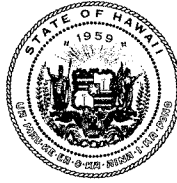


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**HOUSE COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS, &
MILITARY AFFAIRS
TESTIMONY REGARDING HB 477
RELATING TO TAXATION**

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)

DATE: FEBRUARY 10, 2009

TIME: 8:30AM

ROOM: 312

This bill provides a tax credit to Department of Defense high technology contractors that hire workers who are residents of the State.

While the Department of Taxation (Department) **supports the intent and purpose of the legislation**, which is to encourage employment in technology businesses doing business with the Department of Defense in this State, the Department **opposes the tax provision in this measure due to the budget impact** as this was not factored into the Executive Budget or any of its fiscal priorities this session. The Department also offers **comments** on this legislation.

IMPACT ON THE BUDGET—The Department cannot support this measure at this time because it is not factored into the budget. The Department must be cognizant of the biennium budget and financial plan. This measure has not been factored into either. And, given the forecasted decrease in revenue projections, this measure would add to the budget shortfall. The Department suggests that the matter be revisited at such time that the budget is better able to afford the relief sought.

GENERAL COMMENTS—The measure provides a tax credit for a Department of Defense contractor who hires a person who has resided in this State for at least twelve months prior to the hiring. There is no requirement that such person be employed full time or at least be required to work a set number of hours per week before the credit can be claimed. There is also no requirement that the person hired work on a Department of Defense project. If a company qualifies as a Department of Defense contractor, this measure would provide for all persons hired by the company who meet the residency requirement and not just a person doing qualified research. In addition, the credit is available even if the person hired works for the company only one day.

INCENTIVES ALREADY EXIST---The Department notes that tax incentives already exist for Department of Defense contractors. This measure defines both "qualified high technology

business" and "qualified research" with reference to Hawaii Revised Statutes ("HRS") section 235-110.9. As such, any investor in a business qualified under that section would be entitled to claim the investment tax credit, which is 100 percent of the investment made in the business. In addition, the company is eligible to claim the research tax credit under HRS section 235-110.91, which is a refundable tax credit of twenty percent of qualified research costs.

COMPLIANCE PROBLEM—The measure requires that a taxpayer be in full compliance with all applicable federal, state, and county statutes, ordinances, rules, and regulations. Given the myriad of such law, the Department would be unable to determine whether a taxpayer is in full compliance with all laws applicable to it.

POSSIBLE CONSTITUTIONAL CHALLENGE—The Department is also concerned that the requirement that the person hired have lived in Hawaii for more than twelve consecutive months prior to the hiring may cause a constitutional challenge to the measure. Although the Department raises the issue, the Department defers to the Office of the Attorney General on whether this is a valid concern.

This legislation will result in an indeterminate loss to the general fund as the amount of the credit is left blank.