

1-1 By: Bettencourt, Huffman S.B. No. 2206
 1-2 (In the Senate - Filed March 11, 2025; March 25, 2025, read
 1-3 first time and referred to Committee on Finance; April 9, 2025,
 1-4 reported favorably by the following vote: Yeas 13, Nays 0;
 1-5 April 9, 2025, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16			X	
1-17			X	
1-18	X			
1-19	X			
1-20	X			
1-21	X			
1-22	X			

1-23 A BILL TO BE ENTITLED
 1-24 AN ACT

1-25 relating to a franchise tax credit for, and the application of sales
 1-26 and use taxes to, certain research and development expenses.

1-27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-28 SECTION 1. Chapter 171, Tax Code, is amended by adding
 1-29 Subchapter T to read as follows:

1-30 SUBCHAPTER T. TAX CREDIT FOR CERTAIN RESEARCH AND DEVELOPMENT
 1-31 ACTIVITIES

1-32 Sec. 171.9201. DEFINITION. In this subchapter, "public or
 1-33 private institution of higher education" means:

1-34 (1) an institution of higher education, as defined by
 1-35 Section 61.003, Education Code; or

1-36 (2) a private or independent institution of higher
 1-37 education, as defined by Section 61.003, Education Code.

1-38 Sec. 171.9202. QUALIFIED RESEARCH EXPENSE. (a) In this
 1-39 subchapter, "qualified research expense" means, subject to this
 1-40 section, the portion of the amount reported by a taxable entity as
 1-41 the entity's total qualified research expenses on line 9 or 28, as
 1-42 applicable, of Form 6765, that is attributable to research
 1-43 conducted in this state. The term does not include any amount that
 1-44 is not paid or incurred by the taxable entity, a member of the
 1-45 entity's combined group, or a lower tier entity as provided by
 1-46 Section 171.9206.

1-47 (b) For purposes of this section:

1-48 (1) a reference to Form 6765 is a reference to Internal
 1-49 Revenue Service Form 6765 and includes a revised version of that
 1-50 form or a subsequent form with a different number or designation
 1-51 that substantially provides the same information as Form 6765; and

1-52 (2) a reference to a line number on Form 6765 includes
 1-53 a different line number on a revised or subsequent form described by
 1-54 Subdivision (1) that substantially provides the same information as
 1-55 the line number originally referenced.

1-56 (c) Notwithstanding Section 171.0001(9), for purposes of
 1-57 this section, a reference to an amount reported on a line number on
 1-58 Form 6765 is:

1-59 (1) a reference to the amount entered on that line
 1-60 number to the extent the amount entered complies with federal law in
 1-61 effect for the federal tax year for which the form is filed with the

2-1 Internal Revenue Service;
2-2 (2) if an amended Form 6765 is filed by the taxable
2-3 entity with the Internal Revenue Service before the expiration of
2-4 the period for claiming a refund of federal income tax for the
2-5 federal tax year for which the amended form is filed, a reference to
2-6 the amount entered on that line number on the amended form; or
2-7 (3) if the Internal Revenue Service has audited the
2-8 federal income tax return of a taxable entity for a federal tax year
2-9 for which the taxable entity filed Form 6765 with the Internal
2-10 Revenue Service and the audit has been made final, a reference to
2-11 the amount reported on that line number on the form as audited or
2-12 adjusted by the Internal Revenue Service.
2-13 (d) For purposes of determining the amount on line 9 or 28,
2-14 as applicable, of Form 6765 under this section:
2-15 (1) a taxable entity or the comptroller may use
2-16 statistical sampling procedures if the procedures are permitted by
2-17 the Internal Revenue Service's Revenue Procedure 2011-42 or a
2-18 successor publication issued by the service; and
2-19 (2) expenses for supplies properly reportable by a
2-20 taxable entity as qualified research expenses on either of those
2-21 lines may not be excluded from the computation of those expenses for
2-22 purposes of this subchapter on the basis that the supplies are
2-23 taxable, nontaxable, or exempted from taxation under Chapter 151.
2-24 (e) Notwithstanding any other provision of this subchapter,
2-25 if the Internal Revenue Service or the comptroller determines that
2-26 a taxable entity has satisfied the requirements of the Internal
2-27 Revenue Service to accept as sufficient evidence of the entity's
2-28 qualified research expenses the entity's adjusted Accounting
2-29 Standards Codification 730 financial statement research and
2-30 development costs for a federal tax credit year, then the portion of
2-31 those adjusted costs that is related to research conducted in this
2-32 state is sufficient evidence of the entity's qualified research
2-33 expenses for that federal tax credit year for purposes of this
2-34 subchapter.
2-35 Sec. 171.9203. ELIGIBILITY FOR CREDIT. A taxable entity is
2-36 eligible for a credit against the tax imposed under this chapter in
2-37 the amount and under the conditions provided by this subchapter.
2-38 Sec. 171.9204. AMOUNT OF CREDIT. (a) Except as provided by
2-39 Subsections (b), (c), and (d), the credit for any report equals
2-40 8.722 percent of the difference between:
2-41 (1) the qualified research expenses incurred during
2-42 the period on which the report is based; and
2-43 (2) 50 percent of the average amount of qualified
2-44 research expenses incurred during the three tax periods preceding
2-45 the period on which the report is based.
2-46 (b) If the taxable entity contracts with one or more public
2-47 or private institutions of higher education and the entity incurs
2-48 qualified research expenses under the contract during the period on
2-49 which the report is based, the credit for the report equals 10.903
2-50 percent of the difference between:
2-51 (1) all qualified research expenses incurred during
2-52 the period on which the report is based; and
2-53 (2) 50 percent of the average amount of all qualified
2-54 research expenses incurred during the three tax periods preceding
2-55 the period on which the report is based.
2-56 (c) Except as provided by Subsection (d), if the taxable
2-57 entity has no qualified research expenses in one or more of the
2-58 three tax periods preceding the period on which the report is based,
2-59 the credit for the period on which the report is based equals 4.361
2-60 percent of the qualified research expenses incurred during that
2-61 period.
2-62 (d) If the taxable entity contracts with one or more public
2-63 or private institutions of higher education and the entity incurs
2-64 qualified research expenses under the contract during the period on
2-65 which the report is based, but has no qualified research expenses in
2-66 one or more of the three tax periods preceding the period on which
2-67 the report is based, the credit for the period on which the report
2-68 is based equals 5.451 percent of all qualified research expenses
2-69 incurred during that period.

3-1 (e) Notwithstanding whether the time for claiming a credit
 3-2 under this subchapter has expired for any tax period used in
 3-3 determining the average amount of qualified research expenses under
 3-4 Subsection (a)(2) or (b)(2), the determination of which research
 3-5 expenses are qualified research expenses for purposes of computing
 3-6 that average must be made in the same manner as that determination
 3-7 is made for purposes of Subsection (a)(1) or (b)(1). This
 3-8 subsection does not apply to a credit to which a taxable entity was
 3-9 entitled under Subchapter O, as that subchapter existed before
 3-10 January 1, 2008.

3-11 (f) The comptroller may adopt rules for determining which
 3-12 research expenses are qualified research expenses for purposes of
 3-13 Subsection (a) or (b) to prevent disparities in those
 3-14 determinations that may result from the taxable entity using
 3-15 different accounting methods for the period on which the report is
 3-16 based, as compared to any preceding tax periods used in determining
 3-17 the average amount of qualified research expenses under Subsection
 3-18 (a)(2) or (b)(2).

3-19 Sec. 171.9205. CREDIT FOR CERTAIN TAXABLE ENTITIES THAT OWE
 3-20 NO TAX. (a) A taxable entity that incurs qualified research
 3-21 expenses during a period for which the entity is not required to pay
 3-22 the tax imposed by this chapter under Section 171.001(d) or
 3-23 171.002(d) may calculate the amount of the credit to which the
 3-24 entity would otherwise be entitled under this subchapter on a
 3-25 report and receive that amount as a refundable credit.

3-26 (b) In determining the amount of the credit that may be
 3-27 refunded to a taxable entity under Subsection (a) of this section,
 3-28 the limitation prescribed by Section 171.9207 does not apply.

3-29 (c) Notwithstanding Section 171.204(b), a taxable entity
 3-30 must apply for a credit under this section on or with the report for
 3-31 the period for which the credit is claimed or, if the entity does
 3-32 not file a report for the applicable period, on a form adopted by
 3-33 the comptroller. The form must be submitted to the comptroller on
 3-34 or before the date a report for the period for which the credit is
 3-35 claimed would be due.

3-36 Sec. 171.9206. COMBINED REPORTING. (a) A credit under
 3-37 this subchapter for qualified research expenses incurred by a
 3-38 member of a combined group must be claimed on the combined report
 3-39 required by Section 171.1014 for the group, and the combined group
 3-40 is the taxable entity for purposes of this subchapter.

3-41 (b) An upper tier entity that includes the total revenue of
 3-42 a lower tier entity for purposes of computing its taxable margin as
 3-43 authorized by Section 171.1015 may claim the credit under this
 3-44 subchapter for qualified research expenses incurred by the lower
 3-45 tier entity to the extent of the upper tier entity's ownership
 3-46 interest in the lower tier entity.

3-47 Sec. 171.9207. LIMITATION. The total credit claimed under
 3-48 this subchapter for a report, including the amount of any
 3-49 carryforward under Section 171.9208, may not exceed 50 percent of
 3-50 the amount of tax due for the report before any other applicable tax
 3-51 credits.

3-52 Sec. 171.9208. CARRYFORWARD. (a) If a taxable entity is
 3-53 eligible for a credit that exceeds the limitation under Section
 3-54 171.9207, the entity may carry the unused credit forward for not
 3-55 more than 20 consecutive reports.

3-56 (b) Credits, including credit carryforwards, are considered
 3-57 used in the following order:

3-58 (1) a credit carryforward of unused credits accrued
 3-59 under Subchapter O before its repeal on January 1, 2008, and claimed
 3-60 as authorized by Section 18(d), Chapter 1 (H.B. 3), Acts of the 79th
 3-61 Legislature, 3rd Called Session, 2006;

3-62 (2) a credit carryforward of unused credits accrued
 3-63 under Subchapter M before its repeal on January 1, 2026, and claimed
 3-64 as authorized by Section 4, S.B. __, Regular Session, 2025;

3-65 (3) a credit carryforward under this subchapter; and

3-66 (4) a current year credit.

3-67 Sec. 171.9209. ASSIGNMENT PROHIBITED. A taxable entity may
 3-68 not convey, assign, or transfer the credit allowed under this
 3-69 subchapter to another entity unless substantially all of the assets

4-1 of the taxable entity are conveyed, assigned, or transferred in the
4-2 same transaction.

4-3 Sec. 171.9210. APPLICATION FOR CREDIT. Except as provided
4-4 by Section 171.9205(c), a taxable entity must apply for a credit
4-5 under this subchapter on or with the report for the period for which
4-6 the credit is claimed.

4-7 Sec. 171.9211. RULES. The comptroller may adopt rules and
4-8 forms necessary to implement this subchapter.

4-9 Sec. 171.9212. REPORTING OF ESTIMATES. (a) Before the
4-10 beginning of each regular session of the legislature, the
4-11 comptroller shall submit to the legislature and the governor
4-12 estimates of:

4-13 (1) the total number of taxable entities that applied
4-14 credits under this subchapter against the tax imposed under this
4-15 chapter or received refundable credits under this subchapter;

4-16 (2) the total amount of those credits and refundable
4-17 credits; and

4-18 (3) the total amount of unused credits carried
4-19 forward.

4-20 (b) The comptroller shall provide the estimates required by
4-21 this section as part of the report required by Section 403.014,
4-22 Government Code.

4-23 Sec. 171.9213. DEPOSIT OF CERTAIN REVENUE. Notwithstanding
4-24 any other law, for each state fiscal year, the comptroller shall
4-25 deposit to the credit of the property tax relief fund an amount of
4-26 revenue received from the tax imposed under this chapter sufficient
4-27 to offset any decrease in deposits to that fund for the state fiscal
4-28 year that results from the implementation of this subchapter.

4-29 SECTION 2. Section 171.212(a), Tax Code, is amended to read
4-30 as follows:

4-31 (a) In this subsection, "qualified research expense" has
4-32 the meaning assigned by Section 171.9202. A taxable entity must
4-33 file an amended report under this chapter if:

4-34 (1) the ~~taxable entity's~~ taxable margin of the
4-35 taxable entity or the amount of qualified research expenses
4-36 incurred by the taxable entity is changed as the result of an audit
4-37 or other adjustment by the Internal Revenue Service or another
4-38 competent authority; or

4-39 (2) the taxable entity files an amended federal income
4-40 tax return or other return that changes the ~~taxable entity's~~
4-41 taxable margin of the taxable entity or the amount of qualified
4-42 research expenses incurred by the taxable entity.

4-43 SECTION 3. The following provisions are repealed:

4-44 (1) Section 151.3182, Tax Code; and

4-45 (2) Subchapter M, Chapter 171, Tax Code.

4-46 SECTION 4. (a) The repeal by this Act of Section 151.3182,
4-47 Tax Code, does not affect tax liability accruing before the
4-48 effective date of this Act. That liability continues in effect as
4-49 if Section 151.3182, Tax Code, had not been repealed, and the former
4-50 law is continued in effect for the collection of taxes due and for
4-51 civil and criminal enforcement of the liability for those taxes.

4-52 (b) The repeal by this Act of Subchapter M, Chapter 171, Tax
4-53 Code, does not affect an unused credit a taxable entity was
4-54 authorized to carry forward under that subchapter. A taxable
4-55 entity may continue to apply those credits on or with each
4-56 consecutive report until the date the credit would have expired
4-57 under Subchapter M, Chapter 171, Tax Code, had that subchapter
4-58 continued in effect, and the former law under which the taxable
4-59 entity accrued the credits is continued in effect for purposes of
4-60 determining the amount of the credits the taxable entity may claim
4-61 and the manner in which the taxable entity may claim the credits.

4-62 SECTION 5. (a) Subchapter T, Chapter 171, Tax Code, as
4-63 added by this Act, applies only to a report originally due on or
4-64 after the effective date of this Act.

4-65 (b) Notwithstanding any other provision of this Act, a
4-66 taxable entity is not eligible for and may not claim on a report a
4-67 credit under Subchapter T, Chapter 171, Tax Code, as added by this
4-68 Act, if the taxable entity, or a member of the taxable entity's
4-69 combined group if the taxable entity is a combined group, received

5-1 an exemption under Section [151.3182](#), Tax Code, during the period
5-2 for which the report is based.

5-3 SECTION 6. This Act takes effect January 1, 2026.

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