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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 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, shall  
16 remain in effect for purposes of determining the state income  
17 tax credit under this section; provided further that the federal  
18 tax provisions in section 41 of the Internal Revenue Code, as  
19 enacted on December 31, 2011, shall apply only to expenses  
20 incurred for qualified research activities after December 31,  
21 2010.~~



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[+];  
9 provided that, in addition to any other requirements established  
10 in this section, in order to qualify for the tax credit  
11 established in this section, the qualified high technology  
12 business shall also claim a federal tax credit for the same  
13 qualified research activities under section 41 of the Internal  
14 Revenue Code. The credit shall be deductible from the  
15 taxpayer's net income tax liability, if any, imposed by this  
16 chapter for the taxable year in which the credit is properly  
17 claimed.

18 (d) Every qualified high technology business, before  
19 March 31 of each year in which qualified research and  
20 development activity was conducted in the previous taxable year,  
21 shall submit a written, certified statement to the director of  
22 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 (e) 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 of the qualifying research activity  
12 and the amount of the qualifying costs or  
13 expenditures;
- 14 (3) Total all qualifying and cumulative costs or  
15 expenditures that the department certifies; and
- 16 (4) Certify the amount of the tax credit for each taxable  
17 year and cumulative amount of the tax credit.

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



1 the tax credit during the credit period. The taxpayer shall  
2 file the certificate with the taxpayer's tax return with the  
3 department.

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

9 (f) As used in this section:

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

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

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

19 "Qualified research expenses" shall have the same meaning  
20 as in section 41(b) of the Internal Revenue Code; provided that  
21 it shall not include research expenses incurred outside of the  
22 State.



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

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

12 (i) A qualified high technology business that claims the  
13 credit under this section shall complete and file with the  
14 department of business, economic development, and tourism,  
15 through that department's website, an annual survey on  
16 electronic forms prepared and prescribed by the department of  
17 business, economic development, and tourism. The annual survey  
18 shall be filed before June 30 of each calendar year following  
19 the calendar year in which the credit may be claimed under this  
20 section. The department of business, economic development, and  
21 tourism may adjust the due date of the annual survey by rules  
22 adopted pursuant to chapter 91.





1       (j) The annual survey under subsection (i) shall include  
2 the following information for the time period or periods  
3 specified by the department of business, economic development,  
4 and tourism:

5       (1) Identification of the industry sector or sectors in  
6 which the qualified high technology business conducts  
7 business, as set forth in paragraphs (2) to (8) of the  
8 definition of "qualified research" in section  
9 235-7.3(c);

10       (2) Total expenditures and the qualified expenditures, if  
11 any, expended in the previous taxable year;

12       (3) Revenue and expense data, including a breakdown of any  
13 licensing royalty or other forms of income generated  
14 from intellectual property;

15       (4) Hawaii employment and wage data, including the numbers  
16 of full-time and part-time employees retained, new  
17 jobs, temporary positions, external services procured  
18 by the business, and payroll taxes;

19       (5) Filed intellectual property, including invention  
20 disclosures, provisional patents, and patents issued  
21 or granted; and



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

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

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



1 qualified high technology business that is the beneficiary of  
2 tax credits claimed under this section. The department of  
3 business, economic development, and tourism shall report the  
4 information required under this subsection to the legislature by  
5 September 1 of each year.

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

12 (1) The amount of tax credits claimed and total taxes paid  
13 by qualified high technology businesses;

14 (2) The number of qualified high technology businesses in  
15 each industry sector;

16 (3) Jobs created;

17 (4) External services and materials procured by the  
18 businesses;

19 (5) Compensation levels;

20 (6) Qualified research activities; and

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



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

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

6 [~~(j)~~] (n) This section shall not apply to taxable years  
7 beginning after December 31, [~~2010.~~] 2017."

8 SECTION 3. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 4. This Act shall take effect on July 1, 2050, and  
11 shall apply to taxable years beginning after December 31, 2013.



**Report Title:**

High Technology; Research Activities; Tax Credit

**Description:**

Reenacts the tax credit for qualified research activities to apply to taxable years from 2014 to 2017. Adds, amends, and deletes definitions. Establishes new reporting requirements. Requires DBEDT to conduct studies to measure the effectiveness of the tax credit and submit reports to the legislature. Effective July 1, 2050. (SB1349 HD1)

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

