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# A BILL FOR AN ACT

RELATING TO HIGH TECHNOLOGY.

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

1 PART I

2 SECTION 1. Research and development is the core of  
3 innovation. Without innovation, there is no technology industry  
4 and the subsequent growth of our economy is stunted with no new  
5 products, services, or processes. Research and development is  
6 the critical first step in the product development cycle.  
7 During the research and development stage, ideas and theories  
8 are tested to determine feasibility. Due to the increasingly  
9 interconnected and competitive global economy, fostering and  
10 encouraging innovation is essential to a comprehensive economic  
11 strategy for our State. The key to developing more jobs and  
12 more prosperity will be to create and deploy new products,  
13 services, and processes.

14 Innovation is essential for creating new jobs in high  
15 technology and traditional sectors. In recent years, innovation  
16 has led to new jobs in many different sectors as diverse as  
17 defense or dual-use, software and information technology, life  
18 sciences and biotechnology, and clean energy. At the same time,



1 innovations ripple through the economy, creating jobs for  
2 workers building advanced infrastructure incorporating clean  
3 energy solutions, installing broadband networks, and using new  
4 devices and products in the service industries, such as  
5 healthcare and tourism.

6 Innovation is also critical for sustaining the vitality and  
7 resilience of our economy. Future challenges, natural or man-  
8 made, are impossible to predict. However, it is certain that an  
9 economy better able to respond to such events by adapting  
10 innovative solutions and re-deploying old activities, jobs, and  
11 industries will be less susceptible to adversity.

12 Innovation is the key to remaining competitive globally,  
13 new and better jobs, and a resilient economy. The legislature  
14 recognizes this and supports research and development as the  
15 stimulus for our innovation economy.

16 The current law parallels, with enhancements tailored to  
17 Hawaii's unique position, the Internal Revenue Code, providing  
18 support for scientific experimentation through a tax credit at  
19 twenty per cent of the cost of the qualified research. The  
20 program cost to the State has averaged about \$11,000,000 per  
21 year over the last nine years, and in 2006, provided funding to  
22 over four hundred companies. This tax credit has been a great



1 source of support for local companies, especially for the  
2 research and development companies that are still in the start-  
3 up and early stages, and is seen as helping to level the playing  
4 field of our high-cost State, as Hawaii companies compete  
5 against national and international rivals. It has also been  
6 useful in providing support for early-stage research and  
7 development companies that are not yet profitable, and have few  
8 sources of funding. Furthermore, the refundable element has  
9 helped to attract new technology companies to Hawaii.

10 The Legislature also finds that keeping the High Technology  
11 Development Corporation located at the site it currently  
12 occupies on property under the control of the University of  
13 Hawaii at Manoa will benefit the State as a whole and declares  
14 that requiring the University of Hawaii to lease its property to  
15 the High Technology Development Corporation is of statewide  
16 concern.

17 The purposes of this Act are to:

18 (1) Extend the income tax credit for qualified research  
19 activities for an additional five years and to add  
20 extensive reporting requirements related to the tax  
21 credit; and



1 (2) Provide a venue for high technology businesses to  
2 develop and grow through the support of the High  
3 Technology Development Corporation by requiring the  
4 University of Hawaii at Manoa to lease property under  
5 their control to the High Technology Development  
6 Corporation for a term of not less than thirty-five  
7 years.

8 PART II

9 SECTION 2. Section 235-110.91, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 **"§235-110.91 Tax credit for research activities.** (a)  
12 Section 41 (with respect to the credit for increasing research  
13 activities) and section 280C(c) (with respect to certain  
14 expenses for which the credit for increasing research activities  
15 are allowable) of the Internal Revenue Code shall be operative  
16 for the purposes of this chapter as provided in this section;  
17 except that references to the base amount shall not apply and  
18 credit for all qualified research expenses may be taken without  
19 regard to the amount of expenses for previous years. If section  
20 41 of the Internal Revenue Code is repealed or terminated prior  
21 to January 1, 2011, its provisions shall remain in effect for



1 purposes of the income tax law of the State as modified by this  
2 section, as provided for in subsection [~~(j)~~] (1).

3 (b) All references to Internal Revenue Code sections  
4 within sections 41 and 280C(c) of the Internal Revenue Code  
5 shall be operative for purposes of this section.

6 (c) There shall be allowed to each qualified high  
7 technology business subject to the tax imposed by this chapter  
8 an income tax credit for qualified research activities equal to  
9 the credit for research activities provided by section 41 of the  
10 Internal Revenue Code and as modified by this section. The  
11 credit shall be deductible from the taxpayer's net income tax  
12 liability, if any, imposed by this chapter for the taxable year  
13 in which the credit is properly claimed.

14 [~~(d) Every qualified high technology business, before~~  
15 ~~March 31 of each year in which qualified research and~~  
16 ~~development activity was conducted in the previous taxable year,~~  
17 ~~shall submit a written, certified statement to the director of~~  
18 ~~taxation identifying:~~

19 (1) ~~Qualified expenditures, if any, expended in the~~  
20 ~~previous taxable year; and~~

21 (2) ~~The amount of tax credits claimed pursuant to this~~  
22 ~~section, if any, in the previous taxable year.~~



- 1       ~~(c) The department shall:~~
- 2       ~~(1) Maintain records of the names and addresses of the~~
- 3               ~~taxpayers claiming the credits under this section and~~
- 4               ~~the total amount of the qualified research and~~
- 5               ~~development activity costs upon which the tax credit~~
- 6               ~~is based;~~
- 7       ~~(2) Verify the nature and amount of the qualifying costs~~
- 8               ~~or expenditures;~~
- 9       ~~(3) Total all qualifying and cumulative costs or~~
- 10              ~~expenditures that the department certifies; and~~
- 11       ~~(4) Certify the amount of the tax credit for each taxable~~
- 12              ~~year and cumulative amount of the tax credit.~~

13       ~~Upon each determination made under this subsection, the~~  
14 ~~department shall issue a certificate to the taxpayer verifying~~  
15 ~~information submitted to the department, including the~~  
16 ~~qualifying costs or expenditure amounts, the credit amount~~  
17 ~~certified for each taxable year, and the cumulative amount of~~  
18 ~~the tax credit during the credit period. The taxpayer shall~~  
19 ~~file the certificate with the taxpayer's tax return with the~~  
20 ~~department.~~

21       ~~The director of taxation may assess and collect a fee to~~  
22 ~~offset the costs of certifying tax credit claims under this~~



1 ~~section. All fees collected under this section shall be~~  
2 ~~deposited into the tax administration special fund established~~  
3 ~~under section 235-20.5.~~

4 ~~(f)]~~ (d) As used in this section:

5 "Basic research" under section 41(e) of the Internal  
6 Revenue Code shall not include research conducted outside of the  
7 State.

8 "Qualified high technology business" means the same as in  
9 section 235-110.9.

10 "Qualified research" under section 41(d)(1) of the Internal  
11 Revenue Code shall not include research conducted outside of the  
12 State.

13 ~~(g)]~~ (e) If the tax credit for qualified research  
14 activities claimed by a taxpayer exceeds the amount of income  
15 tax payment due from the taxpayer, the excess of the tax credit  
16 over payments due shall be refunded to the taxpayer; provided  
17 that no refund on account of the tax credit allowed by this  
18 section shall be made for amounts less than \$1.

19 ~~(h)]~~ (f) All claims for a tax credit under this section  
20 shall be filed on or before the end of the twelfth month  
21 following the close of the taxable year for which the credit may



1 be claimed. Failure to properly claim the credit shall  
2 constitute a waiver of the right to claim the credit.

3 (g) A qualified high technology business that claims the  
4 credit under this section shall complete and file with the  
5 director of taxation through the department website, an annual  
6 survey on electronic forms prepared and prescribed by the  
7 department. The annual survey shall be filed before June 30 of  
8 each calendar year following the calendar year in which the  
9 credit may be claimed under this section. The department may  
10 adjust the due date of the annual survey by rule. Failure to  
11 file the annual survey by the due date shall result in a fine of  
12 \$1,000 per month.

13 A qualified high technology business may not file a return  
14 to claim a tax credit under this section until it has filed an  
15 annual survey with the department under this subsection.

16 (h) The annual survey shall include the following  
17 information for the time period or periods specified by the  
18 department:

19 (1) Identification of the industry sector or sectors in  
20 which the qualified high technology business conducts  
21 business, as set forth in paragraphs (2) to (8) of the





- 1 definition of "qualified research" in section  
2 235-7.3(c);
- 3 (2) Qualified expenditures, if any, expended in the  
4 previous taxable year;
- 5 (3) Revenue and expense data;
- 6 (4) Hawaii employment and wage data including the numbers  
7 of full and part-time employees retained, new jobs,  
8 temporary positions, external services procured by the  
9 business, and payroll taxes; and
- 10 (5) Filed intellectual property, including provisional  
11 patents, full patents, submitted, and patents issued  
12 or granted.

13 The department shall request information in each of these  
14 categories sufficient to measure the effectiveness of the tax  
15 credit. The department may request any additional information  
16 necessary to measure the effectiveness of the tax credit, such  
17 as information related to patents. In preparing the survey and  
18 requesting any additional information, the department shall  
19 ensure that qualified high technology businesses are not subject  
20 to duplicative reporting requirements.

21 The department shall allow the department of business,  
22 economic development, and tourism to access data collected under



1 this section for the purposes of conducting economic impact  
2 analyses and producing legislative reports under subsection (j).

3 (i) The department shall use information collected under  
4 this section and through other reporting requirements of the  
5 department to prepare summary descriptive statistics by  
6 category. The information shall be reported at the aggregate  
7 level to prevent compromising identities of qualified high  
8 technology business investors or other confidential information.  
9 The department shall also identify each qualified high  
10 technology business that is the beneficiary of tax credits  
11 claimed under this section. The department shall report the  
12 information required under this subsection to the legislature by  
13 December 21 of each year.

14 (j) The department of business, economic development, and  
15 tourism shall use the information collected to study the  
16 effectiveness of the tax credit under this section. The  
17 department shall report on the amount of tax credits claimed and  
18 total taxes paid by qualified high technology businesses, the  
19 number of qualified high technology businesses in each industry  
20 sector, jobs created, external services and materials procured  
21 by the businesses, compensation levels, qualified research  
22 activities, and other factors as the department determines. The



1 department shall report the results of its study to the  
2 legislature by December 21 of each year.

3 [~~(i)~~] (k) The director of taxation may adopt any rules  
4 under chapter 91 and forms necessary to carry out this section.

5 [~~(j)~~] (l) This section shall not apply to taxable years  
6 beginning after December 31, [~~2010.~~] 2015."

7 PART III

8 SECTION 3. (a) The Manoa Innovation Center, which is  
9 currently under the control of the University of Hawaii at  
10 Manoa, and serves as the site for the High Technology  
11 Development Corporation shall be leased to the High Technology  
12 Development Corporation for a term of not less than twenty  
13 years. The lease agreement shall include the following  
14 conditions:

15 (1) The High Technology Development Corporation shall be  
16 responsible for the annual maintenance and operating  
17 costs of the building and shall continue to pay for  
18 the costs attributed to the corporation based on  
19 current allocations of cost to square footage; and

20 (2) A written memorandum of understanding of the above  
21 conditions shall be executed between the University of  
22 Hawaii at Manoa and the High Technology Development



1 Corporation prior to the expiration of its existing  
2 lease.

3 (b) The High Technology Development Corporation shall  
4 share the long-term use of the building without cost, apart from  
5 the costs under subsection (a) (1); provided that if the High  
6 Technology Development Corporation ceases to exist, the facility  
7 shall be returned to the University of Hawaii at Manoa.

8 PART IV

9 SECTION 4. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 5. This Act shall take effect on July 1, 2112, and  
12 shall apply to taxable years beginning after December 31, 2010.



**Report Title:**

High Technology; Tax Credit for Research Activities

**Description:**

Repeals existing certification requirements and establishes reporting requirements to measure the effectiveness of the tax credit for research activities. Extends this tax credit for an additional five years. Requires the Manoa Innovation Center to be leased to the High Technology Development Center for twenty years. Effective July 1, 2112. (PROPOSED SB753 HD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

