORS chapter 316, 317 or 318 that are allowed a taxpayer under ORS 317.152 or 317.154**  
10 **for qualified research expenses are excluded from the definition of “commercial activity” and**  
11 **are exempt from the tax imposed under ORS 317A.116.**

12 **SECTION 10. Section 6, chapter 911, Oregon Laws 1989, as amended by section 14, chapter 746,**  
13 **Oregon Laws 1995, section 1, chapter 548, Oregon Laws 2001, section 15, chapter 739, Oregon Laws**  
14 **2003, section 86, chapter 94, Oregon Laws 2005, and section 7, chapter 730, Oregon Laws 2011, is**  
15 **amended to read:**

16 **Sec. 6.** ORS 317.152 [*to*], **317.153 and 317.154** apply to amounts paid or incurred in tax years  
17 beginning on or after January 1, 1989, and before January 1, 2018, **or in tax years beginning on**  
18 **or after January 1, 2024, and before January 1, 2030.**

19 **SECTION 11. (1) Section 2 of this 2023 Act and the amendments to ORS 316.502, 317.152,**  
20 **317.154 and 317.850 by sections 3 to 6 of this 2023 Act apply to tax years beginning on or after**  
21 **January 1, 2024, and before January 1, 2030.**

22 **(2) Section 9 of this 2023 Act applies to tax years beginning on or after January 1, 2024,**  
23 **and before January 1, 2030.**

24 **SECTION 12. The total combined amount of potential tax credits allowed under ORS**  
25 **317.152 and 317.154 at the time of certification under ORS 317.152 or 317.154 may not exceed**  
26 **\$200 million for any biennium.**

27 **SECTION 13. ORS 285C.255 is amended to read:**

28 285C.255. (1) Notwithstanding any other provision of ORS 285C.050 to 285C.250:

29 (a) An area may not be designated as an enterprise zone after June 30, [2025] **2035**;

30 (b) A business firm may not obtain authorization under ORS 285C.140 after June 30, [2025]  
31 **2035**; and

32 (c) An enterprise zone, except for a reservation enterprise zone or a reservation partnership  
33 zone, that is in existence on June 29, [2025] **2035**, is terminated on June 30, [2025] **2035**.

34 (2) Notwithstanding subsection (1) of this section:

35 (a) A reservation enterprise zone may be designated, and a reservation partnership zone may  
36 be cosponsored, under ORS 285C.306 after June 30, [2025] **2035**; and

37 (b) A business firm may obtain authorization under ORS 285C.140 after June 30, [2025] **2035**:

38 (A) If located in a reservation enterprise zone or a reservation partnership zone; or

39 (B) As allowed under ORS 285C.245 (1)(b).

40 **SECTION 14. ORS 285C.406 is amended to read:**

41 285C.406. In order for a taxpayer to claim the property tax exemption under ORS 285C.409 or  
42 a corporate excise or income tax credit under ORS 317.124:

43 (1) The written agreement between the business firm and the rural enterprise zone sponsor that  
44 is required under ORS 285C.403 (3)(c) must be entered into prior to the termination of the enterprise  
45 zone under ORS 285C.245; and

1 (2)(a) For the purpose of the property tax exemption, the business firm must obtain certification  
2 under ORS 285C.403 on or before June 30, [2025] **2035**; or

3 (b) For the purpose of the corporate excise or income tax credit, the business firm must obtain  
4 certification under ORS 285C.403 on or before June 30, 2018.

5 **SECTION 15.** Section 6, chapter 905, Oregon Laws 2007, as amended by section 5, chapter 757,  
6 Oregon Laws 2015, and section 11, chapter 82, Oregon Laws 2022, is amended to read:

7 **Sec. 6.** (1) ORS 285C.615 and 285C.635 apply to:

8 (a) Tax years beginning on or after January 1, 2009.

9 (b) Income taxes attributable to eligible projects that first become exempt from property taxa-  
10 tion under ORS 307.123 on or after January 1, 2008.

11 (2) Distributions under ORS 285C.635 (3) may not be made after July 15, [2025] **2035**.

12 **SECTION 16.** ORS 285B.627 is amended to read:

13 285B.627. (1) In consultation with the Department of Revenue, the Oregon Business Development  
14 Department shall establish and administer the Oregon Industrial Site Readiness Program. The pur-  
15 pose of the program is to:

16 (a) Enter into tax reimbursement arrangements with qualified project sponsors pursuant to  
17 subsection (5) of this section; or

18 (b) Provide loans, including forgivable loans, to qualified project sponsors pursuant to subsection  
19 (5) of this section.

20 (2)(a) Subject to standards and procedures that the Oregon Business Development Department  
21 shall establish by rule, the department shall designate regionally significant industrial sites for  
22 inclusion in the program.

23 (b) A regionally significant industrial site designated under this section must be an industrial  
24 site that is planned and zoned for industrial use.

25 (3) A project sponsor may apply to participate in the program by submitting an application and  
26 development plan in writing in a form prescribed by the department by rule.

27 (4) The department shall establish by rule criteria and standards for the qualification of project  
28 sponsors to participate in the program.

29 (5) Upon qualification of a project sponsor under this section, and before July 1, [2023] **2033**, the  
30 department may:

31 (a) Enter into a tax reimbursement arrangement with the project sponsor pursuant to which the  
32 project sponsor shall receive an amount equal to 50 percent of the estimated incremental income tax  
33 revenues generated by an eligible employer per tax year, beginning with the first tax year following  
34 the tax year in which a project sponsor is qualified under this section, until the total investment  
35 of the qualified project sponsor in the eligible site preparation costs, including interest, established  
36 under subsection (7) of this section has been recovered, at which time the tax reimbursement ar-  
37 rangement shall end; or

38 (b) Enter into a loan agreement with the project sponsor under terms and conditions specified  
39 and required by the department. In making a determination to enter into a loan agreement with the  
40 project sponsor, the department shall consider the reasonableness of the project sponsor's estimated  
41 costs to prepare the site for industrial use, including but not limited to eligible site preparation  
42 costs established by the department pursuant to subsection (7) of this section. The agreement may  
43 specify that a portion of the loan may be forgiven if the project sponsor enters into a contract with  
44 an eligible employer to conduct a business in the traded sector industry on a regionally significant  
45 industrial site within seven years after the project sponsor was qualified under this section.

1 (6)(a) The total amount of the loan that may be forgiven under subsection (5) of this section is  
2 the lesser of:

3 (A) Fifty percent of the total cost of eligible site preparation costs; or

4 (B) Fifty percent of the amount of the estimated incremental income tax revenues for the eligible  
5 employer for the term of the loan.

6 (b) Loan forgiveness may not be allowed under subsection (5) of this section if any portion of  
7 the loan that would not be forgiven would be repaid by the project sponsor with state funds received  
8 from any source.

9 (7) The department shall establish, by rule, eligible site preparation costs including, but not  
10 limited to, some or all of the following:

11 (a) Acquisition and assembly costs associated with creating large development parcels.

12 (b) Transportation improvements such as access roads, intersections, turning lanes, signals,  
13 sidewalks, curbs, transit stops and storm drains.

14 (c) Water and sewer infrastructure.

15 (d) Natural resource mitigation.

16 (e) Site grading activities.

17 (f) Environmental remediation and mitigation activities to address brownfields issues in accord-  
18 ance with state and federally approved remediation plans.

19 (g) Planning, engineering and administrative costs associated with applying for necessary local,  
20 state and federal permits.

21 (h) Interest-carrying costs incurred by a project sponsor for amounts borrowed to develop a re-  
22 regionally significant industrial site, not to exceed 20 percent of the total amount forgiven, if any,  
23 under subsection (5) of this section.

24 (8) The total amount of tax reimbursement arrangements and loan amounts authorized under this  
25 section may not exceed \$10 million per year.

26 (9) Funds received pursuant to a tax reimbursement arrangement or a loan agreement under  
27 subsection (5) of this section may not be used for the payment of:

28 (a) A penalty or fine; or

29 (b) Environmental remediation activities conducted at a regionally significant industrial site that  
30 is listed or proposed to be listed as a national priority pursuant to the Comprehensive Environ-  
31 mental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) for which the project  
32 sponsor, eligible employer or any party to the tax reimbursement arrangement or loan agreement  
33 is liable under 42 U.S.C. 9607 at that regionally significant industrial site.

34 (10) The department shall adopt rules to administer and implement the provisions of this section.

35 **SECTION 17. This 2023 Act takes effect on the 91st day after the date on which the 2023**  
36 **regular session of the Eighty-second Legislative Assembly adjourns sine die.**

37