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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) The credit for any  
5 report equals 20 percent of the difference between:

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

10 (2) 50 percent of the average amount of qualified  
11 research expenses incurred in this state by the taxable entity  
12 under contracts described by Section 171.702 during the three tax  
13 years preceding the period on which the report is based.

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

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

21 Sec. 171.705. CARRYFORWARD. If a taxable entity is  
22 eligible for a credit that exceeds the limitation under Section  
23 171.704, the taxable entity may carry the unused credit forward for  
24 not more than 20 consecutive reports. A credit carryforward from a  
25 previous report is considered to be used before the current year  
26 credit.

27 Sec. 171.706. ASSIGNMENT PROHIBITED. A taxable entity may

1 not convey, assign, or transfer the credit allowed under this  
2 subchapter to another entity unless all of the assets of the taxable  
3 entity are conveyed, assigned, or transferred in the same  
4 transaction.

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

8 Sec. 171.708. RULES. The comptroller shall adopt rules  
9 necessary to implement this subchapter.

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

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