SB1349

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.

HAWAII STRATEGIC DEVELOPMENT CORPORATION

HTDC Cultivating Hawaii's tech sector
HIGH TECHNOLOGY DEVELOPMENT CORPORATION

Written Statement of

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Before the
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT, GOVERNMENT OPERATIONS and HOUSING

And the
SENATE COMMITTEE ON TECHNOLOGY AND THE ARTS

February 8, 2013
2:50 PM
State Capitol, Conference Room 016

In consideration of
SB 1349 RELATING TO ECONOMIC DEVELOPMENT.

Chair Dela Cruz, Chair Wakai, and Members of the Committee on Economic Development & Business and the Committee on Technology and the Arts:

The Hawaii Strategic Development Corporation (HSDC) and the High Technology Development Corporation (HTDC) respectfully **submit comments on SB 1349**. The state tax credit for research activities sunset at the end of calendar year 2010. This tax credit program was an effective measure to support research and development activities, which in turn, foster and encourage the innovation essential to create high-wage job opportunities in our economy.

SB 1349 proposes to amend the definition of a Qualified High Technology Business (QHTB) for the purposes of this credit. We recommend using the definition of a QHTB contained in Section 235-7.3(c), HRS. This will maintain consistency with Section (j)(1) of HB 1401 (page 8, line1) and with previous data collected under past tax credit programs.

SB 1349 includes important requirements to collect data and provide metrics on the effectiveness of the proposed research tax credit. We recommend that resources be appropriated to the Department of Taxation so that they are able to collect the data, analyze the impacts and report their findings.

Finally, the objective of SB 1349 is to promote economic development in the State. Supporting research activities alone will not accomplish this objective. We recommend the Committees also consider a comprehensive policy that support the continuum of entrepreneurialism, commercialization and business formation capabilities needed to foster high growth businesses. As part of an entrepreneurial ecosystem, a research tax credit program can be effective in creating sustainable high wage jobs.

Thank your for the opportunity to submit testimony on this bill.

L E G I S L A T I V E

TAXBILLSERVICE

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SUBJECT: INCOME, Tax credit for research activities

BILL NUMBER: SB 1349

INTRODUCED BY: Dela Cruz

BRIEF SUMMARY: Amends HRS section 235-110.91 to provide that the federal tax provisions in section 41 as that section was enacted on December 31, 2011, shall remain in effect for purposes of determining the state income tax credit under this section. Provides further that the federal tax provisions in section 41, as enacted on December 31, 2011, shall apply only to expenses incurred for qualified research activities after December 31, 2010.

Amends the definition of qualified high technology business as a business that conducts more than ____% of its activities in qualified research.

Requires a qualified high technology business that claims the credit under this section to complete and file with the director of taxation, through the department website, an annual survey on electronic forms prepared and prescribed by the department. Requires the survey to be filed before June 30 of each year following the calendar year in which the credit is claimed under this section. Permits the department to adjust the due date of the annual survey by rule.

The survey shall include: (1) identification of the industry sector in which the qualified high technology business conducts business; (2) qualified expenditures; (3) revenue and expense data; (4) Hawaii employment and wage data including the number of full and part-time employees retained, new jobs, temporary positions, external services procured by the business, and payroll taxes; and (5) filed intellectual property, including invention disclosures, provisional patents, and patents issued or granted.

The department of taxation may request any additional information necessary to measure the effectiveness of the tax credit, such as information related to patents. The department of taxation shall use information collected under this section and through its other reporting requirements to prepare summary descriptive statistics by category. The information shall be reported at the aggregate level to prevent compromising identities of qualified high technology business investors or other confidential information. The department of taxation shall also identify each qualified high technology business that is the beneficiary of tax credits claimed under this section. The department of taxation shall report the information required under this subsection to the legislature by September 1 of each year.

Directs the department of taxation to use the information collected to study the effectiveness of the tax credit under this section. The department of taxation shall report on the amount of tax credits claimed and total taxes paid by qualified high technology businesses; the number of qualified high technology businesses in each industry sector; jobs created; external services and materials procured by the businesses; compensation levels; qualified research activities; and any other factor the department of taxation deems relevant. The department of taxation shall report the results of its study to the legislature by December 1 of each year.

This section shall not apply to taxable years beginning after December 31, 2015.

EFFECTIVE DATE: Tax years beginning after December 31, 2010.

STAFF COMMENTS: The legislature by Act 178, SLH 1999, and Act 221, SLH 2001, enacted various tax incentives to encourage the development of high technology businesses in the state. These acts provided investment and research credits, as well as income exclusions and tax incentives, to encourage high tech businesses and individuals associated with high tech businesses to locate in the state. It should be noted that while the credit for research activities enacted by Act 178, SLH 1999,expired on 12/31/10, this measure attempts to reenact the credit. It is questionable whether the methodology proposed by this measure is appropriate. Since the credit expired on 12/31/10, the method proposed by this measure merely changes the expiration date of the existing statutory language and provides that the provision shall be effective for tax years beginning after December 31, 2010 in an attempt to make it an "extension" of the expired credit. It would appear to be more appropriate to restate the provisions as language in a new section under the income tax law.

While the focus on high technology in the last few years is commendable, it fails to recognize that investments are made with the prospect that the venture will yield a profit. If the prospects for making a profit are absent, no amount of tax credits will attract investment from outside Hawaii's capital short environment. People do not invest to lose money. It should be remembered that until Hawaii's high cost of living can be addressed, all the tax incentives in the world will not make a difference in attracting new investment to Hawaii. The only attractive aspect for resident investors to plough money into such activities is the fact that the credit provides a way to avoid paying state taxes.

Given the fiasco of Act 221 which amounted to nothing more than an outright give away of precious state tax dollars on a dollar-for-dollar basis, this proposal and all others proposing added business targeted tax credits should give lawmakers reason for pause before heading down the same disastrous path again.

Digested 2/1/13