



GOV. MSG. NO. 976

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

June 21, 2007

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 21, 2007, the following bill was signed into law:

HB1631 HD2 SD2 CD1

A BILL FOR AN ACT RELATING TO HIGH
TECHNOLOGY BUSINESS INVESTMENT TAX
CREDIT.
(ACT 206)

Sincerely,

A handwritten signature in black ink, appearing to read "James R. Aiona, Jr.", written in a cursive style.

JAMES R. AIONA, JR.
Acting Governor

A BILL FOR AN ACT

RELATING TO HIGH TECHNOLOGY BUSINESS INVESTMENT TAX CREDIT.

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

1 SECTION 1. The legislature finds that it is difficult to
2 evaluate whether the high technology business investment tax
3 credit, first enacted in Act 178, Session Laws of Hawaii 1999,
4 as amended, has been successful. Although the credit has poured
5 millions of dollars into Hawaii's economy, accurate information
6 with respect to the efficacy of the credit appears lacking.
7 Reports by the department of taxation and the department of
8 business, economic development, and tourism on the effectiveness
9 of the investment and other high technology credits were
10 confusing and inconsistent. All parties agree that a better
11 evaluation is needed.

12 The purpose of this Act is to measure the effectiveness of
13 Act 178 high technology business investment tax credit by
14 requiring:

15 (1) Qualified high technology businesses receiving an
16 investment for which a credit may be claimed under
17 section 235-110.9, Hawaii Revised Statutes, to submit
18 investment, employment, job creation, wage, revenue,



1 expense, and other information to the department of
2 taxation;

3 (2) The department of taxation to annually report this
4 information in aggregate form to the legislature; and

5 (3) The department of taxation to use the information to
6 study the effectiveness of the tax credit and report
7 the department's findings to the legislature.

8 SECTION 2. (a) A qualified high technology business that
9 accepts an investment for which the credit under section 235-
10 110.9, Hawaii Revised Statutes, may be claimed shall complete
11 and file with the director of taxation through the department
12 website, an annual survey on electronic forms prepared and
13 prescribed by the department. The annual survey shall be filed
14 before June 30 of each calendar year following the five calendar
15 years in which the credit for the investment may be claimed
16 under section 235-110.9, Hawaii Revised Statutes. The
17 department may adjust the due date of the annual survey by rule.

18 (b) The annual survey shall include the following
19 information for the time period or periods specified by the
20 department:

21 (1) Identification of the industry sector or sectors in
22 which the qualified high technology business conducts



1 business, as set forth in paragraphs (2) to (8) of the
2 definition of "qualified research" in section 235-7.3,
3 Hawaii Revised Statutes;

4 (2) Investment credit data including the amount of
5 investments received by the qualified high technology
6 business in the reporting calendar year;

7 (3) Revenue and expense data; and

8 (4) Hawaii employment and wage data including the numbers
9 of full and part-time employees retained, new jobs,
10 and temporary positions.

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

19 (c) A qualified high technology business required to file
20 an annual survey under subsection (a) that fails to file the
21 survey by the due date or any extension thereof, shall be
22 assessed a penalty of \$1,000 per month for each month the annual



1 survey is not filed not to exceed a total of \$6,000 for every
2 annual survey not filed. Penalties collected under this
3 subsection shall be deposited into the tax administration
4 special fund established under section 235-20.5, Hawaii Revised
5 Statutes.

6 (d) The department shall use information collected under
7 this section and through other reporting requirements of the
8 department to prepare summary descriptive statistics by
9 category. The information shall be reported at the aggregate
10 level to prevent compromising identities of qualified high
11 technology business investors or other confidential information.
12 The department shall also identify each qualified high
13 technology business that is the beneficiary of investments under
14 section 235-110.9, Hawaii Revised Statutes. The department
15 shall report the information required under this subsection to
16 the legislature by September 1 of each year.

17 (e) The department shall use the information collected
18 under this section to study the effectiveness of the credit
19 under section 235-110.9, Hawaii Revised Statutes. The
20 department shall report on the amount of investment made into
21 qualified high technology businesses, the number of qualified
22 high technology businesses in each industry sector, jobs



1 created, compensation levels, qualified research activities, and
2 other factors as the department determines. The department
3 shall report the results of its study to the legislature by
4 December 1 of each year.

5 (f) The department shall adopt rules pursuant to chapter
6 91 to implement this section.

7 SECTION 3. Section 235-20.5, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "[~~f~~]**\$235-20.5[+]** **Tax administration special fund;**
10 **established.** There is established a tax administration special
11 fund, into which shall be deposited fees collected under
12 sections 235-20, 235-110.9, and 235-110.91[~~-~~], and penalties
13 collected under section 2 of Act _____. The moneys in the fund
14 shall be expended by the department to offset the costs
15 associated with:

- 16 (1) Issuing comfort letters;
17 (2) [~~Issuing certificates under~~] Administering the tax
18 credit under section 235-110.9[+], including issuing
19 certificates; and
20 (3) Issuing certificates under section 235-110.91."

21 SECTION 4. Section 235-110.9, Hawaii Revised Statutes, is
22 amended by amending subsection (b) to read as follows:



1 "(b) The credit allowed under this section shall be
2 claimed against the net income tax liability for the taxable
3 year. For the purpose of this section, "net income tax
4 liability" means net income tax liability reduced by all other
5 credits allowed under this chapter. By accepting an investment
6 for which the credit allowed under this section may be claimed,
7 a qualified high technology business consents to the public
8 disclosure of the qualified high technology business' name and
9 status as a beneficiary of the credit under this section."

10 SECTION 5. The department of taxation shall prepare and
11 submit a report to the legislature by October 31, 2007,
12 summarizing data submitted by qualified high technology
13 businesses on form N-317 for all previous years available. The
14 report shall include but not be limited to summary descriptive
15 statistics regarding the nature of qualified research
16 activities, job creation, and salaries paid by high technology
17 businesses.

18 SECTION 6. In printing this Act, the revisor of statutes
19 shall substitute in section 235-20.5, Hawaii Revised Statutes,
20 of section 3, the corresponding act number of this Act.

21 SECTION 7. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 8. This Act shall take effect on July 1, 2007, and
2 shall apply to investments received by a qualified high
3 technology business after June 30, 2007; provided that this Act
4 shall be repealed on January 1, 2011, and sections 235-20.5 and
5 235-110.9(b), Hawaii Revised Statutes, shall be reenacted in the
6 form in which they read on the day before the effective date of
7 this Act.

APPROVED this 21 day of JUN , 2007


ACTING GOVERNOR OF THE STATE OF HAWAII

