

STAND. COM. REP. NO. 605

Honolulu, Hawaii

Feb 20, 2009

RE: H.B. No. 1451
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Sir:

Your Committee on Economic Revitalization, Business, & Military Affairs, to which was referred H.B. No. 1451 entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose of this bill is to stimulate the technology sector of the economy while ensuring that incentives provided by the State are used to benefit Hawaii's economy by:

- (1) Extending the Technology Infrastructure Renovation Tax Credit and Tax Credit for Research Activities until 2015;
- (2) Requiring a ten percent workforce increase to continue claiming these credits after two years;
- (3) Allowing 100 percent of these credits to be recaptured if the business moves the research and development, or manufacturing components of its business out of Hawaii within five years of receiving the tax credit; and
- (4) Making permanent, provisions in the High Technology Business Investment Tax Credit law that allow the State to publicly disclose the names of qualified high technology businesses receiving investments.



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The Department of Taxation (DOTAX) and Hawaii Government Employees Association, AFSCME, Local 152, AFL-CIO supported this bill. The Hawaii Science and Technology Council; PacificCap Group, LLC; Makai Motion Pictures; NovaSol; Innovasc, Inc.; Atlantis Cyberspace, Inc.; Carbon Diversion, Inc.; Home Baked Entertainment; Oceanic Institute; Pacific Light and Power; Hawaii Aquaculture Association; Cellular Bioengineering, Inc.; Hawaii Crop Improvement Association; Hawaii Biotech, Inc.; Island Planet One Productions; Shinkawa Limited; Integrated Coffee Technologies, Inc.; Ocean Network; JCS Realty, Inc.; Decision Research Corporation; Aloha Island, Inc.; ATCO Software; HR Biopetroleum; SEE/RESCUE Corporation; Pukoa Scientific; Steiner and Associates; Island Film Group; Kinnicutt Consulting, LLC; Ocean Engineering and Energy Systems, Inc.; Cardax Pharmaceuticals, Inc.; Hawaii Venture Capital Association; Archinoetics; DataHouse Consulting, Inc.; BAE Systems; Edutainment Resources, Inc.; PPR Management Services; and several concerned individuals opposed this bill. The Tax Foundation of Hawaii, Strategic Transitions Research, and a concerned individual commented on the measure.

Your Committee recognizes that there is concern about the unpredictability of the amount of high technology tax credits that will be claimed during a taxable year, because this unpredictability makes State budgeting difficult. In addition, there have been reports that the credit is being used by businesses that are not intended beneficiaries of the credit.

Upon consideration, your Committee has removed all amendments made by this bill, except those extending the high technology credits to 2015, and those allowing the State to disclose the names of qualified high technology businesses (QHTBs) that receive tax credit investments.

To address unpredictability and budgeting concerns, your Committee has added language capping the total amount of investment tax credits that may be claimed in a taxable year, to an unspecified dollar amount. To ensure that investments supported by the credit are available to small start-up businesses, credits for investments in any single QHTB have been capped at \$10,000,000.

There have been reports of misuse of the credit in instances in which the taxpayer forms a wholly-owned subsidiary. Accordingly, your Committee has amended this measure to form a High Technology Investment Tax Credit Review Board (Board) consisting of the Director of Taxation and representatives of the



high technology and performing arts industries, and investment companies. The Board will review taxpayer appeals in cases where DOTAX denies certification of a credit for investment in a wholly-owned subsidiary. DOTAX may also request advice from the Board when it initially certifies credits. The Board is to report annually to the Legislature on ways to improve the fair and accountable administration of the High Technology Investment Tax Credit. The Board is set to sunset on July 1, 2021, to allow the Board to report and provide information to the Legislature at the end of the last five year period in which the investment credit may be claimed.

As affirmed by the record of votes of the members of your Committee on Economic Revitalization, Business, & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1451, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1451, H.D. 1, and be referred to the Committee on Finance.

Respectfully submitted on
behalf of the members of the
Committee on Economic
Revitalization, Business, &
Military Affairs,

for Ivan W Choy V.C.
ANGUS L.K. MCKELVEY, Chair



