
A BILL FOR AN ACT

RELATING TO HIGH TECHNOLOGY.

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

1 SECTION 1. The legislature recognizes that research and
2 development (R&D) is the core of innovation. Without
3 innovation, there is no technology industry, and the subsequent
4 growth of our economy is stunted with the lack of new products,
5 services, or processes. During the R&D stage, ideas and
6 theories are tested to determine feasibility. With an
7 increasingly interconnected and competitive global economy,
8 fostering and encouraging innovation is essential to creating
9 new jobs in high-tech and traditional sectors.

10 In recent years, innovation has led to new jobs in many
11 different sectors as diverse as defense/dual-use,
12 software/information technology, life sciences/biotechnology,
13 and clean energy. At the same time, innovations ripple through
14 the economy, creating jobs for workers through the development
15 of an advanced infrastructure, such as clean energy solutions,
16 installing broadband networks, and using new devices and
17 products in the service industries, such as healthcare and
18 tourism.



1 The current law parallels with enhancements tailored to
2 Hawaii's unique position and the Internal Revenue Code,
3 providing support for scientific experimentation at twenty per
4 cent of the cost of the qualified research. The program cost to
5 the State averaged about \$11,000,000 per year over the last nine
6 years, and in 2006, the program provided funding to over four
7 hundred companies. This tax credit has been a great source of
8 support for local companies, especially to R&D companies that
9 are still in the start-up stages.

10 The purpose of this Act is to extend the income tax credit
11 for qualified research activities for an additional five years
12 and place an annual aggregate cap on the tax credit.

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

15 "**§235-110.91 Tax credit for research activities.** (a)
16 Section 41 (with respect to the credit for increasing research
17 activities) and [~~section~~] Section 280C(c) (with respect to
18 certain expenses for which the credit for increasing research
19 activities are allowable) of the Internal Revenue Code shall be
20 operative for the purposes of this chapter as provided in this
21 section; except that references to the base amount shall not
22 apply and credit for all qualified research expenses may be



1 taken without regard to the amount of expenses for previous
2 years. If [~~section~~] Section 41 of the Internal Revenue Code is
3 repealed or terminated prior to January 1, 2011, its provisions
4 shall remain in effect for purposes of the income tax law of the
5 State as modified by this section, as provided for in subsection
6 (j).

7 (b) All references to Internal Revenue Code [~~sections~~]
8 Sections within [~~sections~~] Sections 41 and 280C(c) of the
9 Internal Revenue Code shall be operative for purposes of this
10 section.

11 (c) There shall be allowed to each qualified high
12 technology business subject to the tax imposed by this chapter
13 an income tax credit for qualified research activities equal to
14 the credit for research activities provided by [~~section~~] Section
15 41 of the Internal Revenue Code and as modified by this
16 section[-], up to an annual maximum of \$ _____ of credits in
17 the aggregate for all qualified taxpayers. The credit shall be
18 deductible from the taxpayer's net income tax liability, if any,
19 imposed by this chapter for the taxable year in which the credit
20 is properly claimed.

21 (d) Every qualified high technology business, before March
22 31 of each year in which qualified research and development



1 activity was conducted in the previous taxable year, shall
2 submit a written, certified statement to the director of
3 taxation identifying:

4 (1) Qualified expenditures, if any, expended in the
5 previous taxable year; and

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

8 (e) The department shall:

9 (1) Maintain records of the names and addresses of the
10 taxpayers claiming the credits under this section and
11 the total amount of the qualified research and
12 development activity costs upon which the tax credit
13 is based;

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

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

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

20 Upon each determination made under this subsection, the
21 department shall issue a certificate to the taxpayer verifying
22 information submitted to the department, including the



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

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~~] Section 41(e) of the
13 Internal Revenue Code shall not include research conducted
14 outside of the 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.

20 (g) If the tax credit for qualified research activities
21 claimed by a taxpayer exceeds the amount of income tax payment
22 due from the taxpayer, the excess of the tax credit over



1 payments due shall be refunded to the taxpayer; provided that no
2 refund on account of the tax credit allowed by this section
3 shall be made for amounts less than \$1.

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

9 (i) The director of taxation may adopt any rules under
10 chapter 91 and forms necessary to carry out this section.

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

13 SECTION 3. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 4. This Act shall take effect upon its approval
16 and shall apply to taxable years beginning after December 31,
17 2010.

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Report Title:

High Technology; Research & Development Income Tax Credit;
Aggregate Cap

Description:

Extends the income tax credit for qualified research activities for five years and places an annual aggregate cap on the tax credit.

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