



EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

July 9, 2013

GOV. MSG. NO. 1376

The Honorable Donna Mercado Kim,
President
and Members of the Senate
Twenty-Seventh State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Seventh State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on July 9, 2013, the following bill was signed into law:

SB1349 SD2 HD1 CD1

RELATING TO ECONOMIC DEVELOPMENT
ACT 270 (13)

Sincerely,

SHAN TSUTSUI
Acting Governor, State of Hawaii

on JUL 9 2013

THE SENATE
TWENTY-SEVENTH LEGISLATURE, 2013
STATE OF HAWAII

ACT 270

S.B. NO. 1349
S.D. 2
H.D. 1
C.D. 1

A BILL FOR AN ACT

RELATING TO ECONOMIC DEVELOPMENT.

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

1 SECTION 1. The legislature recognizes the importance of
2 fostering science, technology, engineering, and mathematics
3 education in our public education system from grade school
4 through college and beyond. Each year, the legislature
5 appropriates significant moneys to fund initiatives that further
6 science, technology, engineering, and mathematics education at
7 all levels of Hawaii's education system. A science, technology,
8 engineering, and mathematics education and a culture of
9 innovation are essential to help grow and diversify Hawaii's
10 economic sectors with new products, services, and processes.

11 The legislature further finds, however, that each year many
12 Hawaii residents leave the State for careers in science,
13 technology, engineering, and mathematics across the United
14 States and the globe. Many do not want to leave but have no
15 choice as there are too few career opportunities in science,
16 technology, engineering, and mathematics in the State.

17 The legislature finds that funding science, technology,
18 engineering, and mathematics educational initiatives alone does



1 not ensure jobs in science, technology, engineering, and
2 mathematics for Hawaii's residents. Educational efforts to
3 promote science, technology, engineering, and mathematics must
4 be matched with initiatives that help foster jobs in research
5 and development, which is the core of innovation. Innovative
6 research and development helps spur growth and maintain our
7 technology industry, and is the critical first step in the
8 product development cycle.

9 Innovation is essential for creating new jobs in the high
10 technology sector, as well as traditional sectors. In recent
11 years, innovation has led to new jobs in sectors as diverse as
12 defense or dual-use, software and information technology, life
13 sciences and biotechnology, and clean energy. At the same time,
14 innovations ripple through the economy, creating jobs for
15 workers building advanced infrastructure (e.g., clean energy
16 solutions), installing broadband networks, and utilizing new
17 devices and products in the service industries, such as
18 healthcare and tourism. Innovation is also critical for
19 sustaining the vitality and resilience of Hawaii's economy.

20 The legislature finds that, while future challenges are
21 impossible to predict, the State's economy will be able to
22 respond to any challenge by adapting innovative solutions and



1 re-deploying old activities and jobs, thereby making industries
2 in the State less susceptible to adversity.

3 The legislature further finds that innovation is the key to
4 remaining competitive globally, creating new and better science,
5 technology, engineering, and mathematics jobs for Hawaii's
6 residents, and creating a resilient economy. Support for
7 research and development stimulates the growth of jobs in
8 science, technology, engineering, and mathematics.

9 The purpose of this Act is to reestablish an income tax
10 credit for qualified research activities in the State of Hawaii
11 that would:

- 12 (1) Provide support for scientific experimentation at
13 twenty per cent of qualified research expenditures;
- 14 (2) Help bridge any funding gap between federal early
15 stage research funding and the critical product
16 development and validation stage; and
- 17 (3) Contribute to the diversification of our economy by
18 creating and maintaining science, technology,
19 engineering, and mathematics jobs in Hawaii.

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



1 "§235-110.91 Tax credit for research activities. (a)
2 Section 41 (with respect to the credit for increasing research
3 activities) and section 280C(c) (with respect to certain
4 expenses for which the credit for increasing research activities
5 are allowable) of the Internal Revenue Code shall be operative
6 for the purposes of this chapter as provided in this section[+
7 ~~except that references to the base amount shall not apply and~~
8 ~~credit for all qualified research expenses may be taken without~~
9 ~~regard to the amount of expenses for previous years. If section~~
10 ~~41 of the Internal Revenue Code is repealed or terminated prior~~
11 ~~to January 1, 2011, its provisions shall remain in effect for~~
12 ~~purposes of the income tax law of the State as modified by this~~
13 ~~section, as provided for in subsection (j).]; provided that the
14 federal tax provisions in section 41 of the Internal Revenue
15 Code, as that section was enacted on December 31, 2011,
16 irrespective of any subsequent changes to section 41 of the
17 Internal Revenue Code, shall remain in effect for purposes of
18 determining the state income tax credit under this section;
19 provided further that the federal tax provisions in section 41
20 of the Internal Revenue Code, as enacted on December 31, 2011,
21 irrespective of any subsequent amendments to section 41 of the~~



1 Internal Revenue Code, shall apply only to expenses incurred for
2 qualified research activities after December 31, 2012.

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

6 (c) There shall be allowed to each qualified high
7 technology business subject to the tax imposed by this chapter
8 an income tax credit for qualified research activities equal to
9 the credit for research activities provided by section 41 of the
10 Internal Revenue Code and as modified by this section[-];
11 provided that, in addition to any other requirements established
12 in this section, in order to qualify for the tax credit
13 established in this section, the qualified high technology
14 business shall also claim a federal tax credit for the same
15 qualified research activities under section 41 of the Internal
16 Revenue Code, as enacted on December 31, 2011, irrespective of
17 any subsequent amendments to section 41 of the Internal Revenue
18 Code. The credit shall be deductible from the taxpayer's net
19 income tax liability, if any, imposed by this chapter for the
20 taxable year in which the credit is properly claimed.

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



1 development activity was conducted in the previous taxable year,
2 shall 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 of the qualifying research activity
15 and the amount of the qualifying costs or
16 expenditures;
 - 17 (3) Total all qualifying and cumulative costs or
18 expenditures that the department certifies; and
 - 19 (4) Certify the amount of the tax credit for each taxable
20 year and cumulative amount of the tax credit.

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



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

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

12 (f) As used in this section:

13 ~~["Basic research" under section 41(e) of the Internal~~
14 ~~Revenue Code shall not include research conducted outside of the~~
15 ~~State.]~~

16 "Qualified high technology business" ~~[means]~~ shall have the
17 same meaning as in section ~~[235-110.9.]~~ 235-7.3(c).

18 "Qualified research" ~~[under section 41(d)(1)]~~ shall have
19 the same meaning as in section 41(d) of the Internal Revenue
20 Code ~~[shall not include research conducted outside of the~~
21 ~~State].~~



1 "Qualified research expenses" shall have the same meaning
2 as in section 41(b) of the Internal Revenue Code; provided that
3 it shall not include research expenses incurred outside of the
4 State.

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

11 (h) All claims for a tax credit under this section shall
12 be filed on or before the end of the twelfth month following the
13 close of the taxable year for which the credit may be claimed.
14 Failure to properly claim the credit shall constitute a waiver
15 of the right to claim the credit.

16 (i) A qualified high technology business that claims the
17 credit under this section shall complete and file with the
18 department of business, economic development, and tourism,
19 through that department's website, an annual survey on
20 electronic forms prepared and prescribed by the department of
21 business, economic development, and tourism. The annual survey
22 shall be filed before June 30 of each calendar year following



1 the calendar year in which the credit may be claimed under this
2 section. The department of business, economic development, and
3 tourism may adjust the due date of the annual survey by rules
4 adopted pursuant to chapter 91.

5 (j) The annual survey under subsection (i) shall include
6 the following information for the time period or periods
7 specified by the department of business, economic development,
8 and tourism:

- 9 (1) Identification of the industry sector or sectors in
10 which the qualified high technology business conducts
11 business, as set forth in paragraphs (2) to (8) of the
12 definition of "qualified research" in section
13 235-7.3(c);
- 14 (2) Total expenditures and the qualified expenditures, if
15 any, expended in the previous taxable year;
- 16 (3) Revenue and expense data, including a breakdown of any
17 licensing royalty or other forms of income generated
18 from intellectual property;
- 19 (4) Hawaii employment and wage data, including the numbers
20 of full-time and part-time employees retained, new
21 jobs, temporary positions, external services procured
22 by the business, and payroll taxes;



1 (5) Filed intellectual property, including invention
2 disclosures, provisional patents, and patents issued
3 or granted; and

4 (6) The number of new companies spun out or established to
5 commercialize the intellectual property owned by the
6 qualified high technology business.

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

18 (k) The department of business, economic development, and
19 tourism shall use information collected under this section and
20 through its other reporting requirements to prepare summary
21 descriptive statistics by category. The information shall be
22 reported at the aggregate level to prevent compromising



1 identities of qualified high technology business investors or
2 other confidential information. The department of business,
3 economic development, and tourism shall also identify each
4 qualified high technology business that is the beneficiary of
5 tax credits claimed under this section. The department of
6 business, economic development, and tourism shall report the
7 information required under this subsection to the legislature by
8 September 1 of each year.

9 (1) The department of business, economic development, and
10 tourism, in collaboration with the department of taxation, shall
11 use the information collected to study the effectiveness of the
12 tax credit under this section. The department of business,
13 economic development, and tourism shall submit a report to the
14 legislature on the following:

- 15 (1) The amount of tax credits claimed and total taxes paid
16 by qualified high technology businesses;
17 (2) The number of qualified high technology businesses in
18 each industry sector;
19 (3) The numbers and types of jobs created by qualified
20 high technology businesses;
21 (4) External services and materials procured by the
22 businesses;



1 (5) The compensation levels of jobs provided by qualified
2 high technology businesses;

3 (6) Qualified research activities; and

4 (7) Any other factors the department of business, economic
5 development, and tourism deems relevant.

6 The department of business, economic development, and tourism
7 shall submit the report to the legislature by September 1 of
8 each year.

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

11 ~~(j)~~ (n) This section shall not apply to taxable years
12 beginning after December 31, ~~[2010-]~~ 2019."

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 on July 1, 2013, and
16 shall apply to taxable years beginning after December 31, 2012.

APPROVED this 9 day of JUL , 2013



ACTING GOVERNOR OF HAWAII