
A BILL FOR AN ACT

RELATING TO HIGH TECHNOLOGY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Research and Development (R&D) is the core of
2 innovation and without innovation there is no technology
3 industry and the subsequent growth of our economy is stunted
4 with no new products, services, or processes. R&D is the
5 critical first step in the product development cycle. During
6 the R&D stage, ideas and theories are tested to determine
7 feasibility. Due to the increasingly interconnected and
8 competitive global economy, fostering and encouraging innovation
9 is essential to a comprehensive economic strategy for our State.
10 The key to developing more jobs and more prosperity will be to
11 create and deploy new products, services, and processes.

12 Innovation is essential for creating new jobs in high
13 technology and traditional sectors. In recent years, innovation
14 has led to new jobs in many different sectors as diverse as
15 defense or dual-use, software and information technology, life
16 sciences and biotechnology, and clean energy. At the same time,
17 innovations ripple through the economy, creating jobs for
18 workers building advanced infrastructure (clean energy



1 solutions), installing broadband networks, and utilizing new
2 devices and products in the service industries, such as
3 healthcare and tourism.

4 Innovation is also critical for sustaining the vitality and
5 resilience of our economy. Future challenges (natural or man-
6 made) are impossible to predict, but what is certain is that an
7 economy better able to respond to such events by adapting
8 innovative solutions and re-deploying old activities, jobs, and
9 industries will be least susceptible to adversity.

10 Innovation is the key to remaining competitive globally,
11 new and better jobs, and a resilient economy. The legislature
12 recognizes this and supports R&D as the stimulant to our
13 innovation economy.

14 The current law parallels, with enhancements tailored to
15 Hawaii's unique position, the Internal Revenue Code, providing
16 support for scientific experimentation through a tax credit at
17 twenty per cent of the cost of the qualified research. The
18 program cost to the State has averaged about \$11,000,000 per
19 year over the last nine years, and in 2006, provided funding to
20 over four hundred companies. This tax credit has been a great
21 source of support for local companies, especially to the R&D
22 companies that are still in the start-up and early stage, and is



1 seen as helping to level the playing field of our high cost
2 State, as Hawaii companies compete with national and
3 international competition. It has also been useful in providing
4 support for early-stage R&D companies that are not yet
5 profitable, and have few sources of funding. Further, the
6 refundable element is helping to attract new technology
7 companies to Hawaii.

8 In addition, in 2010, the senate committee on economic
9 development and technology and the house committee on economic
10 revitalization, business, and military affairs convened an
11 informal small business discussion group to address the most
12 critical issues facing the small business sectors within
13 Hawaii's economy. Representatives from The Chamber of Commerce
14 of Hawaii, construction and trades industries, community
15 nonprofits, the agricultural sector, food and restaurant
16 industries, retailing, the science and technology sector, the
17 commercial transportation industry, and interested stakeholders
18 developed a package of bills that address the most pressing
19 problems facing Hawaii's small business community.

20 The purpose of this Act is to support the findings of the
21 small business working group and recommendations to extend the
22 income tax credit for qualified research activities for an



1 additional five years and to add extensive reporting
2 requirements related to the tax credit.

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

5 **"§235-110.91 Tax credit for research activities. (a)**

6 Section 41 (with respect to the credit for increasing research
7 activities) and section 280C(c) (with respect to certain
8 expenses for which the credit for increasing research activities
9 are allowable) of the Internal Revenue Code shall be operative
10 for the purposes of this chapter as provided in this section;
11 except that references to the base amount shall not apply and
12 credit for all qualified research expenses may be taken without
13 regard to the amount of expenses for previous years. If section
14 41 of the Internal Revenue Code is repealed or terminated prior
15 to January 1, 2011, its provisions shall remain in effect for
16 purposes of the income tax law of the State as modified by this
17 section, as provided for in subsection [~~(j)~~] (n).

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

21 (c) There shall be allowed to each qualified high
22 technology business subject to the tax imposed by this chapter



1 an income tax credit for qualified research activities equal to
2 the credit for research activities provided by section 41 of the
3 Internal Revenue Code and as modified by this section. The
4 credit shall be deductible from the taxpayer's net income tax
5 liability, if any, imposed by this chapter for the taxable year
6 in which the credit is properly claimed.

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

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

16 (e) The department shall:

- 17 (1) Maintain records of the names and addresses of the
18 taxpayers claiming the credits under this section and
19 the total amount of the qualified research and
20 development activity costs upon which the tax credit
21 is based;



- 1 (2) Verify the nature and amount of the qualifying costs
2 or expenditures;
- 3 (3) Total all qualifying and cumulative costs or
4 expenditures that the department certifies; and
- 5 (4) Certify the amount of the tax credit for each taxable
6 year and cumulative amount of the tax credit.

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

15 The director of taxation may assess and collect a fee to
16 offset the costs of certifying tax credit claims under this
17 section. All fees collected under this section shall be
18 deposited into the tax administration special fund established
19 under section 235-20.5.

20 (f) As used in this section:



1 "Basic research" under section 41(e) of the Internal
2 Revenue Code shall not include research conducted outside of the
3 State.

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

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

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

17 (h) All claims for a tax credit under this section shall
18 be filed on or before the end of the twelfth month following the
19 close of the taxable year for which the credit may be claimed.
20 Failure to properly claim the credit shall constitute a waiver
21 of the right to claim the credit.



1 (i) A qualified high technology business that claims the
2 credit under this section shall complete and file with the
3 director of taxation through the department website, an annual
4 survey on electronic forms prepared and prescribed by the
5 department. The annual survey shall be filed before June 30 of
6 each calendar year following the calendar year in which the
7 credit may be claimed under this section. The department may
8 adjust the due date of the annual survey by rule.

9 (j) The annual survey shall include the following
10 information for the time period or periods specified by the
11 department:

- 12 (1) Identification of the industry sector or sectors in
13 which the qualified high technology business conducts
14 business, as set forth in paragraphs (2) to (8) of the
15 definition of "qualified research" in section
16 235-7.3(c);
- 17 (2) Qualified expenditures, if any, expended in the
18 previous taxable year;
- 19 (3) Revenue and expense data;
- 20 (4) Hawaii employment and wage data including the numbers
21 of full and part-time employees retained, new jobs,



1 temporary positions, external services procured by the
2 business, and payroll taxes; and

3 (5) Filed intellectual property, including invention
4 disclosures, provisional patents, and patents issued
5 or granted.

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

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



1 information required under this subsection to the legislature by
2 September 1 of each year.

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

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

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

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

19 SECTION 4. This Act, upon its approval, shall apply to
20 taxable years beginning after December 31, 2010.

21



Report Title:

High Technology; R&D Income Tax Credit

Description:

Adds reporting requirements to measure the effectiveness of the state research and development tax credit; extends the tax credit for five years. (SD1)

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