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## A BILL FOR AN ACT

RELATING TO TAXATION.

**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 (STEM) education in our public education system, from grade  
4 school through college and beyond. Each year, the legislature  
5 appropriates significant capital to fund initiatives that  
6 further STEM education at all levels of our education system. A  
7 STEM education and a culture of innovation are essential to help  
8 Hawaii's economic sectors grow and diversify with new products,  
9 services, and processes. Yet, each year, many of Hawaii's  
10 children leave these islands for STEM careers on the mainland  
11 and in other countries. Many of them do not want to leave.  
12 However, due to a lack of STEM career opportunities in the  
13 State, they have no choice.

14           The legislature recognizes that funding STEM educational  
15 initiatives alone does not ensure a vibrant STEM future for our  
16 children in Hawaii. Educational efforts must be matched with  
17 initiatives that help foster STEM research and development, the  
18 core of innovation. Innovative research and development helps



1 spur growth in our technology industry and is the critical first  
2 step in the product development cycle.

3 Innovation is essential for creating new jobs, not only in  
4 the high technology sector, but in traditional sectors as well.  
5 In recent years, innovation has led to new jobs in sectors as  
6 diverse as defense or dual use, software and information  
7 technology, life sciences and biotechnology, and clean energy.  
8 At the same time, innovations ripple through the economy,  
9 creating jobs for workers building advanced infrastructure  
10 (clean energy solutions), installing broadband networks, and  
11 utilizing new devices and products in the service industries,  
12 such as healthcare and tourism.

13 Innovation is also critical for sustaining the vitality and  
14 resilience of our economy. Future challenges (natural or man-  
15 made) are impossible to predict. However, it is certain that an  
16 economy better able to respond to such events by adapting  
17 innovative solutions and re-deploying old activities, jobs, and  
18 industries will be less susceptible to adversity.

19 Innovation is the key to remaining competitive globally, to  
20 creating new and better STEM jobs for our children, and to  
21 creating a resilient economy.



1           The legislature, therefore, supports research and  
2 development as the stimulant to an innovative Hawaii STEM  
3 economy of which our children can be a part.

4           The purpose of this Act is to reestablish a temporary  
5 income tax credit for qualified research activities in the State  
6 of Hawaii. This credit will:

- 7           (1) Provide support for scientific experimentation;
- 8           (2) Help to bridge the funding gap between federal early  
9           stage research funding and the critical product  
10           development and validation stage;
- 11           (3) Contribute to the diversification of the State's  
12           economy; and
- 13           (4) Help to create STEM jobs in Hawaii.

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

16           "**§235-110.91 Tax credit for research activities.** (a)  
17 Section 41 (with respect to the credit for increasing research  
18 activities) and section 280C(c) (with respect to certain  
19 expenses for which the credit for increasing research activities  
20 are allowable) of the Internal Revenue Code shall be operative  
21 for the purposes of this chapter as provided in this section;  
22 except that references to the base amount shall not apply and



1 credit for all qualified research expenses may be taken without  
2 regard to the amount of expenses for previous years. If section  
3 41 of the Internal Revenue Code is repealed or terminated prior  
4 to January 1, 2011, its provisions shall remain in effect for  
5 purposes of the income tax law of the State as modified by this  
6 section, as provided for in subsection [~~(j)~~] (n).

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

10 (c) There shall be allowed to each qualified high  
11 technology business subject to the tax imposed by this chapter  
12 an income tax credit for qualified research activities equal to  
13 the credit for research activities provided by section 41 of the  
14 Internal Revenue Code and as modified by this section. The  
15 credit shall be deductible from the taxpayer's net income tax  
16 liability, if any, imposed by this chapter for the taxable year  
17 in which the credit is properly claimed.

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

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



1 file the certificate with the taxpayer's tax return with the  
2 department.

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

8 (f) As used in this section:

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

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

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

19 (g) If the tax credit for qualified research activities  
20 claimed by a taxpayer exceeds the amount of income tax payment  
21 due from the taxpayer, the excess of the tax credit over  
22 payments due shall be refunded to the taxpayer; provided that no



1 refund on account of the tax credit allowed by this section  
2 shall be made for amounts less than \$1.

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

8 (i) A qualified high technology business that claims a  
9 credit under this section shall complete and file with the  
10 director of taxation, through the department website, an annual  
11 survey on electronic forms prepared and prescribed by the  
12 department. The annual survey shall be filed before June 30 of  
13 each calendar year following the calendar year in which the  
14 credit may be claimed under this section. The department may  
15 adjust the due date of the annual survey by rule.

16 (j) The annual survey shall include the following  
17 information for the time period or periods specified by the  
18 department:

19 (1) Identification of the industry sector or sectors in  
20 which the qualified high technology business conducts  
21 business, as set forth in paragraphs (2) to (8) of the



1 definition of "qualified research" in section 235-

2 7.3(c);

3 (2) Qualified expenditures, if any, made in the previous  
4 taxable year;

5 (3) Revenue and expense data;

6 (4) Hawaii employment and wage data, including the number  
7 of full-time and part-time employees retained, new  
8 jobs, temporary positions, external services procured  
9 by the business, and payroll taxes; and

10 (5) Intellectual property filings, including invention  
11 disclosures, provisional patents, and patents issued  
12 or granted.

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

21 (k) The department shall use information collected under  
22 this section and through other reporting requirements of the





1 department to prepare summary descriptive statistics by  
2 category. The information shall be reported at the aggregate  
3 level to prevent compromising the identities of qualified high  
4 technology business investors or other confidential information.  
5 The department shall also identify each qualified high  
6 technology business that is the beneficiary of tax credits  
7 claimed under this section. The department shall report the  
8 information required under this subsection to the legislature by  
9 September 1 of each year.

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

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



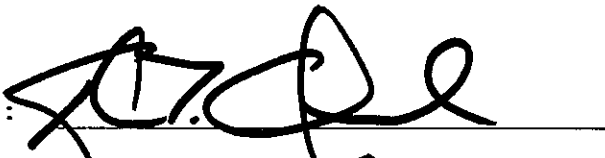
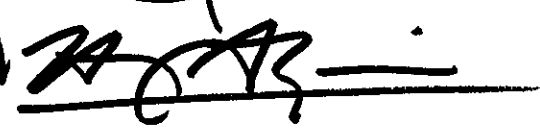
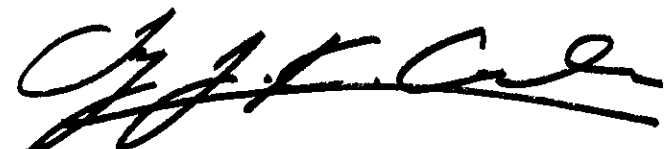

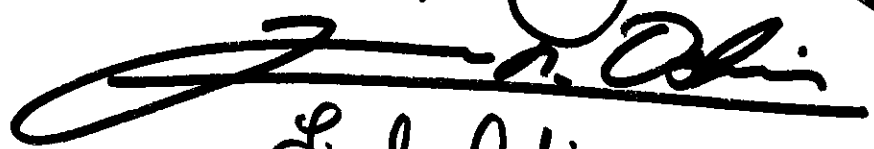

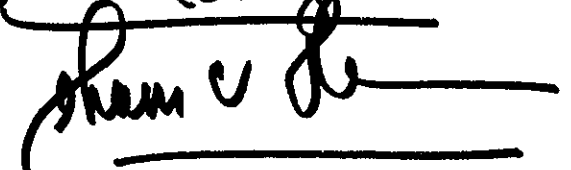
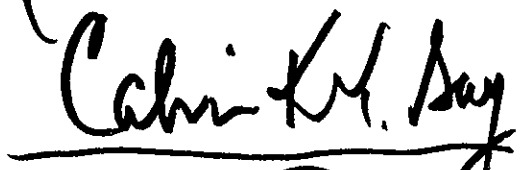
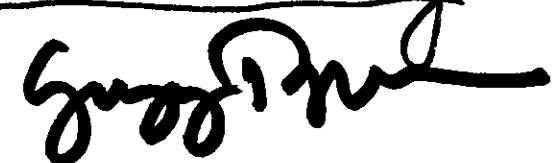
1            [~~(j)~~] (n) This section shall not apply to taxable years  
2 beginning after December 31, [~~2010.~~] 2015."

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

5            SECTION 4. This Act shall take effect on July 1, 2013, and  
6 shall apply to taxable years beginning after December 31, 2012.

7

INTRODUCED BY:



**Report Title:**

Education; High Technology; Research Tax Credit

**Description:**

Reestablishes the temporary income tax credit for research activities. Requires a qualified high technology business that claims the tax credit for research activities to file annual survey information with the department of taxation by June 30 of each year. Requires the department of taxation to report to the legislature by September 1 of each year on the information collected by the survey and the effectiveness of the tax credit.

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

