

# DEPARTMENT OF TAXATION

## 2023 Fiscal Impact Statement

1. **Patron** Irene Shin

3. **Committee** House Finance

4. **Title** Research and Development Expense Tax Credit

2. **Bill Number** HB 2043

**House of Origin:**

X **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

This bill would increase the annual aggregate tax credit cap for the Research and Development Expenses Tax Credit from \$7.77 million to \$10 million per fiscal year. The Research and Development Expenses Tax Credit is a refundable tax credit for qualified research and development expenses incurred during the taxable year attributable to Virginia. This bill does not affect the Major Research and Development Expenses Tax Credit.

This bill would be effective for taxable years beginning on or after January 1, 2023.

### 6. **Budget amendment necessary:** Yes.

Item(s): Page 1, Revenue Estimates

### 7. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

#### 7b. **Revenue Impact:**

<i><b>Fiscal Year</b></i>	<i><b>Dollars</b></i>	<i><b>Fund</b></i>
2023-24	(\$2.23 million)	GF
2024-25	(\$2.23 million)	GF
2025-26	(\$2.23 million)	GF
2026-27	(\$2.23 million)	GF
2027-28	(\$2.23 million)	GF
2028-29	(\$2.23 million)	GF

### 8. **Fiscal implications:**

#### Administrative Costs

The Department of Taxation ("the Department") considers implementation of this bill as routine, and does not require additional funding.

## Revenue Impact

This bill would result in a negative General Fund revenue impact of \$2.23 million beginning in Fiscal Year 2024 and each fiscal year thereafter. It is estimated that the increased annual credit cap authorized by this bill would be utilized, as the Research and Development Expenses Tax Credit program is currently oversubscribed by a significant amount. For example, in Taxable Year 2021, taxpayers requested \$19.7 million in tax credits, but because of the current cap, they were only granted \$7.77 million.

### **9. Specific agency or political subdivisions affected:**

Department of Taxation

### **10. Technical amendment necessary: No**

### **11. Other comments:**

#### Research and Development Expenses Tax Credit

The Research and Development Expenses Tax Credit is a refundable tax credit for conducting qualified research and development in Virginia. This credit may be taken against the individual income tax or the corporate income tax for Taxable Years beginning on and after January 1, 2021. The credit is comprised of a base credit and a supplemental credit that is available only to the extent that the total amount of base credits granted for a fiscal year is less than the annual credit cap. A taxpayer may compute the base credit using the primary method for determining the credit or elect to compute the base credit using the alternative simplified method ("simplified method") for determining the credit.

The base credit for a taxpayer using the primary method is equal to: (i) 15 percent of the Virginia qualified research and development expenses paid or incurred by the taxpayer during the credit year (up to a \$45,000 credit); or, (ii) 20 percent of the Virginia qualified research and development expenses paid or incurred by the taxpayer during the credit year if the Virginia qualified research was conducted in conjunction with a Virginia public or private college or university (up to a \$60,000 credit), to the extent such expenses exceed the taxpayer's Virginia base amount.

The base credit for a taxpayer that elects to utilize the simplified method is equal to 10 percent of the difference between:

- The Virginia qualified research and development expenses paid or incurred by the taxpayer during the taxable year; and,
- 50 percent of the average Virginia qualified research and development expenses paid or incurred by the taxpayer for the three immediately preceding taxable years.

If a taxpayer did not pay or incur Virginia qualified research and development expenses in any one of the three preceding taxable years, the base credit is equal to 5 percent of the Virginia qualified research and development expenses paid or incurred by the taxpayer during the relevant taxable year. The annual base credit amount allowed may not exceed:

(i) \$45,000; or, (ii) \$60,000 if the Virginia qualified research was conducted in conjunction with a Virginia public or private college or university.

When the credit was first enacted, it was subject to a \$5 million annual cap. The cap was increased to \$6 million for Taxable Years 2014 and 2015, to \$7 million for Taxable Year 2016 through Taxable Year 2020, and to \$7.77 million for Taxable Year 2021 and thereafter.

No taxpayer may claim both the Research and Development Expenses Tax Credit and the Major Research and Development Expenses Tax Credit for the same taxable year.

The Research and Development Expenses Tax Credit has been oversubscribed since taxable year 2014. The table below shows the amount of credit requested compared to the amount granted each year:

#### **Research and Development Expenses Tax Credit**

<b>Taxable Year</b>	<b>Granted Amount</b>	<b>Requested Amount</b>	<b>Proration Factor</b>	<b>Count</b>
2012	\$4,545,634	\$2,750,734	100%	135
2013	\$4,999,960	\$3,912,218	100%	193
2014	\$5,965,844	\$6,158,692	97%	229
2015	\$5,999,900	\$7,146,924	84%	268
2016	\$6,999,718	\$13,935,573	50%	442
2017	\$6,999,683	\$15,033,028	47%	464
2018	\$7,000,000	\$16,402,425	43%	518
2019	\$7,000,000	\$20,828,700	34%	622
2020	\$7,000,000	\$20,826,430	34%	633
2021	\$7,700,000	\$19,688,637	39%	608
<b>Total</b>	<b>\$64,210,739</b>	<b>\$126,683,361</b>	<b>N/A</b>	<b>4,112</b>

#### **Proposed Legislation**

This bill would increase the annual aggregate tax credit cap for the Research and Development Expenses Tax Credit from \$7.77 million to \$10 million per fiscal year. The Research and Development Expenses Tax Credit is a refundable tax credit for qualified research and development expenses incurred during the taxable year attributable to Virginia. This bill does not affect the Major Research and Development Expenses Tax Credit.

This bill would be effective for taxable years beginning on or after January 1, 2023.

#### **Similar Legislation**

**Senate Bill 1048** would reduce the annual aggregate tax credit cap for the Major Research and Development Expense Tax Credit by \$8 million and increase the annual aggregate tax

credit cap for the Research and Development Expenses Tax Credit by this same amount. This bill would also introduce both a step-rate structure and a per taxpayer annual credit cap to the Major Research and Development Expenses Tax Credit.

cc : Secretary of Finance

Date: 1/22/2023 RWC  
HB2043F161