

JAN 23 2009

A BILL FOR AN ACT

RELATING TO LIFE SCIENCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the life sciences
2 industry plays a significant role in the diversification and,
3 therefore, the sustainability of Hawaii's economy. Ground-
4 breaking medical studies have already been conducted in Hawaii
5 by the Cancer Research Center and Pacific Health Research
6 Institute.

7 Hawaii's unique location and ethnic diversity provide
8 indispensable advantages to companies conducting clinical
9 trials. Life sciences companies that conduct these trials often
10 create more and higher paying jobs that will help to keep our
11 local graduates employed in the State. In addition, conducting
12 these trials in Hawaii will put our State on the cutting edge of
13 drug development, bringing in research funding from Asia and
14 North America.

15 Providing a specific tax boost would particularly help
16 Hawaii companies that are pioneering pharmaceutical and other



1 health products at a time that they are entering phases three
2 and four of their clinical trials.

3 The purpose of this Act is to advance the important
4 specialization components of the Hawaii life sciences road map
5 by providing a tax incentive for life sciences companies to
6 conduct clinical trials in Hawaii.

7 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
8 amended by adding a new section to be appropriately designated
9 and to read as follows:

10 "§235- Clinical trials tax credit. (a) Any law to the
11 contrary notwithstanding, there shall be allowed to each
12 taxpayer subject to the taxes imposed by this chapter, a tax
13 credit that shall be deductible from the taxpayer's net income
14 tax liability, if any, imposed by this chapter for the taxable
15 year in which the credit is properly claimed. The amount of the
16 credit shall be:

17 (1) Fifteen per cent of the qualified clinical trial costs
18 incurred by a qualified clinical trial in any county
19 of the State with a population of over seven hundred
20 thousand; or

21 (2) Twenty per cent of the qualified clinical trial costs
22 incurred by a qualified clinical trial in any county



1 of the State with a population of seven hundred
2 thousand or less.

3 A qualified clinical trial occurring in more than one county may
4 prorate its expenditures based upon the amounts spent in each
5 county; provided that the population bases differ enough to
6 change the percentage of tax credit.

7 In the case of a partnership, S corporation, estate, or
8 trust, the tax credit allowable is for qualified clinical trial
9 costs incurred by the entity for the taxable year. The cost
10 upon which the tax credit is computed shall be determined at the
11 entity level. Distribution and share of credit shall be
12 determined by rule.

13 If a deduction is taken under section 179 (with respect to
14 election to expense depreciable business assets) of the Internal
15 Revenue Code of 1986, as amended, no tax credit shall be allowed
16 for those costs for which the deduction is taken. The basis for
17 eligible property for depreciation of accelerated cost recovery
18 system purposes for state income taxes shall be reduced by the
19 amount of credit allowable and claimed.

20 (b) The credit allowed under this section shall be claimed
21 against the net income tax liability for the taxable year. For
22 the purposes of this section, "net income tax liability" means



1 net income tax liability reduced by all other credits allowed
2 under this chapter.

3 (c) If the tax credit under this section exceeds the
4 taxpayer's income tax liability, the excess of credits over
5 liability shall be refunded to the taxpayer; provided that no
6 refunds or payment on account of the tax credits allowed by this
7 section shall be made for amounts less than \$1. All claims,
8 including any amended claims, for tax credits under this section
9 shall be filed on or before the end of the twelfth month
10 following the close of the taxable year for which the credit may
11 be claimed. Failure to comply with the foregoing provision
12 shall constitute a waiver of the right to claim the credit.

13 (d) To qualify for this tax credit, a clinical trial
14 shall:

15 (1) Meet the definition of a qualified clinical trial
16 specified in subsection (1);

17 (2) Have qualified clinical trial costs totaling at least
18 \$200,000;

19 (3) Provide evidence of reasonable efforts to hire local
20 researchers and staff; and

21 (4) Provide evidence of financial or in-kind contributions
22 or educational or workforce development efforts, in



1 partnership with related trade and business
2 development organizations, educational institutions,
3 or both, toward the furtherance of the local science,
4 technology, and health industry.

5 (e) On or after July 1, 2009, no qualified clinical trial
6 cost that has been financed by investments for which a credit
7 was claimed by any taxpayer pursuant to section 235-110.9 shall
8 be eligible for credits under this section.

9 (f) To receive the tax credit, the taxpayer shall first
10 pre-qualify the clinical trial for the credit by registering
11 with the department of taxation. Failure to comply with this
12 provision may constitute a waiver of the right to claim the
13 credit.

14 (g) The director of taxation shall prepare forms as may be
15 necessary to claim a credit under this section. The director
16 may also require the taxpayer to furnish information to
17 ascertain the validity of the claim for credit made under this
18 section and may adopt rules necessary to effectuate the purposes
19 of this section pursuant to chapter 91.

20 (h) Every taxpayer claiming a tax credit under this
21 section for a qualified clinical trial, no later than ninety
22 days following the end of each taxable year in which qualified



1 clinical trial costs were expended, shall submit a written,
2 sworn statement to the department of taxation, identifying:

3 (1) All qualified clinical trial costs as provided by
4 subsection (a), if any, incurred in the previous
5 taxable year;

6 (2) The amount of tax credits claimed pursuant to this
7 section, if any, in the previous taxable year; and

8 (3) The number of total hires versus the number of local
9 hires by category (i.e., department) and by county.

10 (i) The department of taxation shall:

11 (1) Maintain records of the names of the taxpayers and
12 qualified clinical trials thereof claiming the tax
13 credits under subsection (a);

14 (2) Obtain and total the aggregate amounts of all
15 qualified clinical trial costs per qualified clinical
16 trial and per qualified clinical trial per taxable
17 year; and

18 (3) Provide a letter to the director of taxation
19 specifying the amount of the tax credit per qualified
20 clinical trial for each taxable year that a tax credit
21 is claimed and the cumulative amount of the tax credit
22 for all years claimed.



1 Upon each determination required under this subsection, the
2 department of taxation shall issue a letter to the taxpayer
3 regarding the qualified clinical trial, specifying the qualified
4 clinical trial costs and the tax credit amount qualified for in
5 each taxable year a tax credit is claimed. The taxpayer for
6 each qualified clinical trial shall file the letter with the
7 taxpayer's tax return to the department of taxation. The
8 director of taxation may audit and adjust the tax credit amount
9 to conform to the information filed by the taxpayer.

10 (j) Total tax credits claimed per qualified clinical trial
11 shall not exceed \$8,000,000.

12 (k) Qualified clinical trials shall comply with
13 subsections (d), (e), (f), and (h).

14 (l) For the purposes of this section:

15 "Qualified clinical trial" means a research study,
16 conducted within the State, to answer specific questions about
17 vaccines, new therapies, or new ways of using known treatments
18 to determine whether new drugs or treatments are both safe and
19 effective.

20 "Qualified clinical trial costs" means the costs incurred
21 by a qualified clinical trial within the State that are subject
22 to the general excise tax under chapter 237 or income tax under



1 this chapter and that have not been financed by any investments
2 for which a credit was or will be claimed pursuant to section
3 235-110.9. Qualified clinical trial costs include but are not
4 limited to:

- 5 (1) Costs associated with planning, designing, executing,
- 6 and analyzing a qualified clinical trial;
- 7 (2) Data, blood, and tissue sampling and analysis, and
- 8 statistical analysis;
- 9 (3) Hospital, physician, and nursing costs;
- 10 (4) Wages or salaries of researchers and staff;
- 11 (5) Costs of imaging and related technical services;
- 12 (6) Costs associated with clinical trial participants;
- 13 (7) Rentals and fees for use of local facilities and
- 14 research laboratories; and
- 15 (8) Other direct clinical trial costs specified by the
- 16 department of taxation."

17 SECTION 3. New statutory material is underscored.

18 SECTION 4. This Act, upon its approval, shall apply to
19 taxable years beginning after December 31, 2008.

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INTRODUCED BY:

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Report Title:

Clinical Trials; Tax Credit

Description:

Provides for an income tax credit amounting to 15% of qualified clinical trial costs incurred, in any county with a population over 700,000, and 20% in any county with a population of 700,000 or less. Establishes criteria to qualify for the tax credit. Caps credit at \$8,000,000 per clinical trial.

