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To: The Honorable Sean Quinlan, Chair;  
The Honorable Daniel Holt, Vice Chair;  
and Members of the House Committee on Economic Development

From: Isaac W. Choy, Director  
Department of Taxation

Date: February 12, 2021  
Time: 9:30 P.M.  
Place: Via Video Conference, State Capitol

**Re: H.B. 912, Relating to Tax Credit for Research Activities**

The Department of Taxation (Department) supports H.B. 912, an administration measure, provides the following comments regarding H.B. 912 for your consideration.

H.B. 912 consolidates the survey and the certification requirements for the tax credit for research activities tax credit under section 235-110.91, Hawaii Revised Statutes. It provides that certification is on a first come, first served basis by date (subject to certain conditions), and adds a per taxpayer of \$1 million, including related entities, subject to the existing \$5 million overall cap for all entities. The Department of Business, Economic Development, and Tourism is responsible for the survey and certification. The measure is effective upon approval and applies to taxable years beginning after December 31, 2020.

The Department will be able to administer this measure as it is written. Thank you for the opportunity to provide testimony in support of this measure.



## DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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Statement of  
**MIKE MCCARTNEY**  
Director

Department of Business, Economic Development, and Tourism  
before the

**HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT**

Friday, February 12, 2021  
9:30 AM  
State Capitol, Conference Room 312

In consideration of  
**HOUSE BILL 912**  
**RELATING TO TAX CREDITS FOR RESEARCH ACTIVITIES.**

Chair Quinlan, Vice Chair Holt, and members of the Committee. The Department of Business, Economic Development and Tourism (DBEDT) supports House Bill 912 which will consolidate both survey and certification requirements, further defines the process for first come, first served procedures, and adds a monetary cap for the credit.

The Hawaii Technology Development Corporation (HTDC) and the Creative Industries Division (CID) in DBEDT are working in collaboration to provide consistency for all DBEDT managed tax credit programs through the aligning systems and protocols which seek to enhance methods of data collection, reporting and management processes.

The proposed language as noted in HB 912 also addresses a system for processing of applications, adding a cap per taxpayer entity to align with the intent to support the generation of research activities in multiple areas of technology and research – all important aspects of an innovation economy for our state. Thank you for the opportunity to offer these comments.



# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

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SUBJECT: INCOME, Administration of Tax Credit For Research Activities

BILL NUMBER: HB 912; SB 1066

INTRODUCED BY: HB SAIKI by request; SB by KOUCHI by request

EXECUTIVE SUMMARY: Consolidates the survey and the certification requirements for the research activities tax credit, requires the certification on a first come, first served basis by date subject to certain conditions, and adds a cap for the taxpayer and related entities.

SYNOPSIS: Amends section 235-110.91, HRS, to provide:

- The credit is limited to \$1 million per taxable year to “[e]ach taxpayer, together with all of its related entities.”
- Additional elements required to be reported in the certified statement due to DBEDT at the end of the taxable year. These elements came from an annual survey formerly required by subsection (j) of the law, which is repealed by the bill.
- Clarifies that the \$5 million aggregate cap on the credit applies per calendar year.

EFFECTIVE DATE: Upon approval.

STAFF COMMENTS: The legislature by Act 270, SLH 2013, reestablished the income tax credit for qualified research activities that expired on 12/31/10. The prior version of that law, under Act 221, SLH 2001, offered a credit for qualified research activities that was a flat percentage of qualified research expenses in Hawaii without regard to the federal base amount (the federal credit is supposed to be an incentive to increase research activities, so the federal credit is based on incremental research expenses). When Act 270 brought the credit back, it did so as an incremental credit, like the federal credit.

Act 261, SLH 2019, amended the credit by reinserting the phrase “provided that references to the base amount shall not apply and credit for all qualified research expenses may be taken without regard to the amount of expenses for previous years.”

Substantively, over the last decade, Hawaii has adopted various tax incentives to encourage the development of high technology businesses in the state. The acts provided investment and research credits as well as income exclusions providing tax relief to high tech businesses and individuals associated with high tech businesses. 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 plow money into such activities is the fact that the credit provides a way to avoid paying state taxes.

At a minimum, lawmakers should carefully examine the results that have come out of this 20-year-old incentive to see if the State has gotten its money's worth. If it hasn't, how can an extension or increase in the credit be justified?

As a technical comment, lawmakers may wish to give some thought to defining "related entities" for purposes of the \$1 million limitation. Several dissimilar definitions of related entities exist in federal income tax law, for example IRC section 267, IRC section 1563, IRC section 304.

Digested 2/10/2021



Written Statement of  
**Len Higashi**  
Acting Executive Director  
Hawaii Technology Development Corporation  
before the  
**House Committee On Economic Development**  
Friday, February 12, 2021  
9:30 a.m.  
Videoconference

In consideration of  
**HB912**  
**RELATING TO TAX CREDIT FOR RESEARCH ACTIVITIES.**

Chair Quinlan, Vice Chair Holt, and Members of the Committee.

The Hawaii Technology Development Corporation (HTDC) **supports** HB912 that consolidates the survey and the certification requirements for the research activities tax credit, requires the certification on a first come, first served basis by date subject to certain conditions, and adds a cap for the taxpayer and related entities.

HTDC supports initiatives aimed at growing tech and innovation jobs. This year, HTDC is working with DBEDT to help setup the certification process for the revamped credit. This bill adds language to make the program easier for DBEDT to administer and aims to add some consistency with other DBEDT tax credit programs. Collecting the survey information at the same time the certification is applied for ensures that all surveys will be completed and an accurate report can be generated. Clarifying that the applications will be processed according to a timestamp instead of a datestamp prevents applicants from competing to all submit electronically at the exact second the application opens and over burdening the system. Adding a cap per taxpaying entity ensures that the credit is available for multiple companies.

Thank you for the opportunity to offer these comments.