
A BILL FOR AN ACT

RELATING TO PERFORMING ARTS BUSINESSES.

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

1 SECTION 1. The legislature finds that Hawaii's fledgling
2 film, television, and digital media industry holds much promise
3 for the economic and cultural future of the State. It is a
4 crucial point for the industry, as the industry is currently on
5 the verge of growing immensely and further investments would
6 allow it to flourish. Without the State's support, the industry
7 and its workforce will remain in limbo and continue to have an
8 uncertain future. The legislature finds that the State, as many
9 other states and countries have done in recent years, can play a
10 vital role in stimulating the growth of this potential film and
11 digital media industry, allowing it to become a self-sustaining
12 and dependable provider of steady, highly skilled, highly paid,
13 twenty-first-century jobs for Hawaii's residents.

14 The purpose of this Act is to stimulate the performing arts
15 businesses in the State by creating a program that allows the
16 State to purchase high technology business investment tax
17 credits from performing arts qualified high technology
18 businesses at a discount. Such a program would limit the



1 exposure of state funds with respect to certain performing arts
2 qualified high technology businesses, while at the same time
3 enhancing the economic benefits the credits were designed to
4 bring.

5 While performing arts qualified high technology businesses
6 would still have the option of raising investment and maximizing
7 credit claims, the option to transfer credits back to the State
8 is an attractive alternative because it is direct, guaranteed,
9 hassle-free, and a better deal for the qualified high technology
10 businesses and the State.

11 Currently, only about ten to fifteen per cent of investment
12 dollars are going back to the performing arts qualified high
13 technology businesses in the form of investment tax credits,
14 with the majority of the credits going to investors. A state
15 buy-back program ensures that credits go back to the performing
16 arts qualified high technology businesses they were meant to
17 stimulate, thereby directly benefiting them. By redirecting the
18 way credits are issued, the State can reap higher economic
19 benefits (stimulating more productions) at likely lower costs.

20 The program would also help to redirect a higher percentage
21 of local investment dollars toward smaller, independent
22 performing arts qualified high technology businesses and other



1 types of qualified high technology businesses whose ability to
2 remain in business relies greatly on investment dollars
3 stimulated by the credit.

4 This Act also requires a production partaking of the buy-
5 back program to contribute one half of one per cent of its
6 aggregate qualified investments to the Hawaii television and
7 film development special fund, for the purpose of directly
8 funding local projects that further the development of the local
9 film and television industry.

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

13 **"§235- Transferability of the high technology business**
14 **investment tax credit.** (a) Any taxpayer entitled to a tax
15 credit under section 235-110.9 based upon an investment in a
16 performing arts qualified high technology business may elect to
17 treat the credit as earned by the performing arts qualified high
18 technology business. The election shall be made for all of the
19 credit earned over the five-year period provided in section 235-
20 110.9. The election shall be filed with the tax return for the
21 performing arts qualified high technology business and the



1 taxpayer's tax return for the taxable year in which the taxpayer
2 made the investment.

3 (b) Any performing arts qualified high technology business
4 for which an election under subsection (a) has been made may
5 transfer the tax credit provided in section 235-110.9 to the
6 department for twenty per cent of the face value of the credit
7 earned and paid over five years pursuant to the pay-out schedule
8 established in section 235-110.9; provided that the maximum
9 allowed credits per taxpayer set forth by section 235-110.9
10 shall not apply to credits transferred pursuant to this section.

11 (c) To qualify to transfer the tax credit to the
12 department as provided in subsection (b):

13 (1) All taxpayers who have made an investment in the
14 performing arts qualified high technology business
15 during the taxable year of the qualified high
16 technology business shall elect to treat the credit as
17 earned by the performing arts qualified high
18 technology business; and

19 (2) The performing arts qualified high technology business
20 shall transfer all of the credit that it is treated as
21 having earned to the department.



1 (d) Any performing arts qualified high technology business
2 or related entity that has transferred any credit to the
3 department pursuant to subsection (b) in any taxable year shall
4 also sell or waive the motion picture and film production income
5 tax credit set forth in section 235-17 and the capital goods
6 excise tax credit set forth in section 235-110.7 in that same
7 taxable year in the manner provided in subsection (b).

8 (e) Prior to making an election under subsection (a), the
9 performing arts qualified high technology business shall apply
10 to the director of taxation for approval of the election. The
11 director of taxation shall approve all qualifying elections to
12 transfer credits under this section in the order that the
13 requests for approval are received by the director of taxation;
14 provided that the director of taxation shall only approve
15 qualifying elections to transfer credits under this section for
16 the first \$25,000,000 in the aggregate paid to all performing
17 arts qualified high technology businesses making elections under
18 this section in any year. In any year in which the department
19 of taxation approves the transfer of less than \$25,000,000 in
20 the aggregate to all performing arts qualified high technology
21 businesses, the excess revenue may be carried over and applied
22 to subsequent years.



1 (f) This section shall not apply to any investments that:

2 (1) Are part of a transaction or series of transactions;

3 or

4 (2) Structured to avoid the purposes of this section so

5 that a production could use both this section and

6 section 235-110.7, 235-110.9, or 235-17.

7 (g) To qualify to transfer tax credits to the department

8 pursuant to subsection (b), a performing arts qualified high

9 technology business shall contribute one half of one per cent of

10 its aggregate qualified investments to the Hawaii television and

11 film development special fund set forth in section 201-113.

12 (h) Every performing arts qualified high technology

13 business, on or before March 31 of each year in which credits

14 are to be transferred for the previous taxable year, shall

15 submit the following to the department of business, economic

16 development, and tourism:

17 (1) A check for the contribution to the Hawaii television

18 and film development special fund, equal to one half

19 of one per cent of its aggregate qualified investments

20 in the previous taxable year, pursuant to subsection

21 (g);

22 (2) A report showing:

1 (A) The total amount of qualified research costs per
2 project per taxable year; and
3 (B) The number of total hires versus the number of local
4 hires by category, such as department, and by county,
5 per project, per taxable year.

6 (i) For the purposes of this section:
7 "Aggregate qualified investments" means qualified
8 investments earned over the five-year period in section 235-
9 110.9.

10 "Performing arts products" means the same as defined in
11 section 235-7.3.

12 "Performing arts qualified high technology business" means
13 a qualified high technology business whose "qualified research"
14 consists solely of "performing arts products."

15 "Qualified high technology business" means the same as
16 defined in section 235-110.9.

17 "Qualified investment" means investments that qualify for
18 tax credits under section 235-110.9.

19 "Qualified research" means the same as defined in section
20 235-7.3."

21 SECTION 3. New statutory material is underscored.

22 SECTION 4. This Act shall take effect on July 1, 2020.

HB 2421
HD2

Report Title:

Taxes; investment tax credits

Description:

Establishes a program which allows the state to buy back tax credits from qualified high technology businesses (QHTB) at a deeply discounted rate of 20 percent of the face value of the credits distributed over 5 years. Requires performing arts QHTB that transfer tax credits back to the State to contribute 0.5 percent of their aggregate qualified investments per year to the Hawaii television and film development special fund. (HB2421 HD2)

