

ACT 206

H.B. NO. 1631

A Bill for an Act Relating to High Technology Business Investment Tax Credit.

Be It Enacted by the Legislature of the State of Hawaii:

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

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

- (1) Qualified high technology businesses receiving an investment for which a credit may be claimed under section 235-110.9, Hawaii Revised Statutes, to submit investment, employment, job creation, wage, revenue, expense, and other information to the department of taxation;
- (2) The department of taxation to annually report this information in aggregate form to the legislature; and
- (3) The department of taxation to use the information to study the effectiveness of the tax credit and report the department's findings to the legislature.

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

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

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

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

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

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

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

(e) The department shall use the information collected under this section to study the effectiveness of the credit under section 235-110.9, Hawaii Revised Statutes. The department shall report on the amount of investment made into qualified high technology businesses, the number of qualified high technology businesses in each industry sector, jobs created, compensation levels, qualified research activities, and other factors as the department determines. The department shall report the results of its study to the legislature by December 1 of each year.

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

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

“~~[§235-20.5]~~ **Tax administration special fund; established.** There is established a tax administration special fund, into which shall be deposited fees collected under sections 235-20, 235-110.9, and 235-110.91[-], and penalties collected under section 2 of Act 206. The moneys in the fund shall be expended by the department to offset the costs associated with:

- (1) Issuing comfort letters;
- (2) ~~[Issuing certificates under]~~ Administering the tax credit under section 235-110.9[;], including issuing certificates; and
- (3) Issuing certificates under section 235-110.91.”

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

“(b) The credit allowed under this section shall be claimed against the net income tax liability for the taxable year. For the purpose of this section, “net income tax liability” means net income tax liability reduced by all other credits allowed under this chapter. By accepting an investment for which the credit allowed under this section may be claimed, a qualified high technology business consents to the public disclosure of the qualified high technology business’ name and status as a beneficiary of the credit under this section.”

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

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

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

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

(Approved June 21, 2007.)