

STAND. COM. REP. NO.

1525

Honolulu, Hawaii

April 8, 2011

RE: S.B. No. 1355
S.D. 1
H.D. 2

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committee on Finance, to which was referred S.B. No. 1355, S.D. 1, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose of this bill is to:

- (1) Establish for general excise tax (GET) purposes, a nexus between businesses in the State and out-of-state businesses that:
 - (A) Engage in or solicit business with persons within the State; and
 - (B) Earn income, gross proceeds, gross rental, or gross rental proceeds attributable to sources in the State;
- (2) Require out-of-state businesses that conduct business in the State, but do not collect the GET, to file an annual statement with the Department of Taxation (DOTAX) regarding sales of tangible personal property to Hawaii residents;

SB1355 HD2 HSCR FIN HMS 2011-3687



- (3) Amend the definition "engaging" in the GET law, to include the sale of tangible personal property by a person soliciting business through an independent contractor or other representative, if the person enters into an agreement with a resident of the State under which the resident, for a commission or other consideration, directly or indirectly refers potential customers; and
- (4) Repeal the income tax exemption for income derived from stock options or stocks from qualified high technology businesses.

DOTAX supported this bill. Direct Marketing Association, Synertech Media LLC, and a concerned individual opposed this measure. Internet Alliance, Policy Board for Elder Affairs, Tax Foundation of Hawaii, Retail Merchants of Hawaii, and several concerned individuals commented on this bill.

Your Committee realizes that the reports required by this bill include personal information. The intent of collecting this information is to ensure that DOTAX can collect use taxes from those out-of-state businesses. It is not the intent of your Committee that personal information in these reports be released for any use other than for tax collection purposes. With this in mind, DOTAX is requested to establish additional safeguards to ensure that personal information on these reports is used only for tax purposes.

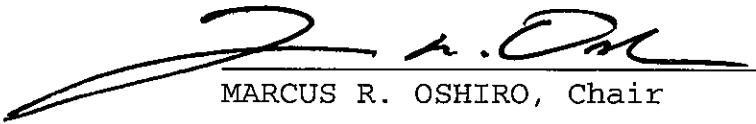
Your Committee has amended this bill by:

- (1) Retaining the income tax exemption for income derived from stock options or stocks from qualified high technology businesses;
- (2) With respect to out-of-state businesses that conduct business in the State, but do not collect the GET, specifying that the filing of annual statements with DOTAX include the addresses of residents to whom tangible personal property was sold;
- (3) Changing its effective date to July 1, 2011; and
- (4) Making technical, nonsubstantive amendments for clarity, consistency, and style.



As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1355, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1355, S.D. 1, H.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Finance,



MARCUS R. OSHIRO, Chair



State of Hawaii
House of Representatives
The Twenty-sixth Legislature

HSCR 1525

Record of Votes of the Committee on Finance

Bill/Resolution No.: <i>SB 1355, SDI, HDI</i>	Committee Referral: <i>ERB, FIN</i>	Date: <i>3/31/11</i>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
FIN Members	Ayes	Ayes (WR)	Nays	Excused
1. OSHIRO, Marcus R. (C)	✓			
2. LEE, Marilyn B. (VC)	✓			
3. CHONG, Pono	✓			
4. CHOY, Isaac W.	✓			
5. COFFMAN, Denny	✓			
6. CULLEN, Ty	✓			
7. HAR, Sharon E.	✓			
8. HASHEM, Mark J.	✓			
9. ICHIYAMA, Linda	✓			
10. JORDAN, Jo		✓		
11. LEE, Chris	✓			
12. MORIKAWA, Dee		✓		
13. TOKIOKA, James Kunane	✓			
14. YAMASHITA, Kyle T.	✓			
15. MARUMOTO, Barbara C.	✓			
16. RIVIERE, Gil		✓		
17. WARD, Gene			✓	
TOTAL (17)	13	3	1	0
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: _____ <i>Marilyn B. Lee</i>				
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