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FISCAL IMPACT REPORT

SPONSOR Trujillo & Sanchez, B. **ORIGINAL DATE** 01/25/10 **LAST UPDATED** 02/10/10 **HB** 29/aHBIC/aHTRC
SHORT TITLE Research & Development Business Tax Credit **SB** _____
ANALYST Clifford

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
(\$19.0)	(\$118.0)	(\$124.0)	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

Economic Development Department (EDD)

SUMMARY

Synopsis of HTRC Amendment

The House Taxation and Revenue Committee amendment to House Bill 29 amends that the extension of the credit would begin in 2010 and would be extended to 2015. The credit could not be applied against compensating tax liability. No credit could be claimed for tax returns due between July 1, 2009 and June 30, 2010. Provisions are made effective July 1, 2010.

Synopsis of HBIC Amendment

The House Business and Industry Committee amendment to House Bill 29 amends that the title of the bill is changed from "Extending the Research and Development ..." to "Providing for a New Eligibility Period for the Research and Development ..."

Synopsis of Original Bill

House Bill 29 extends the research and development small business tax credit until June 30, 2014. The previous sunset date was June 30, 2009.

FISCAL IMPLICATIONS

TRD notes:

Credits claimed in FY2009 totaled \$107,000. The revenue estimate assumes credit claims increase 5% each fiscal year. The FY2010 revenue impact is relatively small due to the limited number of reporting periods in which the credit may be claimed.

SIGNIFICANT ISSUES

Allowing the credit to be applied against withholding creates a strong incentive to over-withhold. In the case of withholding on behalf of the company's owners, this means every dollar of over-withholding is an extra dollar in the pocket of the owners. Even though they have to wait until they file their tax return to be refunded the over-withheld amounts, there is still a strong incentive to over-withhold in order to artificially inflate the credit base, and this practice is not illegal. There is no cap on the amount of withholding per employee eligible for the credit, so credit amounts generated by withholding on behalf of highly-compensated employees can be quite significant.

OTHER SUBSTANTIVE ISSUES

EDD notes:

A qualified business is a corporation, general partnership or similar entity with 25 or fewer employees, revenues under \$5 million annually and whose qualified R&D expenditures for the prior 12 months was equal to at least 20% of total expenditures for those calendar months.

The credit is available up to three consecutive years after the first month for which a claim for the credit is made by a taxpayer or by a successor of the business..."

Taxpayers who claim the research and development small business tax credit are ineligible to claim the investment tax credit or the technology jobs tax credit for the same reporting period and are also ineligible if they are a beneficiary of an Industrial Revenue Bond.

TC/mt:svb:mew