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H.B. No. 953

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to a franchise tax credit for research and development  
3 activities performed in conjunction with institutions of higher  
4 education; authorizing a tax credit.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Chapter 171, Tax Code, is amended by adding  
7 Subchapter N to read as follows:

8 SUBCHAPTER N. TAX CREDIT FOR RESEARCH AND DEVELOPMENT ACTIVITIES  
9 PERFORMED IN CONJUNCTION WITH INSTITUTIONS OF HIGHER EDUCATION

10 Sec. 171.701. DEFINITIONS. In this subchapter:

11 (1) "Public or private institution of higher  
12 education" means:

13 (A) an institution of higher education, as  
14 defined by Section 61.003, Education Code; or

15 (B) a private or independent institution of  
16 higher education, as defined by Section 61.003, Education Code.

17 (2) "Qualified research" has the meaning assigned by  
18 Section 41, Internal Revenue Code, except that the research must be  
19 conducted in this state.

20 (3) "Qualified research expense" has the meaning  
21 assigned by Section 41, Internal Revenue Code.

22 Sec. 171.702. ELIGIBILITY FOR CREDIT. A taxable entity is  
23 eligible for a credit against the tax imposed under this chapter in  
24 the amount and under the conditions and limitations provided by

1 this subchapter if the taxable entity contracts with one or more  
2 public or private institutions of higher education for the  
3 performance of qualified research.

4 Sec. 171.703. AMOUNT OF CREDIT. (a) Subject to Section  
5 171.704, the credit for any report equals 20 percent of the  
6 difference between:

7 (1) the total amount of qualified research expenses  
8 incurred in this state by the taxable entity under contracts  
9 described by Section 171.702 during the period on which the report  
10 is based; and

11 (2) 50 percent of the average amount of qualified  
12 research expenses incurred in this state by the taxable entity  
13 under contracts described by Section 171.702 during the three tax  
14 years preceding the period on which the report is based.

15 (b) The burden of establishing entitlement to and the value  
16 of the credit is on the taxable entity.

17 Sec. 171.704. LIMITATIONS. (a) Subject to Subsection (b),  
18 the total credit claimed under this subchapter for a report,  
19 including the amount of any carryforward credit under Section  
20 171.705, may not exceed 50 percent of the amount of franchise tax  
21 due for the report before any other applicable tax credits.

22 (b) For each state fiscal year, the total amount of tax  
23 credits, including credit carryforwards, that may be claimed by all  
24 taxable entities under this subchapter may not exceed \$15 million.  
25 The comptroller by rule shall prescribe procedures by which the  
26 comptroller will allocate credits under this subchapter on a pro  
27 rata basis.

1       (c) The comptroller may require a taxable entity to notify  
2 the comptroller of the amount the taxable entity intends or expects  
3 to claim under this subchapter before the beginning of a state  
4 fiscal year or at any other time required by the comptroller.

5       Sec. 171.705. CARRYFORWARD. If a taxable entity is  
6 eligible for a credit that exceeds the limitation under Section  
7 171.704, the taxable entity may carry the unused credit forward for  
8 not more than 20 consecutive reports. A credit carryforward from a  
9 previous report is considered to be used before the current year  
10 credit.

11       Sec. 171.706. ASSIGNMENT PROHIBITED. A taxable entity may  
12 not convey, assign, or transfer the credit allowed under this  
13 subchapter to another entity unless all of the assets of the taxable  
14 entity are conveyed, assigned, or transferred in the same  
15 transaction.

16       Sec. 171.707. APPLICATION FOR CREDIT. A taxable entity  
17 must apply for a credit under this subchapter on or with the tax  
18 report for the period for which the credit is claimed.

19       Sec. 171.708. RULES. The comptroller shall adopt rules  
20 necessary to implement this subchapter.

21       Sec. 171.709. REPORT. Not later than December 1, 2016, and  
22 each fourth year thereafter, the comptroller shall conduct a study  
23 of the credit under this subchapter and submit a report on the  
24 results of the study to the governor and the legislature. The  
25 purpose of the study is to determine:

26               (1) if the credit accomplishes the credit's intended  
27 purpose;

1           (2) if the credit complies with the intent of the  
2 legislature in enacting this subchapter;

3           (3) if the economic benefit of the credit to the state  
4 exceeds the amount of tax revenue lost as a result of the credit;  
5 and

6           (4) if legislative action is needed to increase the  
7 efficiency or effectiveness of any part of the subchapter.

8           SECTION 2. This Act applies only to a report originally due  
9 on or after the effective date of this Act.

10           SECTION 3. This Act takes effect January 1, 2014.