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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. The legislature has recognized the importance  
2 of promoting innovation and research-based activities with the  
3 enactment of several path-breaking tax credits and programs to  
4 promote growth in technology and other innovation-related  
5 sectors. Likewise, the legislature has sought to encourage a  
6 range of industries and activities judged to be of value in  
7 creating a higher-wage and more knowledge-intensive economy.

8           It is important that the effectiveness of these efforts and  
9 other such incentives be evaluated. It is also of utmost  
10 importance to maintain taxpayer confidentiality. As a self-  
11 reporting, self-assessing tax system, the tax collections in  
12 Hawaii depend on confidentiality of the collection process to  
13 ensure the fullest compliance.

14           To assure accountability in the disposition of public  
15 funds, government must balance taxpayer confidentiality with the  
16 other interests of the public.

17           The purpose of this Act is to improve the State's ability  
18 to measure and evaluate the impact being made on Hawaii's



1 economy through use of the high technology business investment  
2 tax credit and the tax credit for research activities.

3 SECTION 2. Chapter 231, Hawaii Revised Statutes, is  
4 amended by adding a new section to be appropriately designated  
5 and to read as follows:

6 "§231- Tax incentive analysis and evaluation. For  
7 purposes of determining the economic impact and evaluating  
8 existing and proposed tax incentives provided under this title,  
9 the department may:

- 10 (1) Contract with technical experts at the national and  
11 international level knowledgeable in the field of  
12 technology and research investment to evaluate existing  
13 and proposed tax incentives in Hawaii;
- 14 (2) Establish a working group of industry, tax, and  
15 economic development experts in Hawaii to identify and  
16 develop a set of standards, benchmarks, and data  
17 elements for the evaluation and quantification of the  
18 economic impacts of existing and proposed tax  
19 incentives in Hawaii;
- 20 (3) Coordinate and receive relevant information from other  
21 state agencies, including the department of labor and  
22 industrial relations and the department of business,



1 economic development, and tourism to assist in the  
2 development of the benchmarks and evaluation  
3 methodologies and determine the measurement data that  
4 will need to be analyzed;

- 5 (4) Review taxpayer returns to collect and analyze  
6 aggregate data on the impact of tax incentives; and  
7 (5) Update its analysis of tax incentives to assist bodies  
8 such as the tax review commission and the council on  
9 revenues to better perform their responsibilities."

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

12 **"§235-20.5 Tax administration special fund; established.**

13 There is established a tax administration special fund, into  
14 which shall be deposited fees collected under sections 235-20,  
15 235-110.9, and 235-110.91, and penalties collected under section  
16 2 of Act 206, [~~+~~]Session Laws of Hawaii 2007[~~+~~]. The moneys in  
17 the fund shall be expended by the department to offset the costs  
18 associated with:

- 19 (1) Issuing comfort letters; and  
20 (2) Administering the tax credit under [~~section~~] sections  
21 235-110.9[~~-~~] and 235-110.91, including issuing  
22 certificates [~~-~~and



1       ~~(3) Issuing certificates under section 235-110.91]."~~

2       SECTION 4. Act 206, Session Laws of Hawaii 2007, is  
3 amended as follows:

4       1. By amending subsection (b) of section 2 to read:

5       "(b) The annual survey shall include the following  
6 information for the time period or periods specified by the  
7 department[+], which shall include the period from and after  
8 January 1, 2002:

- 9       (1) Identification of the industry sector or sectors in  
10       which the qualified high technology business conducts  
11       business, as set forth in paragraphs (2) to (8) of the  
12       definition of "qualified research" in section 235-7.3,  
13       Hawaii Revised Statutes;
- 14       (2) Investment credit data, including the amount of  
15       investments received by the qualified high technology  
16       business [~~in the reporting calendar year~~];
- 17       (3) Revenue and expense data; and
- 18       (4) Hawaii employment and wage data, including the numbers  
19       of full and part-time employees retained, new jobs,  
20       and temporary positions.

21       The department shall request information in each of these  
22 categories sufficient to measure the effectiveness of the tax



1 credit. The department may request any additional information  
2 necessary to measure the effectiveness of the tax credit such as  
3 information related to patents. In preparing the survey and  
4 requesting any additional information, the department shall  
5 ensure that qualified high technology businesses are not subject  
6 to duplicative reporting requirements."

7 2. By amending subsections (d) and (e) of section 2 to  
8 read:

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

21 (e) The department shall use the information collected  
22 under this section to study the effectiveness of the credit



1 under section 235-110.9, Hawaii Revised Statutes. The  
2 department shall report on the amount of investment made into  
3 qualified high technology businesses, the number of qualified  
4 high technology businesses in each industry sector, jobs  
5 created, compensation levels, qualified research activities, and  
6 other factors as the department determines. [~~The department  
7 shall report the results of its study to the legislature by  
8 December 1 of each year.~~] "

9 SECTION 5. Act 206, Session Laws of Hawaii 2007, is  
10 amended by amending section 8 to read as follows:

11 "SECTION 8. This Act shall take effect on July 1, 2007 [~~7  
12 and shall apply to investments received by a qualified high  
13 technology business after June 30, 2007~~]; provided that this Act  
14 shall be repealed on January 1, [~~2011,~~] 2012, and sections 235-  
15 20.5 and 235-110.9(b), Hawaii Revised Statutes, shall be  
16 reenacted in the form in which they read on the day before [~~the  
17 effective date of this Act.~~] June 20, 2007."

18 SECTION 6. The department of taxation shall study the  
19 economic impact of the tax credits provided under sections 235-  
20 110.9 and 235-110.91 on Hawaii's economy, and evaluate the  
21 effectiveness of the tax credits. The department shall report



1 its findings to the legislature no later than twenty days prior  
2 to the convening of each regular session of the legislature.

3 For the purpose of evaluating the credits provided under  
4 sections 235-110.9 and 235-110.91, the department of taxation  
5 shall to the extent possible, collect and evaluate information  
6 from January 1, 2002. The department may also:

- 7 (1) Exercise its powers under section 231- ;
- 8 (2) Use the information collected and analyses conducted  
9 under Act 206, Session Laws of Hawaii 2007; and
- 10 (3) Review the returns of companies whose investors receive  
11 credits pursuant to section 235-110.9 and the returns  
12 of companies that receive credit pursuant to section  
13 235-110.91 for the purposes of aggregating the impact  
14 data to determine their impacts. Such data may be sub-  
15 aggregated into industry sectors as to delineate and  
16 differentiate between short-term and longer-term  
17 economic impacts.

18 SECTION 7. Nothing contained in this Act shall be  
19 interpreted as waiving any liability, as provided by other  
20 operative law, for the confidentiality and safeguarding of  
21 taxpayer information.



1 SECTION 8. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$250,000 or so much  
3 thereof as may be necessary for fiscal year 2008-2009 to carry  
4 out the purposes of this Act.

5 The sum appropriated shall be expended by the department of  
6 taxation for the purposes of this Act.

7 SECTION 9. Statutory material to be repealed is bracketed  
8 and stricken. New material is underscored.

9 SECTION 10. This Act shall take effect on July 1, 2008;  
10 provided that sections 3, 4, and 6 shall be repealed on January  
11 1, 2012, and section 235-20.5, Hawaii Revised Statutes, shall be  
12 reenacted in the form in which it read on June 20, 2007.





**Report Title:**

High Technology Business Tax Credits; Study

**Description:**

Authorizes DOTax to study and evaluate the economic impact of existing and proposed State tax incentives. Authorizes DOTax to collect information from January 1, 2002, as part of its annual survey of businesses that have claimed the High Technology Business Investment Tax Credit. Requires DOTax to report annually to the Legislature, until 2012, on its findings of the economic impact of the two tax credits. Appropriates funds.

(HB2961 HD1)

