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# 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 and the tax credit for increasing high-technology  
4 research activities, first enacted in Act 178, Session Laws of  
5 Hawaii 1999, as amended, have been successful. Although these  
6 credits have poured millions of dollars into the State's  
7 economy, accurate information with respect to the efficacy of  
8 these credits appears lacking. Reports by the department of  
9 taxation and the department of business, economic development,  
10 and tourism on the effectiveness of the credits were confusing  
11 and inconsistent. All parties agree that a better evaluation of  
12 Act 178 high-technology credits is needed.

13           The purpose of this Act is to measure the effectiveness of  
14 Act 178 high-technology business investment and research  
15 activities credits by requiring:

16           (1) Qualified high technology businesses claiming the  
17           credits to submit employment information to the  
18           department of taxation;



- 1 (2) The department of taxation to annually report this
- 2 information in aggregate form to the legislature; and
- 3 (3) The department of taxation to use the information to
- 4 study the effectiveness of the tax credits and report
- 5 the department's findings to the legislature.

6 SECTION 2. Chapter 235, Hawaii Revised Statutes, is  
 7 amended by adding a new section to be appropriately designated  
 8 and to read as follows:

9 **"235- High technology; other reporting requirements.**

10 (a) A qualified high technology business claiming a tax  
 11 credit under section 235-110.9 or 235-110.91 or receiving an  
 12 investment for which the credit under section 235-110.9 may be  
 13 claimed shall complete and file a complete annual survey with  
 14 the director of taxation on forms prepared and prescribed by the  
 15 department. The annual survey shall be filed before March 31 of  
 16 each year following the year in which:

- 17 (1) An investment in a qualified high technology business
- 18 was made; or
- 19 (2) Qualified research and development activity was
- 20 conducted.

21 The department may adjust the due date of the annual survey by  
 22 rule.



- 1        (b) The annual survey shall include the following  
2 information for the time period or periods specified by the  
3 department:
- 4        (1) The taxpayer's net income tax liability;  
5        (2) Whether the credit was assigned under section 235-  
6        110.9 or 235-110.91 and who assigned the credit;  
7        (3) Information about the employment positions in the  
8        qualified high technology business in the state,  
9        including:
- 10       (A) The total number of positions;  
11       (B) The number of these positions filled by Hawaii  
12       residents;  
13       (C) The number of new positions;  
14       (D) The number of new positions filled by Hawaii  
15       residents;  
16       (E) Full-time, part-time, and temporary positions as a  
17       per cent of total employment;  
18       (F) Of the total number of positions, the number of  
19       positions falling within the following wage bands:
- 20       (i) Less than \$30,000;  
21       (ii) \$30,000 or greater, but less than \$60,000;



1            (iii) \$60,000 or greater; provided that a wage  
2            band containing fewer than three individuals  
3            may be combined with another wage band;

4            and

5            (G) For each of the wage bands in subparagraph (F),  
6            the number of positions that have employer-  
7            provided medical, dental, and retirement benefits.

8            The department may request additional information necessary  
9            to measure the results of the tax credit program, to be  
10           submitted at the same time as the survey. The department shall  
11           define "full-time position", "part-time position", "temporary  
12           position", and "new position" by rule.

13           (c) If a qualified high technology business fails to file  
14           a complete annual survey under this section with the department  
15           by the due date or any extension thereof, the qualified high  
16           technology business otherwise entitled to the tax credit shall  
17           not be eligible to claim or assign the credit under section 235-  
18           110.9 or 235-110.91, as the case may be, for the taxable year  
19           prior to the year in which the person failed to timely file a  
20           complete annual survey.

21           (d) The department shall use information collected under  
22           this section to prepare summary descriptive statistics by



1 category. No fewer than three taxpayers shall be included in  
2 any category. The department shall also identify each qualified  
3 high technology business receiving credits under section 235-  
4 110.9 or 235-110.91. The department shall report the  
5 information required under this subsection to the legislature by  
6 September 1 each year.

7 (e) The department shall use the information collected  
8 under this section to study the effectiveness of the tax credits  
9 under sections 235-110.9 and 235-110.91. The department shall  
10 measure the effect of the tax credits on job creation, the  
11 number of jobs created in the state, company growth, the  
12 diversification of the State's economy, the movement of firms,  
13 the introduction of new products, growth in research and  
14 development investment, the consolidation of firms operating in  
15 the state, and other factors as the department determines. The  
16 department shall report the results of its study to the  
17 legislature by December 1, , and December 1, .

18 (f) The department shall adopt rules to implement this  
19 section."

20 SECTION 2. Section 235-110.9, Hawaii Revised Statutes, is  
21 amended as follows:

22 1. By amending subsection (b) to read:



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 claiming the credit, a  
6 qualified high technology business consents to the public  
7 disclosure of the taxpayer's name and the taxpayer's status as a  
8 claimant of the credit under this section."

9           2. By amending subsections (e) and (f) to read:

10           (e) Every taxpayer, before March 31 of each year in which  
11 an investment in a qualified high technology business was made  
12 in the previous taxable year, shall submit a written, certified  
13 statement to the director of taxation identifying:

14           (1) Qualified investments, if any, expended in the  
15 previous taxable year; and

16           (2) The amount of tax credits claimed pursuant to this  
17 section, if any, in the previous taxable year.

18 Every qualified high technology business that claims a credit or  
19 receives an investment for which a credit may be claimed under  
20 this section shall also submit the annual survey required by  
21 section 235- to the director of taxation.

22           (f) The department 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 investment costs  
4           upon which the tax credit is based;
- 5           (2) Verify the nature and amount of the qualifying  
6           investments;
- 7           (3) Total all qualifying and cumulative investments that  
8           the department certifies; and
- 9           (4) Certify the amount of the tax credit for each taxable  
10          year and cumulative amount of the tax credit.

11          Upon each determination made under this subsection, the  
12          department shall issue a certificate to the taxpayer verifying  
13          information submitted to the department, including qualifying  
14          investment amounts, the credit amount certified for each taxable  
15          year, [~~and~~] the cumulative amount of the tax credit during the  
16          credit period[~~-~~], and any survey required under section 235- .  
17          The taxpayer shall file the certificate with the taxpayer's tax  
18          return with the department.

19          The director of taxation may assess and collect a fee to  
20          offset the costs of certifying tax credits claims under this  
21          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 SECTION 3. Section 235-110.91, Hawaii Revised Statutes, is  
4 amended by amending subsections (c) to (e) to read as follows:

5 "(c) There shall be allowed to each qualified high  
6 technology business subject to the tax imposed by this chapter  
7 an income tax credit for qualified research activities equal to  
8 the credit for research activities provided by section 41 of the  
9 Internal Revenue Code and as modified by this section. The  
10 credit shall be deductible from the taxpayer's net income tax  
11 liability, if any, imposed by this chapter for the taxable year  
12 in which the credit is properly claimed. By claiming the  
13 credit, the taxpayer consents to the public disclosure of the  
14 taxpayer's name and the taxpayer's status as a claimant of the  
15 credit under this section."

16 (d) Every qualified high technology business, before March  
17 31 of each year in which qualified research and development  
18 activity was conducted in the previous taxable year, shall  
19 submit a written, certified statement to the director of  
20 taxation identifying:

21 (1) Qualified expenditures, if any, expended in the  
22 previous taxable year; and



1 (2) The amount of tax credits claimed pursuant to this  
2 section, if any, in the previous taxable year.

3 Every qualified high technology business shall also submit the  
4 annual survey required by section 235- to the director of  
5 taxation.

6 (e) The department shall:

7 (1) Maintain records of the names and addresses of the  
8 taxpayers claiming the credits under this section and  
9 the total amount of the qualified research and  
10 development activity costs upon which the tax credit  
11 is based;

12 (2) Verify the nature and amount of the qualifying costs  
13 or expenditures;

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

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

18 Upon each determination made under this subsection, the  
19 department shall issue a certificate to the taxpayer verifying  
20 information submitted to the department, including the  
21 qualifying costs or expenditure amounts, the credit amount  
22 certified for each taxable year, [~~and~~] the cumulative amount of



1 the tax credit during the credit period[-], and the survey  
2 required under section 235- . The taxpayer shall file the  
3 certificate with the taxpayer's tax return with the department."

4 SECTION 3. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act shall take effect upon its approval  
7 and shall apply to taxable years beginning after December 31,  
8 2006.



**Report Title:**

High Technology Business Investment Tax Credit

**Description:**

Requires qualified high technology businesses claiming the High Technology Business Investment or Research Tax Credit to file with Department of Taxation an annual survey about employment positions in the State. Provides that by claiming the credit the business consents to disclosure of their name. (HB1631 HD1)

