

---

---

# A BILL FOR AN ACT

RELATING TO ECONOMIC DEVELOPMENT.

**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 education in our public education system from grade school  
4 through college and beyond. Each year, the legislature  
5 appropriates significant moneys to fund initiatives that further  
6 science, technology, engineering, and mathematics education at  
7 all levels of Hawaii's education system. A science, technology,  
8 engineering, and mathematics education and a culture of  
9 innovation are essential to help grow and diversify Hawaii's  
10 economic sectors with new products, services, and processes.

11           The legislature further finds, however, that each year many  
12 Hawaii residents leave the State for careers in science,  
13 technology, engineering, and mathematics across the United  
14 States and the globe. Many do not want to leave but have no  
15 choice as there are too few career opportunities in science,  
16 technology, engineering, and mathematics in the State.

17           The legislature finds that funding science, technology,  
18 engineering, and mathematics educational initiatives alone does



1 not ensure jobs in science, technology, engineering, and  
2 mathematics for Hawaii's residents. Educational efforts must be  
3 matched with initiatives that help foster jobs in science,  
4 technology, engineering, and mathematics research and  
5 development, which is the core of innovation. Innovative  
6 research and development helps spur growth and maintain our  
7 technology industry, and is the critical first step in the  
8 product development cycle.

9 Innovation is essential for creating new jobs in the high  
10 technology sector and traditional sectors. In recent years,  
11 innovation has led to new jobs in sectors as diverse as defense  
12 or dual-use, software and information technology, life sciences  
13 and biotechnology, and clean energy. At the same time,  
14 innovations ripple through the economy, creating jobs for  
15 workers building advanced infrastructure (clean energy  
16 solutions), installing broadband networks, and utilizing new  
17 devices and products in the service industries, such as  
18 healthcare and tourism. Innovation is also critical for  
19 sustaining the vitality and resilience of Hawaii's economy.

20 The legislature finds that while future challenges are  
21 impossible to predict, the State's economy will be able to  
22 respond to any challenges by adapting innovative solutions and



1 re-deploying old activities and jobs, making industries in the  
2 State less susceptible to adversity.

3 The legislature further finds that innovation is the key to  
4 remaining competitive globally, creating new and better science,  
5 technology, engineering, and mathematics jobs for Hawaii's  
6 residents, and creating a resilient economy. Support for  
7 research and development stimulates the growth of jobs in  
8 science, technology, engineering, and mathematics.

9 The purpose of this Act is to re-establish an income tax  
10 credit for qualified research activities in the State of Hawaii  
11 that would:

- 12 (1) Provide support for scientific experimentation at  
13 twenty per cent of qualified research expenditures;
- 14 (2) Help bridge any funding gap between federal early  
15 stage research funding and the critical product  
16 development and validation stage; and
- 17 (3) Contribute to the diversification of our economy by  
18 creating and maintaining science, technology,  
19 engineering, and mathematics jobs in Hawaii.

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



1           "§235-110.91 Tax credit for research activities. (a)  
2 Section 41 (with respect to the credit for increasing research  
3 activities) and section 280C(c) (with respect to certain  
4 expenses for which the credit for increasing research activities  
5 are allowable) of the Internal Revenue Code shall be operative  
6 for the purposes of this chapter as provided in this section;  
7 except that references to the base amount shall not apply and  
8 credit for all qualified research expenses may be taken without  
9 regard to the amount of expenses for previous years[.—If  
10 ~~section 41 of the Internal Revenue Code is repealed or~~  
11 ~~terminated prior to January 1, 2011, its provisions shall remain~~  
12 ~~in effect for purposes of the income tax law of the State as~~  
13 ~~modified by this section, as provided for in subsection (j).];~~  
14 provided that the federal tax provisions in section 41 of the  
15 Internal Revenue Code as that section was enacted on  
16 December 31, 2011, shall remain in effect for purposes of  
17 determining the state income tax credit under this section;  
18 provided further that the federal tax provisions in section 41  
19 of the Internal Revenue Code as enacted on December 31, 2011,  
20 shall apply only to expenses incurred for qualified research  
21 activities after December 31, 2010.



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

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

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

- 17 (1) Qualified expenditures, if any, expended in the  
18 previous taxable year; and  
19 (2) The amount of tax credits claimed pursuant to this  
20 section, if any, in the previous taxable year.

21 (e) The department of taxation shall:



- 1 (1) Maintain records of the names and addresses of the  
2 taxpayers claiming the credits under this section and  
3 the total amount of the qualified research and  
4 development activity costs upon which the tax credit  
5 is based;
- 6 (2) Verify the nature of the qualifying research activity  
7 and the amount of the qualifying costs or  
8 expenditures;
- 9 (3) Total all qualifying and cumulative costs or  
10 expenditures that the department of taxation  
11 certifies; and
- 12 (4) Certify the amount of the tax credit for each taxable  
13 year and cumulative amount of the tax credit.

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



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

6           (f) As used in this section:

7           ~~["Basic research" under section 41(e) of the Internal~~  
8 ~~Revenue Code shall not include research conducted outside of the~~  
9 ~~State.]~~

10           "Qualified high technology business" ~~[means]~~ shall have the  
11 same meaning as in section ~~[235-110.9.]~~ 235-7.3(c).

12           "Qualified research" ~~[under section 41(d)(1)]~~ shall have  
13 the same meaning as in section 41(d) of the Internal Revenue  
14 Code ~~[shall not include research conducted outside of the~~  
15 ~~State].~~

16           "Qualified research expenses" shall have the same meaning  
17 as in section 41(b) of the Internal Revenue Code; provided that  
18 it shall not include research expenses incurred outside of the  
19 State.

20           (g) If the tax credit for qualified research activities  
21 claimed by a taxpayer exceeds the amount of income tax payment  
22 due from the taxpayer, the excess of the tax credit over



1 payments due shall be refunded to the taxpayer; provided that no  
2 refund on account of the tax credit allowed by this section  
3 shall be made for amounts less than \$1.

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

9 (i) A qualified high technology business that claims the  
10 credit under this section shall complete and file with the  
11 department of business, economic development, and tourism  
12 through the department of business, economic development, and  
13 tourism's website, an annual survey on electronic forms prepared  
14 and prescribed by the department of business, economic  
15 development, and tourism. The annual survey shall be filed  
16 before June 30 of each calendar year following the calendar year  
17 in which the credit may be claimed under this section. The  
18 department of business, economic development, and tourism may  
19 adjust the due date of the annual survey by rule pursuant to  
20 chapter 91.





1        (j) The annual survey shall include the following  
2 information for the time period or periods specified by the  
3 department of business, economic development, and tourism:

4        (1) Identification of the industry sector or sectors in  
5 which the qualified high technology business conducts  
6 business, as set forth in paragraphs (2) to (8) of the  
7 definition of "qualified research" in section  
8 235-7.3(c);

9        (2) Total expenditures and the qualified expenditures, if  
10 any, expended in the previous taxable year;

11       (3) Revenue and expense data, to include a breakdown of  
12 any licensing royalty or other forms of income  
13 generated from intellectual property;

14       (4) Hawaii employment and wage data including the numbers  
15 of full and part-time employees retained, new jobs,  
16 temporary positions, external services procured by the  
17 business, and payroll taxes;

18       (5) Filed intellectual property, including invention  
19 disclosures, provisional patents, and patents issued  
20 or granted; and



1       (6) Number of new companies spun out or established to  
2       commercialize the intellectual property owned by the  
3       qualified high technology business.

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

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



1 qualified high technology business that is the beneficiary of  
2 tax credits claimed under this section. The department of  
3 business, economic development, and tourism shall report the  
4 information required under this subsection to the legislature by  
5 September 1 of each year.

6 (1) The department of business, economic development, and  
7 tourism shall use the information collected to study the  
8 effectiveness of the tax credit under this section. The  
9 department of business, economic development, and tourism shall  
10 report on the amount of tax credits claimed and total taxes paid  
11 by qualified high technology businesses; the number of qualified  
12 high technology businesses in each industry sector; jobs  
13 created; external services and materials procured by the  
14 businesses; compensation levels; qualified research activities;  
15 and any other factor the department of business, economic  
16 development, and tourism deems relevant. The department of  
17 business, economic development, and tourism shall report the  
18 results of its study to the legislature by September 1 of each  
19 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-~~] 2017."

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 upon its approval,  
6 and shall apply to taxable years beginning after December 31,  
7 2010.

8



**Report Title:**

High Technology; Research Activities; Tax Credit

**Description:**

Re-enacts the tax credit for qualified research activities to apply to taxable years from 2010 to 2017. Adds, amends, and deletes definitions. Establishes new reporting requirements. Requires DBEDT to conduct studies to measure the effectiveness of the tax credit and submit reports to the legislature. (SD1)

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

