

JAN 24 2013

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# 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 must be  
3 matched with initiatives that help foster jobs in science,  
4 technology, engineering, and mathematics research and  
5 development, which is the core of innovation. Innovative  
6 research and development helps spur growth in our technology  
7 industry, and is the critical first step in the product  
8 development cycle.

9 Innovation is essential for creating new jobs in the high  
10 technology sector and traditional sectors. In recent years,  
11 innovation has led to new jobs in sectors as diverse as defense  
12 or dual-use, software and information technology, life sciences  
13 and biotechnology, and clean energy. At the same time,  
14 innovations ripple through the economy, creating jobs for  
15 workers building advanced infrastructure (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 challenges by adapting innovative solutions and



1 re-deploying old activities and jobs, making industries in the  
2 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 re-establish 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 the cost of the qualified research;
- 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 science, technology, engineering, and  
19 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  
10 ~~section 41 of the Internal Revenue Code is repealed or~~  
11 ~~terminated prior to January 1, 2011, its provisions shall remain~~  
12 ~~in effect for purposes of the income tax law of the State as~~  
13 ~~modified by this section, as provided for in subsection (j).];  
14 provided that the federal tax provisions in section 41 of the  
15 Internal Revenue Code as that section was enacted on December  
16 31, 2011, shall remain in effect for purposes of determining the  
17 state income tax credit under this section; provided further  
18 that the federal tax provisions in section 41 of the Internal  
19 Revenue Code as enacted on December 31, 2011, shall apply only  
20 to expenses incurred for qualified research activities after  
21 December 31, 2010.~~



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

4       ~~(e)]~~ (b) 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)]~~ (c) 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)]~~ (d) The department of taxation 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 of taxation  
10          certifies; and
- 11          (4) Certify the amount of the tax credit for each taxable  
12          year and cumulative amount of the tax credit.

13          Upon each determination made under this subsection, the  
14          department of taxation shall issue a certificate to the taxpayer  
15          verifying information submitted to the department [7] of  
16          taxation, including the qualifying costs or expenditure amounts,  
17          the credit amount certified for each taxable year, and the  
18          cumulative amount of the tax credit during the credit period.  
19          The taxpayer shall file the certificate with the taxpayer's tax  
20          return with the department [-] of taxation.

21          The director of taxation may assess and collect a fee to  
22          offset the costs of certifying tax credit claims under this



1 section. All fees collected under this section shall be  
2 deposited into the tax administration special fund established  
3 under section 235-20.5.

4 ~~[(f)]~~ (e) As used in this section:

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

8 "Qualified high technology business" means ~~[the same as in~~  
9 ~~section 235-110.9.]~~ a business that conducts more than \_\_\_\_\_ per  
10 cent of its activities in qualified research.

11 "Qualified research" ~~[under section 41(d)(1)]~~ shall have  
12 the same meaning as in section 41(d)(1) of the Internal Revenue  
13 Code; provided that it shall not include research conducted  
14 outside of the State.

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

21 ~~[(h)]~~ (g) All claims for a tax credit under this section  
22 shall be filed on or before the end of the twelfth month



1 following the close of the taxable year for which the credit may  
2 be claimed. Failure to properly claim the credit shall  
3 constitute a waiver of the right to claim the credit.

4 (h) A qualified high technology business that claims the  
5 credit under this section shall complete and file with the  
6 director of taxation through the department of taxation's  
7 website, an annual survey on electronic forms prepared and  
8 prescribed by the department of taxation. The annual survey  
9 shall be filed before June 30 of each calendar year following  
10 the calendar year in which the credit may be claimed under this  
11 section. The department of taxation may adjust the due date of  
12 the annual survey by rule pursuant to chapter 91.

13 (i) The annual survey shall include the following  
14 information for the time period or periods specified by the  
15 department of taxation:

16 (1) Identification of the industry sector or sectors in  
17 which the qualified high technology business conducts  
18 business, as set forth in paragraphs (2) to (8) of the  
19 definition of "qualified research" in section 235-  
20 7.3(c);  
21 (2) Qualified expenditures, if any, expended in the  
22 previous taxable year;





- 1       (3) Revenue and expense data;  
2       (4) Hawaii employment and wage data including the numbers  
3       of full and part-time employees retained, new jobs,  
4       temporary positions, external services procured by the  
5       business, and payroll taxes; and  
6       (5) Filed intellectual property, including invention  
7       disclosures, provisional patents, and patents issued  
8       or granted.

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

18      (j) The department of taxation shall use information  
19      collected under this section and through its other reporting  
20      requirements to prepare summary descriptive statistics by  
21      category. The information shall be reported at the aggregate  
22      level to prevent compromising identities of qualified high



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

7 (k) The department of taxation shall use the information  
8 collected to study the effectiveness of the tax credit under  
9 this section. The department of taxation shall report on the  
10 amount of tax credits claimed and total taxes paid by qualified  
11 high technology businesses; the number of qualified high  
12 technology businesses in each industry sector; jobs created;  
13 external services and materials procured by the businesses;  
14 compensation levels; qualified research activities; and any  
15 other factor the department of taxation deems relevant. The  
16 department of taxation shall report the results of its study to  
17 the legislature by December 1 of each year.

18 [+i+] (l) The director of taxation may adopt any rules  
19 under chapter 91 and forms necessary to carry out this section.

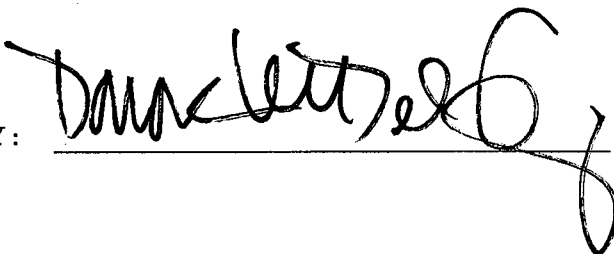
20 [+j+] (m) This section shall not apply to taxable years  
21 beginning after December 31, [2010-] 2015."



1 SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act, shall take effect upon its approval,  
4 and shall apply to taxable years beginning after December 31,  
5 2010.

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INTRODUCED BY: 



# S.B. NO. 1349

**Report Title:**

High Technology; Research Activities; Tax Credit

**Description:**

Re-enacts the tax credit for qualified research activities to apply to taxable years from 2010 to 2015. Amends the definitions of "qualified high technology business" and "qualified research". Establishes new reporting requirements. Requires the department of taxation to conduct studies to measure the effectiveness of the tax credit and submit reports to the legislature.

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