
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 the State's economy is stunted with
4 no new products, services, or processes. Research and
5 development is the critical first step in the product
6 development cycle. During the research and development stage,
7 ideas and theories are tested to determine feasibility. Due to
8 the increasingly interconnected and competitive global economy,
9 fostering and encouraging innovation are essential to a
10 comprehensive economic strategy for the State. The key to
11 developing more jobs and more prosperity will be to create and
12 deploy new products, 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 the state economy. Future challenges, natural or
7 man-made, are impossible to predict. However, it is certain
8 that an economy better able to respond to such events by
9 adapting innovative solutions and re-deploying old activities,
10 jobs, and 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 an 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 research



1 and development companies that are still in the start-up and
2 early stages, and is seen as helping to level the playing field
3 of this high-cost state, as Hawaii companies compete against
4 national and international rivals. The tax credit 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 legislature also finds that keeping the high technology
10 development corporation located at the site it currently
11 occupies, on property and under the control of the University of
12 Hawaii at Manoa, will benefit the State as a whole. The
13 legislature declares that requiring the University of Hawaii to
14 lease its property to the high technology development
15 corporation is of statewide concern.

16 The purpose of this Act is to:

- 17 (1) Extend the income tax credit for qualified research
18 activities for an additional five years and to add
19 extensive reporting requirements related to the tax
20 credit; and
- 21 (2) Provide a venue for high technology businesses to
22 develop and grow through support of the high



1 technology development corporation by requiring the
2 University of Hawaii at Manoa to lease property under
3 its control to the high technology development
4 corporation for a term of not less than twenty years.

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

7 "**§235-110.91 Tax credit for research activities.** (a)

8 Section 41 (with respect to the credit for increasing research
9 activities) and section 280C(c) (with respect to certain
10 expenses for which the credit for increasing research activities
11 are allowable) of the Internal Revenue Code shall be operative
12 for the purposes of this chapter as provided in this section[+
13 ~~except that references to the base amount shall not apply and~~
14 ~~credit for all qualified research expenses may be taken without~~
15 ~~regard to the amount of expenses for previous years]. If
16 section 41 of the Internal Revenue Code is repealed or
17 terminated prior to January 1, 2011, its provisions shall remain
18 in effect for purposes of the income tax law of the State as
19 modified by this section, as provided for in subsection [(+)]-]
20 (1).~~



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

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

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

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

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

21 ~~(e) The department shall:~~



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

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

20 ~~The director of taxation may assess and collect a fee to~~
21 ~~offset the costs of certifying tax credit claims under this~~
22 ~~section. All fees collected under this section shall be~~



1 ~~deposited into the tax administration special fund established~~
2 ~~under section 235-20.5.~~

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

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

7 "Qualified high technology business" means the same as in
8 section ~~[235-110.9.]~~ 235-7.3(c).

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

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

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



1 (g) A qualified high technology business that claims the
2 credit under this section shall complete and file with the
3 director of taxation through the department website, an annual
4 survey on electronic forms prepared and prescribed by the
5 department. The annual survey shall be filed before June 30 of
6 each calendar year following the calendar year in which the
7 credit may be claimed under this section. The department may
8 adjust the due date of the annual survey by rule. Failure to
9 file the annual survey by the due date shall result in a fine of
10 \$2,000 per month.

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

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

18 (1) Identification of the industry sector or sectors in
19 which the qualified high technology business conducts
20 business, as set forth in paragraphs (2) to (8) of the
21 definition of "qualified research" in section
22 235-7.3(c);



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

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

19 The department shall allow the department of business,
20 economic development, and tourism to access data collected under
21 this section to conduct economic impact analyses and produce
22 legislative reports under subsection (j).



1 (i) The department of business, economic development, and
2 tourism shall use information collected under this section and
3 through other reporting requirements of the department of
4 taxation to prepare summary descriptive statistics by category.
5 The information shall be reported at the aggregate level to
6 prevent compromising identities of qualified high technology
7 business investors or other confidential information. The
8 department of business, economic development, and tourism shall
9 also identify each qualified high technology business that is
10 the beneficiary of tax credits claimed under this section. The
11 department of business, economic development, and tourism shall
12 report the information required under this subsection to the
13 legislature by 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 of business, economic development, and tourism shall
18 report on the amount of tax credits claimed and total taxes paid
19 by qualified high technology businesses, the number of qualified
20 high technology businesses in each industry sector, jobs
21 created, external services and materials procured by the
22 businesses, compensation levels, qualified research activities,



1 and other factors as the department of business, economic
2 development, and tourism determines. The department of
3 business, economic development, and tourism shall report the
4 results of its study to the legislature by December 21 of each
5 year.

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

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

10 SECTION 3. (a) The Manoa Innovation Center, which is
11 currently under the control of the University of Hawaii at
12 Manoa, and serves as the site for the high technology
13 development corporation, shall be leased to the high technology
14 development corporation for a term of not less than twenty
15 years. The lease agreement shall include the following terms
16 and conditions:

17 (1) The high technology development corporation shall be
18 responsible for the annual maintenance and operating
19 costs of the building and shall continue to pay for
20 the costs attributed to the corporation based on
21 current allocations of cost to square footage; and



1 (2) A written memorandum of understanding of the above
2 conditions shall be executed between the University of
3 Hawaii at Manoa and the high technology development
4 corporation prior to the expiration of its existing
5 lease.

6 (b) The high technology development corporation shall
7 share the long-term use of the building without cost, apart from
8 the costs under subsection (a)(1); provided that if the high
9 technology development corporation ceases to exist, the facility
10 shall be returned to the University of Hawaii at Manoa.

11 SECTION 4. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 5. This Act shall take effect on July 1, 2030, 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. Requires the Manoa Innovation Center to be leased to the High Technology Development Center for twenty years. Effective July 1, 2030. (SB753 HD2)

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