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

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



1 workers building advanced infrastructure incorporating clean  
2 energy solutions, installing broadband networks, and using new  
3 devices and products in the service industries, such as  
4 healthcare and tourism.

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

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

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



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

9 The purpose of this Act is to extend the income tax credit  
10 for qualified research activities for an additional five years  
11 and to add extensive reporting requirements related to the tax  
12 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 280C(c) (with respect to certain  
18 expenses for which the credit for increasing research activities  
19 are allowable) of the Internal Revenue Code shall be operative  
20 for the purposes of this chapter as provided in this section;  
21 except that references to the base amount shall not apply and  
22 credit for all qualified research expenses may be taken without



1 regard to the amount of expenses for previous years. If section  
2 41 of the Internal Revenue Code is repealed or terminated prior  
3 to January 1, 2011, its provisions shall remain in effect for  
4 purposes of the income tax law of the State as modified by this  
5 section, as provided for in subsection [~~(j)~~] (1).

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

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

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



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

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



1 ~~file the certificate with the taxpayer's tax return with the~~  
2 ~~department.~~

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

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

9 "Basic research" under section 41(e) of the Internal  
10 Revenue Code shall not include research conducted outside of the  
11 State.

12 "Qualified high technology business" means the same as in  
13 section 235-110.9.

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

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



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

6        (g) A qualified high technology business that claims the  
7 credit under this section shall complete and file with the  
8 director of taxation through the department website, an annual  
9 survey on electronic forms prepared and prescribed by the  
10 department. The annual survey shall be filed before June 30 of  
11 each calendar year following the calendar year in which the  
12 credit may be claimed under this section. The department may  
13 adjust the due date of the annual survey by rule. Failure to  
14 file the annual survey by the due date shall result in a fine of  
15 \$1,000 per month.

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

19        (h) The annual survey shall include the following  
20 information for the time period or periods specified by the  
21 department:



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

16       The department shall request information in each of these  
17       categories sufficient to measure the effectiveness of the tax  
18       credit. The department may request any additional information  
19       necessary to measure the effectiveness of the tax credit, such  
20       as information related to patents. In preparing the survey and  
21       requesting any additional information, the department shall





1 ensure that qualified high technology businesses are not subject  
2 to duplicative reporting requirements.

3 The department shall allow the department of business,  
4 economic development, and tourism to access data collected under  
5 this section for the purposes of conducting economic impact  
6 analyses and producing legislative reports under subsection (j).

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

18 (j) The department of business, economic development, and  
19 tourism shall use the information collected to study the  
20 effectiveness of the tax credit under this section. The  
21 department shall report on the amount of tax credits claimed and  
22 total taxes paid by qualified high technology businesses, the



1 number of qualified high technology businesses in each industry  
2 sector, jobs created, external services and materials procured  
3 by the businesses, compensation levels, qualified research  
4 activities, and other factors as the department determines. The  
5 department shall report the results of its study to the  
6 legislature by December 21 of each year.

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

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

11 SECTION 3. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 4. This Act shall take effect on July 1, 2112, and  
14 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. Effective July 1, 2112. (SB753 HD1)

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

