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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. The purpose of this Act is to reinstate the  
2 research activity tax credit in modified form, basing the credit  
3 amount on in-house wages paid for qualified research performed  
4 within the State.

5           The legislature intends to promote immediate employment  
6 opportunities in a manner affordable under the state budget.

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

9           "§235-110.91 Tax credit for research activities. (a)  
10 Section 41 (with respect to the credit for increasing research  
11 activities) and section 280C(c) (with respect to certain  
12 expenses for which the credit for increasing research activities  
13 are allowable) of the Internal Revenue Code shall be operative  
14 for the purposes of this chapter as provided in and modified by  
15 this section[; ~~except that references to the base amount shall~~  
16 ~~not apply and credit for all qualified research expenses may be~~  
17 ~~taken without regard to the amount of expenses for previous~~  
18 years]. If section 41 of the Internal Revenue Code is repealed



1 or terminated prior to January 1, [~~2011,~~] 2016, its provisions  
2 shall remain in effect for purposes of the income tax law of the  
3 State as modified by this section [~~, as provided for in~~  
4 ~~subsection (j)~~].

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

8 (c) For the purpose of this section:

9 "In-house qualified services wages" means any wages paid to  
10 any employee for qualified services performed by the employee  
11 within the State. The term shall not include wages incurred by,  
12 but not actually paid to, an employee. The term also shall not  
13 include any contract research expenses.

14 "Qualified research" means the same as defined under  
15 section 41(d) of the Internal Revenue Code, but shall not  
16 include research performed outside of the State.

17 "Qualified services" means the same as defined under  
18 section 41(b)(2)(B) of the Internal Revenue Code, but shall not  
19 include services performed outside the State.

20 [~~(e)~~] (d) There shall be allowed to each [~~qualified high~~  
21 ~~technology business~~] individual or corporate taxpayer subject to  
22 the tax imposed by this chapter an income tax credit for



1 ~~[qualified research activities equal to the credit for research~~  
2 ~~activities provided by section 41 of the Internal Revenue Code~~  
3 ~~and as modified by this section.]~~ wages paid for qualified  
4 research performed by the taxpayer's employees within the State.  
5 The credit shall equal twenty per cent of the difference between  
6 the following:

- 7       (1) The amount of in-house qualified services wages paid  
8       to employees by the taxpayer in the taxable year, the  
9       credit for which is claimed; and  
10       (2) The amount of in-house qualified services wages paid  
11       to employees by the taxpayer in the previous taxable  
12       year. If, in the previous taxable year, the taxpayer  
13       did not pay any such wages or did not have a presence  
14       in the State, then the amount under this paragraph  
15       shall be \$0.

16       The credit shall be deductible from the taxpayer's net  
17 income tax liability, if any, imposed by this chapter for the  
18 taxable year in which the credit is properly claimed.

19       ~~[(d) Every qualified high technology business, before~~  
20 ~~March 31 of each year in which qualified research and~~  
21 ~~development activity was conducted in the previous taxable year,~~



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

3 ~~(1) Qualified expenditures, if any, expended in the~~  
4 ~~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 ~~(c) 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 qualified research and~~  
11 ~~development activity costs upon which the tax credit~~  
12 ~~is based;~~

13 ~~(2) Verify the nature and amount of the qualifying costs~~  
14 ~~or expenditures;~~

15 ~~(3) Total all qualifying and cumulative costs or~~  
16 ~~expenditures that the department certifies; and~~

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

19 ~~Upon each determination made under this subsection, the~~  
20 ~~department shall issue a certificate to the taxpayer verifying~~  
21 ~~information submitted to the department, including the~~  
22 ~~qualifying costs or expenditure amounts, the credit amount~~



1 ~~certified for each taxable year, and the cumulative amount of~~  
2 ~~the tax credit during the credit period. The taxpayer shall~~  
3 ~~file the certificate with the taxpayer's tax return with the~~  
4 ~~department.~~

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

10 ~~(f) As used in this section:~~

11 ~~"Basic research" under section 41(c) of the Internal~~  
12 ~~Revenue Code shall not include research conducted outside of the~~  
13 ~~State.~~

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

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

19 ~~(g)]~~ (e) If the tax credit [~~for qualified research~~  
20 ~~activities claimed by a]~~ to which the taxpayer is entitled  
21 ~~exceeds the amount of income tax payment due from the taxpayer,~~  
22 ~~the excess of the tax credit over payments due [shall be~~



1 ~~refunded to the taxpayer, provided that no refund on account of~~  
2 ~~the tax credit allowed by this section shall be made for amounts~~  
3 ~~less than \$1.]~~ may be carried over to and claimed in subsequent  
4 taxable years by the taxpayer until exhausted. The excess tax  
5 credit shall not be refundable.

6 ~~[(h)]~~ (f) All claims for a tax credit under this section  
7 shall be filed on or before the end of the twelfth month  
8 following the close of the taxable year for which the credit may  
9 be claimed. Failure to properly claim the credit shall  
10 constitute a waiver of the right to claim the credit.

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

13 ~~[(j)]~~ (h) This section, as modified by Act , Session  
14 Laws of Hawaii 2011, shall apply to taxable years beginning  
15 after December 31, 2010, but shall not apply to taxable years  
16 beginning after December 31, [2010.] 2015."

17 SECTION 3. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.



1 SECTION 4. This Act shall take effect retroactive to  
2 December 31, 2010, and shall apply to taxable years beginning  
3 after December 31, 2010.

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INTRODUCED BY:

*Calvin K. Ray*

JAN 21 2011



**Report Title:**

Research Tax Credit; Reinstatement

**Description:**

Reinstates the research tax credit in modified form, basing the amount of the credit on the in-house wages paid for qualified research within the State.

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

