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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 (clean energy  
2 solutions), installing broadband networks, and utilizing 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 stimulant to 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 to 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 with  
4 national and international competition. It has also been useful  
5 in providing support for early-stage research and development  
6 companies that are not yet profitable, and have few sources of  
7 funding. Further, the refundable element is helping to attract  
8 new technology companies to Hawaii.

9 In addition, in 2010, the senate committee on economic  
10 development and technology and the house committee on economic  
11 revitalization, business, and military affairs convened an  
12 informal small business discussion group to address the most  
13 critical issues facing the small business sectors within  
14 Hawaii's economy. Representatives from The Chamber of Commerce  
15 of Hawaii, construction and trades industries, community  
16 nonprofits, the agricultural sector, food and restaurant  
17 industries, retailing, the science and technology sector, the  
18 commercial transportation industry, and interested stakeholders  
19 developed a package of bills that address the most pressing  
20 problems facing Hawaii's small business community.

21 The purpose of this Act is to support the findings and  
22 recommendations of the small business discussion group to extend



1 the income tax credit for qualified research activities for an  
2 additional five years and to add extensive reporting  
3 requirements related to the tax credit.

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

6 **"§235-110.91 Tax credit for research activities.** (a)

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15 41 of the Internal Revenue Code is repealed or terminated prior  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

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



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

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

- 14 (1) Qualified expenditures, if any, expended in the  
15 previous taxable year; and  
16 (2) The amount of tax credits claimed pursuant to this  
17 section, if any, in the previous taxable year.

18 (e) The department shall:

- 19 (1) Maintain records of the names and addresses of the  
20 taxpayers claiming the credits under this section and  
21 the total amount of the qualified research and



1 development activity costs upon which the tax credit  
2 is based;

3 (2) Verify the nature and amount of the qualifying costs  
4 or expenditures;

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

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

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

17 The director of taxation may assess and collect a fee to  
18 offset the costs of certifying tax credit 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.

22 (f) As used in this section:



1 "Basic research" under section 41(e) of the Internal  
2 Revenue Code shall not include research conducted outside of the  
3 State.

4 "Qualified high technology business" means [~~the same as in~~  
5 ~~section 235-110.9.~~] a business that conducts more than per  
6 cent of its activities in qualified research.

7 "Qualified research" [~~under section 41(d)(1)~~] means the  
8 same as in section 41(d)(1) of the Internal Revenue Code;  
9 provided that it shall not include research conducted outside of  
10 the State.

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

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



1        (i) 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.

9        (j) The annual survey shall include the following  
10 information for the time period or periods specified by the  
11 department:

12        (1) Identification of the industry sector or sectors in  
13 which the qualified high technology business conducts  
14 business, as set forth in paragraphs (2) to (8) of the  
15 definition of "qualified research" in section

16 235-7.3(c);

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

19        (3) Revenue and expense data;

20        (4) Hawaii employment and wage data including the numbers  
21 of full and part-time employees retained, new jobs,





1 temporary positions, external services procured by the  
2 business, and payroll taxes; and

3 (5) Filed intellectual property, including invention  
4 disclosures, provisional patents, and patents issued  
5 or granted.

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

14 (k) The department shall use information collected under  
15 this section and through other reporting requirements of the  
16 department to prepare summary descriptive statistics by  
17 category. The information shall be reported at the aggregate  
18 level to prevent compromising identities of qualified high  
19 technology business investors or other confidential information.  
20 The department shall also identify each qualified high  
21 technology business that is the beneficiary of tax credits  
22 claimed under this section. The department shall report the



1 information required under this subsection to the legislature by  
2 September 1 of each year.

3 (1) The department shall use the information collected to  
4 study the effectiveness of the tax credit under this section.  
5 The department shall report on the amount of tax credits claimed  
6 and total taxes paid by qualified high technology businesses,  
7 the number of qualified high technology businesses in each  
8 industry sector, jobs created, external services and materials  
9 procured by the businesses, compensation levels, qualified  
10 research activities, and other factors as the department  
11 determines. The department shall report the results of its  
12 study to the legislature by December 1 of each year.

13 ~~(i)~~ (m) The director of taxation may adopt any rules  
14 under chapter 91 and forms necessary to carry out this section.

15 ~~(j)~~ (n) This section 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.

19 SECTION 4. This Act shall take effect on July 1, 2050, and  
20 shall apply to taxable years beginning after December 31, 2010.



**Report Title:**

High Technology; Tax Credit for Research Activities

**Description:**

Adds reporting requirements to measure the effectiveness of the tax credit for research activities. Extends the tax credit for 5 years. Effective 07/01/2050. (SD2)

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

