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# A BILL FOR AN ACT

RELATING TO TAX CREDITS.

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

1           SECTION 1. Chapter 235, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§235-       Aggregate cap on tax credits for technology  
5 infrastructure renovations, high technology business  
6 investments, and research activities. (a) There shall be an  
7 aggregate cap on the amount of tax credits allowed for  
8 technology infrastructure renovations, high technology business  
9 investments, and research activities of \$50,000,000 per year.  
10 If in any taxable year the total annual amount of certified  
11 credits for technology infrastructure renovations, high  
12 technology business investments, and research activities reaches  
13 \$50,000,000 in the aggregate, the department shall immediately  
14 discontinue certifying credits. In no instance shall the  
15 department certify a total amount of credits exceeding  
16 \$50,000,000 in the aggregate per taxable year. To comply with  
17 this restriction, the department shall certify credits on a  
18 first-come, first-served basis.



1        The department of taxation shall not allow the aggregate  
2 amount of credits claimed to exceed \$50,000,000 per taxable  
3 year.

4        (b) The department may adopt rules pursuant to chapter 91  
5 and forms necessary to carry out this section."

6        SECTION 2. Section 235-110.51, Hawaii Revised Statutes, is  
7 amended to read as follows:

8        "**§235-110.51 Technology infrastructure renovation tax**  
9 **credit.** (a) There shall be allowed to each taxpayer subject to  
10 the taxes imposed by this chapter, an income tax credit which  
11 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        (b) The amount of the credit shall be four per cent of the  
15 renovation costs incurred during the taxable year for each  
16 commercial building located in Hawaii.

17        (c) In the case of a partnership, S corporation, estate,  
18 trust, or any developer of a commercial building, the tax credit  
19 allowable is for renovation costs incurred by the entity for the  
20 taxable year. The cost upon which the tax credit is computed  
21 shall be determined at the entity level. Distribution and share  
22 of credit shall be determined pursuant to section 235-110.7(a).



1           (d) If a deduction is taken under section 179 (with  
2 respect to election to expense depreciable business assets) of  
3 the Internal Revenue Code, no tax credit shall be allowed for  
4 that portion of the renovation cost for which the deduction is  
5 taken.

6           (e) The basis of eligible property for depreciation or  
7 accelerated cost recovery system purposes for state income taxes  
8 shall be reduced by the amount of credit allowable and claimed.  
9 In the alternative, the taxpayer shall treat the amount of the  
10 credit allowable and claimed as a taxable income item for the  
11 taxable year in which it is properly recognized under the method  
12 of accounting used to compute taxable income.

13           (f) The credit allowed under this section shall be claimed  
14 against the net income tax liability for the taxable year.

15           (g) If the tax credit under this section exceeds the  
16 taxpayer's income tax liability, the excess of credit over  
17 liability may be carried forward until exhausted.

18           (h) The tax credit allowed under this section shall not be  
19 available for taxable years beginning after December 31, 2010.

20           (i) Every taxpayer, before March 31 of each year following  
21 the taxable year in which technology infrastructure renovations



1 were made, shall submit a written, certified statement to the  
2 director of taxation identifying:

3 (1) Technology infrastructure renovations made, if any, in  
4 the previous taxable year; and

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

7 (j) The department shall:

8 (1) Maintain records of the names and addresses of the  
9 taxpayers claiming the credits under this section and  
10 the total amount of the technology infrastructure  
11 renovation costs upon which the tax credit is based;

12 (2) Verify the nature and cost of the qualifying  
13 renovations;

14 (3) Total the cost of all qualifying and cumulative  
15 renovations that the department certifies; and

16 (4) Certify the amount of the tax credit for each taxable  
17 year and cumulative amount of the tax credit.

18 Upon each determination made under this subsection, the  
19 department shall issue a certificate to the taxpayer verifying  
20 information submitted to the department, including qualifying  
21 renovation costs, the credit amount certified for each taxable  
22 year, and the cumulative amount of the tax credit during the



1 credit period. The taxpayer shall file the certificate with the  
2 taxpayer's tax return with the department.

3 Pursuant to section 235- , if the total of the credits  
4 specified in that section that are claimed by all taxpayers  
5 exceeds \$50,000,000 for the year, the department shall  
6 immediately discontinue certifying credits as required by  
7 section 235- .

8 The director of taxation may assess and collect a fee to  
9 offset the costs of certifying tax credit claims under this  
10 section. All fees collected under this section shall be  
11 deposited into the tax administration special fund established  
12 under section 235-20.5.

13 ~~(i)~~ (k) As used in this section:

14 "Net income tax liability" means income tax liability  
15 reduced by all other credits allowed under this chapter.

16 "Renovation costs" means costs incurred after December 31,  
17 2000, to plan, design, install, construct, and purchase  
18 technology-enabled infrastructure equipment to provide a  
19 commercial building with technology-enabled infrastructure.

20 "Technology-enabled infrastructure" means:



- 1           (1) High speed telecommunications systems that provide
- 2           Internet access, direct satellite communications
- 3           access, and videoconferencing facilities;
- 4           (2) Physical security systems that identify and verify
- 5           valid entry to secure spaces, detect invalid entry or
- 6           entry attempts, and monitor activity in these spaces;
- 7           (3) Environmental systems to include heating, ventilation,
- 8           air conditioning, fire detection and suppression, and
- 9           other life safety systems; and
- 10          (4) Backup and emergency electric power systems.

11          [~~(j)~~] (l) No taxpayer that claims a credit under this  
12 section shall claim any other credit under this chapter."

13          SECTION 3. Section 235-110.9, Hawaii Revised Statutes, is  
14 amended by amending subsection (f) to read as follows:

15          "(f) The department shall:

- 16          (1) Maintain records of the names and addresses of the
- 17          taxpayers claiming the credits under this section and
- 18          the total amount of the qualified investment costs
- 19          upon which the tax credit is based;
- 20          (2) Verify the nature and amount of the qualifying
- 21          investments;



1 (3) Total all qualifying and cumulative investments that  
2 the department certifies; and

3 (4) Certify the amount of the tax credit for each taxable  
4 year and cumulative amount of the tax credit.

5 Upon each determination made under this subsection, the  
6 department shall issue a certificate to the taxpayer verifying  
7 information submitted to the department, including qualifying  
8 investment amounts, the credit amount certified for each taxable  
9 year, and the cumulative amount of the tax credit during the  
10 credit period. The taxpayer shall file the certificate with the  
11 taxpayer's tax return with the department.

12 Pursuant to section 235- , if the total of the credits  
13 specified in that section that are claimed by all taxpayers  
14 exceeds \$50,000,000 for the year, the department shall  
15 immediately discontinue certifying credits as required by  
16 section 235- .

17 The director of taxation may assess and collect a fee to  
18 offset the costs of certifying tax credits claims under this  
19 section. All fees collected under this section shall be  
20 deposited into the tax administration special fund established  
21 under section 235-20.5."



1 SECTION 4. Section 235-110.91, Hawaii Revised Statutes, is  
2 amended by amending subsections (e) and (f) to read as follows:

3 "(e) The department shall:

4 (1) Maintain records of the names and addresses of the  
5 taxpayers claiming the credits under this section and  
6 the total amount of the qualified research and  
7 development activity costs upon which the tax credit  
8 is based;

9 (2) Verify the nature and amount of the qualifying costs  
10 or expenditures;

11 (3) Total all qualifying and cumulative costs or  
12 expenditures that the department certifies; and

13 (4) Certify the amount of the tax credit for each taxable  
14 year and cumulative amount of the tax credit.

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





1        Pursuant to section 235- , if the aggregate total of the  
2 credits specified in that section that are claimed by all  
3 taxpayers exceeds \$50,000,000 for the year, the department shall  
4 immediately discontinue certifying credits as required by  
5 section 235- .

6        The director of taxation may assess and collect a fee to  
7 offset the costs of certifying tax credit claims under this  
8 section. All fees collected under this section shall be  
9 deposited into the tax administration special fund established  
10 under section 235-20.5.

11        (f) As used in this section:

12        "Basic research" under section 41(e) of the Internal  
13 Revenue Code shall not include research conducted outside of the  
14 [~~State.~~] state.

15        "Qualified high technology business" means the same as in  
16 section 235-110.9.

17        "Qualified research" under [~~section~~] Section 41(d)(1) of  
18 the Internal Revenue Code shall not include research conducted  
19 outside of the [~~State.~~] state."

20        SECTION 5. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.

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**Report Title:**

High Technology Tax Credits; Cap

**Description:**

Caps the total amount of tax credits for technology infrastructure renovations, high technology business investments, and research activities at \$50 million per year in the aggregate.

