
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 (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. In preparing the
11 survey the department shall ensure that qualified high
12 technology businesses are not subject to duplicative reporting
13 requirements. The department shall define "full-time position",
14 "part-time position", "temporary position", and "new position"
15 by rule.

16 (c) If a qualified high technology business fails to file
17 a complete annual survey under this section with the department
18 by the due date or any extension thereof, the qualified high
19 technology business otherwise entitled to the tax credit shall
20 be assessed a penalty of \$1,000 per month for each month the
21 annual survey is not filed, up to a maximum of three months. If
22 a complete annual survey has not been filed three months after



1 the due date or any extension thereof, the qualified high
2 technology business otherwise entitled to the tax credit shall
3 not be eligible to claim or assign the credit under section 235-
4 110.9 or 235-110.91, as the case may be, for the taxable year
5 prior to the year in which the person failed to timely file a
6 complete annual survey.

7 (d) The department shall use information collected under
8 this section or collected under other reporting requirements of
9 the department and therefore excluded from the annual survey
10 required under this section as duplicative, to prepare summary
11 descriptive statistics by category. No fewer than three
12 taxpayers shall be included in any category. The department
13 shall also identify each qualified high technology business
14 receiving credits under section 235-110.9 or 235-110.91. The
15 department shall report the information required under this
16 subsection to the legislature by September 1 each year.

17 (e) The department shall use the information collected
18 under this section to study the effectiveness of the tax credits
19 under sections 235-110.9 and 235-110.91. The department shall
20 measure the effect of the tax credits on job creation, the
21 number of jobs created in the state, company growth, the
22 diversification of the state's economy, the movement of firms,



1 the introduction of new products, growth in research and
 2 development investment, the consolidation of firms operating in
 3 the state, and other factors as the department determines. The
 4 department shall report the results of its study to the
 5 legislature by December 1, _____, and December 1, _____.

6 (f) The reporting requirements under this section shall
 7 only be applicable to qualified high technology businesses and
 8 shall not apply to individual investors.

9 (g) The department shall adopt rules pursuant to chapter
 10 91 to implement this section."

11 SECTION 3. Section 235-110.9, Hawaii Revised Statutes, is
 12 amended as follows:

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

14 "(b) The credit allowed under this section shall be
 15 claimed against the net income tax liability for the taxable
 16 year. For the purpose of this section, "net income tax
 17 liability" means net income tax liability reduced by all other
 18 credits allowed under this chapter. By claiming the credit, a
 19 qualified high technology business consents to the public
 20 disclosure of the taxpayer's name and the taxpayer's status as a
 21 claimant of the credit under this section."

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



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

- 5 (1) Qualified investments, if any, expended in the
6 previous taxable year; and
- 7 (2) The amount of tax credits claimed pursuant to this
8 section, if any, in the previous taxable year.

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

- 13 (f) The department shall:
- 14 (1) Maintain records of the names and addresses of the
15 taxpayers claiming the credits under this section and
16 the total amount of the qualified investment costs
17 upon which the tax credit is based;
 - 18 (2) Verify the nature and amount of the qualifying
19 investments;
 - 20 (3) Total all qualifying and cumulative investments that
21 the department certifies; and

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

3 Upon each determination made under this subsection, the
4 department shall issue a certificate to the taxpayer verifying
5 information submitted to the department, including qualifying
6 investment amounts, the credit amount certified for each taxable
7 year, [~~and~~] the cumulative amount of the tax credit during the
8 credit period~~[-]~~, and any survey required under section 235- .
9 The taxpayer shall file the certificate with the taxpayer's tax
10 return with the department.

11 The director of taxation may assess and collect a fee to
12 offset the costs of certifying tax credits claims under this
13 section. All fees collected under this section shall be
14 deposited into the tax administration special fund established
15 under section 235-20.5."

16 SECTION 4. Section 235-110.91, Hawaii Revised Statutes, is
17 amended by amending subsections (c) to (e) to read as follows:

18 "(c) There shall be allowed to each qualified high
19 technology business subject to the tax imposed by this chapter
20 an income tax credit for qualified research activities equal to
21 the credit for research activities provided by section 41 of the
22 Internal Revenue Code and as modified by this section. The

1 credit shall be deductible from the taxpayer's net income tax
2 liability, if any, imposed by this chapter for the taxable year
3 in which the credit is properly claimed. By claiming the
4 credit, the taxpayer consents to the public disclosure of the
5 taxpayer's name and the taxpayer's status as a claimant of the
6 credit under this section."

7 (d) Every qualified high technology business, before March
8 31 of each year in which qualified research and development
9 activity was conducted in the previous taxable year, shall
10 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 Every qualified high technology business shall also submit the
17 annual survey required by section 235- to the director of
18 taxation.

19 (e) The department shall:

- 20 (1) Maintain records of the names and addresses of the
21 taxpayers claiming the credits under this section and
22 the total amount of the qualified research and



1 development activity costs upon which the tax credit
2 is based;

3 (2) Verify the nature and amount of the qualifying costs
4 or expenditures;

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

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

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

17 SECTION 5. The department of taxation shall prepare and
18 submit a report to the legislature by October 31, 2007,
19 summarizing data submitted by qualified high technology
20 businesses in form N-317 for all previous years available. The
21 report shall include but not be limited to summary descriptive
22 statistics regarding the nature of qualified research



1 activities, job creation, and salaries paid by high technology
2 businesses.

3 SECTION 6. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 7. This Act shall take effect upon its approval
6 and shall apply to taxable years beginning after December 31,
7 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 for penalties. Provides that by claiming the credit the business consents to disclosure of their name. (HB1631 HD2)

