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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. Section 235-110.91, Hawaii Revised Statutes, is  
2 amended to read as follows:  
3           "**§235-110.91 Tax credit for research activities.** (a)  
4 Section 41 (with respect to the credit for increasing research  
5 activities) and section 280C(c) (with respect to certain  
6 expenses for which the credit for increasing research activities  
7 are allowable) of the Internal Revenue Code shall be operative  
8 for the purposes of this chapter as provided in this section;  
9 provided that the federal tax provisions in section 41 of the  
10 Internal Revenue Code, as that section was enacted on  
11 December 31, 2011, irrespective of any subsequent changes to  
12 section 41 of the Internal Revenue Code, shall remain in effect  
13 for purposes of determining the state income tax credit under  
14 this section; provided further that the federal tax provisions  
15 in section 41 of the Internal Revenue Code, as enacted on  
16 December 31, 2011, irrespective of any subsequent amendments to  
17 section 41 of the Internal Revenue Code, shall apply only to



1 expenses incurred for qualified research activities after  
 2 December 31, 2012[-]; provided further that, for tax years  
 3 beginning after December 31, 2018, there shall be allowed a  
 4 Hawaii state income tax credit of            times any credit as  
 5 calculated under the federal tax provisions in section 41 of the  
 6 Internal Revenue Code as enacted on December 31, 2011.

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; provided  
 15 that, in addition to any other requirements established in this  
 16 section, in order to qualify for the tax credit established in  
 17 this section, the qualified high technology business shall also  
 18 claim a federal tax credit for the same qualified research  
 19 activities under section 41 of the Internal Revenue Code, as  
 20 enacted on December 31, 2011, irrespective of any subsequent  
 21 amendments to section 41 of the Internal Revenue Code. The



1 credit shall be deductible from the taxpayer's net income tax  
2 liability, if any, imposed by this chapter for the taxable year  
3 in which the credit is properly claimed; provided further that,  
4 for tax years beginning after December 31, 2018, there shall be  
5 allowed a Hawaii state income tax credit of \_\_\_\_\_ times any  
6 credit as calculated under the federal tax provisions in section  
7 41 of the Internal Revenue Code as enacted on December 31, 2011.

8 (d) Every qualified high technology business, before March  
9 31 of each year in which qualified research and development  
10 activity was conducted in the previous taxable year, shall  
11 submit a written, certified statement to the director of  
12 taxation identifying:

- 13 (1) Qualified expenditures, if any, expended in the  
14 previous taxable year; and  
15 (2) The amount of tax credits claimed pursuant to this  
16 section, if any, in the previous taxable year.

17 (e) The department shall:

- 18 (1) Maintain records of the names and addresses of the  
19 taxpayers claiming the credits under this section and  
20 the total amount of the qualified research and



1 development activity costs upon which the tax credit  
2 is based;

3 (2) Verify the nature of the qualifying research activity  
4 and the amount of the qualifying costs or  
5 expenditures;

6 (3) Total all qualifying and cumulative costs or  
7 expenditures that the department certifies; and

8 (4) Certify the amount of the tax credit for each taxable  
9 year and cumulative amount of the tax credit.

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

18 The director of taxation may assess and collect a fee to  
19 offset the costs of certifying tax credit claims under this  
20 section. All fees collected under this section shall be



1 deposited into the tax administration special fund established  
2 under section 235-20.5.

3 (f) As used in this section:

4 "Qualified high technology business" shall have the same  
5 meaning as in section 235-110.9(g).

6 "Qualified research" shall have the same meaning as in  
7 section 41(d) of the Internal Revenue Code.

8 "Qualified research expenses" shall have the same meaning  
9 as in section 41(b) of the Internal Revenue Code; provided that  
10 it shall not include research expenses incurred outside of the  
11 State.

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

18 (h) All claims for a tax credit under this section shall  
19 be filed on or before the end of the twelfth month following the  
20 close of the taxable year for which the credit may be claimed.



1 Failure to properly claim the credit shall constitute a waiver  
2 of the right to claim the credit.

3 (i) If at the close of any taxable year within a five-year  
4 period beginning with the first year that a qualified high  
5 technology business claims a tax credit pursuant to subsections  
6 (a) or (c), the business no longer qualifies as a qualified high  
7 technology business, the credit claimed under this section shall  
8 be recaptured. The recapture shall be equal to the amount of  
9 the total tax credit claimed under this section in the preceding  
10 five taxable years. The amount of the recaptured tax credit  
11 determined under this subsection shall be added to the  
12 taxpayer's tax liability for the taxable year in which the  
13 recapture occurs under this subsection.

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



1 ~~section. The department of business, economic development, and~~  
2 ~~tourism may adjust the due date of the annual survey by rules~~  
3 ~~adopted pursuant to chapter 91.~~

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

- 8 (1) Identification of the industry sector or sectors in  
9 which the qualified high technology business conducts  
10 business, as set forth in paragraphs (2) to (8) of the  
11 definition of "qualified research" in section  
12 235-7.3(c);
- 13 (2) Total expenditures and the qualified expenditures, if  
14 any, expended in the previous taxable year;
- 15 (3) Revenue and expense data, including a breakdown of any  
16 licensing royalty or other forms of income generated  
17 from intellectual property;
- 18 (4) Hawaii employment and wage data, including the numbers  
19 of full-time and part-time employees retained, new  
20 jobs, temporary positions, external services procured  
21 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)~~] (l) The department of business, economic  
19 development, and tourism shall use information collected under  
20 this section and through its other reporting requirements to  
21 prepare summary descriptive statistics by category. The





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

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

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



- 1 (4) External services and materials procured by the
- 2 businesses;
- 3 (5) The compensation levels of jobs provided by qualified
- 4 high technology businesses;
- 5 (6) Qualified research activities; and
- 6 (7) Any other factors the department of business, economic
- 7 development, and tourism deems relevant.

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

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

13 [~~(n)~~] (o) This section shall not apply to taxable years  
 14 beginning after December 31, [~~2019-~~] \_\_\_\_\_."

15 SECTION 2. Statutory material to be repealed is bracketed  
 16 and stricken. New statutory material is underscored.

17 SECTION 3. This Act shall take effect on July 1, 2112, and  
 18 shall apply to taxable years beginning after December 31, 2018.



**Report Title:**

Taxation; State Tax Credit for Research Activities; Increase;  
Extension

**Description:**

Increases the state tax credit for research activities to an unspecified portion of the allowable federal tax credit. Requires businesses to remain in Hawaii for 5 years after receiving the tax credit. Amends qualifying tax years. (SB965 HD1)

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

