LINDA LINGLE
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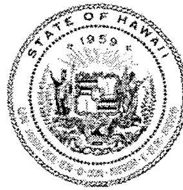
LT. GOVERNOR



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HOUSE COMMITTEE ON FINANCE

TESTIMONY REGARDING SB 711 HD 1 PROPOSED HD 2 RELATING TO TAXATION

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: APRIL 1, 2008
TIME: 2:30PM
ROOM: 308

This bill expands the current responsibilities for the Department of Taxation to assess the operations of qualified high technology businesses and to examine the effects of Hawaii's income tax credits.

The Department of Taxation **strongly supports** this measure and urges the Committee to pass this proposal.

I. IT IS IMPORTANT TO HAVE HIGH-QUALITY INFORMATION ON THE EFFECTS OF ACT 221.

The Legislature has enacted path-breaking tax credits to promote growth in technology and innovation, with the goal of encouraging knowledge-based, higher-wage industries in Hawaii. The Legislature has also recognized, however, that it is important to evaluate the effectiveness of its efforts in this area. To this end, the Department of Taxation was asked to improve the data it collects on the operations of the high technology businesses, to issue reports that give statistics on these operations, and to evaluate the effectiveness of the high technology business investment tax credit provided by section 235-110.9 of the Hawaii Revised Statutes (HRS). The present bill expands the State's evaluation of its tax credits in several important ways.

- First, the bill asks the Department of Taxation to evaluate the economic effects of the research credit provided by section 235-110.91, HRS. The research credit is an important tax incentive for high technology industries; therefore, this credit should be included in the State's evaluation of its tax incentives for high technology industries.

- Second, the bill asks the Department of Taxation to evaluate other income tax credits. Specifically, it asks the Department to:
    - o Contract with knowledgeable experts in the fields of technology and research

investment to evaluate existing and proposed tax incentives in Hawaii. (The 2005-2007 Tax Review Commission strongly recommended that an outside party conduct research on the high technology business investment tax credit.).

- o Establish a working group of government, tax, and industry experts to identify the standards and data necessary to measure and quantify Act 221 accomplishments.
- o Coordinate with other departments to obtain further information, including the Department of Labor and Industrial Relations and the Department of Business, Economic Development, and Tourism.
- o Review the necessary tax returns to accomplish the Department of Taxation's objectives.

- Third, the bill asks the Department of Taxation to update its analysis of tax incentives to assist the Tax Review Commission and the Council on Revenues to better perform their duties.

- Finally, the bill provides the necessary funding to accomplish these tasks.

II. <u>THE DEPARTMENT OF TAXATION IS IN THE BEST POSITION TO OVERSEE AND CONDUCT THESE STUDIES</u>

The Department of Taxation is in the best position to be the lead agency for an economic study on the effects of Hawaii income tax credits. There are several reasons for this.

ACCESS TO TAX INFORMATION - The Department of Taxation is the only agency with access to detailed tax data. Moreover, to properly study tax credits, state tax returns must be matched with federal income tax returns to obtain a complete picture on a company's operations. A competent study of Act 221, or any other income tax credit, cannot be accomplished without such access and the State is unable to provide such access to any of its other agencies.

THE NECESSARY EXPERTISE IN THE AREA - The Department of Taxation is the only agency with in-depth knowledge of how Act 221 and other tax credits actually operate. It has expert staff that knows the legal tax issues and that know how to perform solid economic analysis. As evidence of these abilities, the Department refers the Committee to the *Report of the 2005-2007 Tax Review Commission*. Department of Taxation staff performed four of the six economic studies contained in the report.

FEWER THE BETTER - The Department operates under strict confidentiality laws that preclude it from sharing confidential tax information. Tax information is very personal and the fewer people that have access to this sensitive information, the better. After aggregating the data, however, the Department will work with others to fully study the impact of Act 221 and other income tax credits.

Although it has considerable expertise in the area, the Department of Taxation recognizes that it will need assistance to produce a competent study of the tax credits provided under sections 235-110.9 and 235-110.91, HRS. To this end, the Department plans to enlist the help of industry

experts, academic economists, and other governmental agencies. Grants to study tax credits are best administered by the Department of Taxation, as the Department can work with the outside researcher to explain the details of the tax law and to compile and process the tax confidential data without revealing confidential tax information. In this way, the outside researcher can effectively take advantage of detailed data. It is also important to give affected industries the chance to provide input to the studies, as the industry participants often have valuable information on the practical operations of the credits. The final study, however, must give priority to the interests of the public.

In summary, the Department of Taxation is in the best position to lead studies of income tax credits. This would allow the studies to benefit from the most detailed tax information available and, at the same time, prevent exposure of taxpayer information.

The Department of Taxation estimates that the study of the high technology tax credits will produce revenue gains of from $500,000 to $1 million as a result of additional information that the Tax Research and Planning Office will provide to the Tax Compliance Division, which will help the Compliance Division to better target its audit resources.

As for amendments to the measure, the Department respectfully requests that the bill be amended to provide a current effective date.

Based on the foregoing, the Department strongly urges the Committee to pass this measure as the only vehicle for a thorough study of Act 221 and of Hawaii's other income tax credits.

III. SUGGESTED AMENDMENTS RELATING TO THE FILM PRODUCTION INCOME TAX CREDIT

The Department offers the following comments on Section 9 of this measure—

STRONG SUPPORT FOR THE MOTION PICTURE INDUSTRY—The Department strongly supports the existing tax incentives for the motion picture industry and the economic activity this incentive has brought to Hawaii. However, it is important for the Legislature to recognize that in order for Hawaii to remain competitive in the worldwide marketplace of filming locations, its tax incentives must remain attractive.

INELIGIBILITY FOR ACT 221—The Department supports the intent of limiting the claim for the film credit for those that also utilize the Act 221 investment tax credit. The State has worked diligently in promoting Hawaii's motion picture tax credit as a streamlined, competitive, and viable alternative to the Act 221 investment tax credit. Larger motion pictures that seek to film in Hawaii for a short period of time have sought out the film credit because of its ease of use.

The Department points out that small production companies utilize Act 221 as a viable means of financing their production projects. The Department would like to ensure that the Act 221 tax incentive remains available for these smaller productions. For example, a production with less than $200,000 in costs is ineligible for the film credit; however remains eligible for Act 221. The Department would like to ensure that both alternatives remain available and does not oppose that a production company be forced to choose one tax incentive or the other.

The Department points out that the current language of both Act 221 and the film credit do not preclude a taxpayer from technically taking advantage of both tax incentives. The language is clear that the limitation is only to the extent that a credit is "claimed" under Act 221 to finance production costs. Currently, the Department is working on administrative rules that clarify the only qualified means of taking advantage of both credits. In order to curb abuse, the Department is seeking to regulate this area vigorously through the administrative process. The regulations currently contemplate a requirement that the funding sources must be entirely segregated so that the Department can trace the character of funds (whether Act 221 funds or other funds) during audit. In addition, a requirement will exist that any Act 221 funds with credit potential must be expressly waived in order to take the film credit.

CLARIFYING AMENDMENTS REQUESTED—The Department has concerns with the current limitation language. The Department suggests the following:

SECTION 9. Section 235-17, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) Claims for credit under this section shall be subject to the following limitations:

(1) On or after July 1, 2006, no qualified production cost that has been financed by investments for which a credit was claimed by any taxpayer pursuant to section 235-110.9 is eligible for credits under this section.

(2) No taxpayer shall be eligible to claim the tax credit under this section for qualified productions that are financed, in whole or in part, by investments for which a credit has been claimed under section 235-110.9."

A corresponding amendment should be added to HRS § 235-110.9, cross referencing the limitation as a result of claiming the production credit:

SECTION 10. Section 235-110.9, Hawaii Revised Statutes, is amended to read as follows:

* * *

"(j) If a claim for credit is made under section 235-17, the production shall no longer qualify as a performing arts product as defined in section 235-7.3 for purposes of this section."

Lastly, the effective date should be amended to clarify at which point in time the costs or investments become disqualified.

SECTION 11. This Act shall take effect upon approval and shall apply to:

(1) Qualified production costs incurred under section 235-

17, HRS; and
(2) Investments made for which a credit was claimed under section 235-110.9, HRS
after June 30, 2008.

REVENUE IMPACT—The Department estimates that the revenue gain from this provision is as follows, assuming a 10% migration from the high technology business investment tax credit to the refundable film production credit:

- Year 1 $2.8 million
- Year 2 $6.9 million
- Year 3 $10.1 million
- Year 4 $11.7 million
- Year 5 $13.3 million

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: ADMINISTRATION, High technology business tax credits

BILL NUMBER: SB 711, Proposed HD-2

INTRODUCED BY: House Committee on Finance

BRIEF SUMMARY: Adds a new section to HRS chapter 231 to provide that the department of taxation shall determine the economic impact of and evaluate existing and proposed tax incentives of HRS Title 14. Authorizes the department to: (1) contract with technical experts knowledgeable in the field of technology and research investment to evaluate existing and proposed tax incentives; (2) establish a working group of industry, tax, and economic development experts to identify and develop a set of standards, benchmarks, and data elements for evaluation and quantification of the economic impact of tax incentives in Hawaii; (3) coordinate and receive relevant information from other state agencies; (4) review taxpayer returns to collect and analyze aggregate data on the impact of tax incentives; and (5) update its analysis of tax incentives to assist the Tax Review Commission and the Council on Revenues to better perform their responsibilities.

Amends HRS section 235-20.5 to provide that the tax administration special fund shall also be used to conduct economic research and analysis of the State's tax laws. This section shall be repealed on 1/1/12.

Amends Act 206, SLH 2007, to provide that the required annual survey filed by a qualified high technology business shall include information from and after January 1, 2002. The department of taxation shall submit information on the high technology business tax credit and prepare: (1) summary descriptive statistics; and (2) a study on the effectiveness of the credit including the amount of investment made into 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 determined by the department, 20 days prior to the convening of the legislature instead of September 1. This section shall be repealed on January 1, 2012.

Extends the repeal date of Act 206, SLH 2007, from January 1, 2011 to January 1, 2012 and provides that HRS sections 235-20.5 and 235-110.9(b) shall be reenacted in the form in which they read on the day before June 20, 2007.

The department of taxation shall study the economic impact of the tax credits of HRS sections 235-9.5, 235-110.51, 235-110.9 and 235-110.91 on Hawaii's economy and evaluate their effectiveness. Requires the department to report its findings to the legislature prior to each regular session. Directs the department of taxation to collect and evaluate information from January 1, 2002, and: (1) exercise its powers under HRS section 231; (2) use the information collected and analyses conducted under Act 206, SLH 2007; and (3) review returns of companies whose investors receive credits pursuant to HRS sections 235-110.51, 235-110.9 and 235-110.91 or benefit from stock options whose capital gains are excluded from taxation under HRS section 235.9.5. Permits such data to be sub-aggregated into industry sectors to delineate and differentiate economic impacts. This section shall be repealed on 1/1/12.

Appropriates $60,000 out of the tax administration special fund in fiscal 2009 to the department of taxation for one full time equivalent economist position.

Amends HRS section 235-17 to provide that after June 30, 2008, no taxpayer shall be eligible to claim the credit for qualified productions that are financed by investments for which a credit has been claimed by the taxpayer as a qualified high technology business under HRS section 235-110.9; provided that any claim for the credit made after June 30, 2008 does not qualify for the credit under HRS section 235-110.9 and any credit that has been claimed shall be subject to recapture.

The sections repealed on January 1, 2012, shall be reenacted in the form in which they read on June 20, 2007.

EFFECTIVE DATE: July 1, 2020

STAFF COMMENTS: In their examination of the high technology business investment tax credit, the Tax Review Commission reiterated the findings of the previous Tax Review Commission that stated that, "A tax incentive program is a potential 'black hole' because it is a future benefit of unknown proportions, which is determined by the favored taxpayer's interpretation of what the tax credit should be, and is claimed on a tax return which is confidential."

The most recent Tax Review Commission brought in outside consultants to assess the costs and benefits of the high technology tax credits, but the results were not definitive because they could not obtain current data on the cost of the credit or on the operations of the qualified high tech businesses. They also found data to be incomplete due to confusion about filing requirements when the certification for the credits was changed. In its final recommendations with respect to the high technology tax credit and tax credits in general, the Commission recommended increased transparency and timely disclosure and suggested a confidentiality waiver should be required of those taxpayers claiming tax credits so that pertinent data can be released to the public, and that all beneficiaries of tax credits be required to file truth-in-disclosure reports in addition to income tax returns.

This measure directs the department of taxation to determine the economic impact of existing and proposed tax incentives with emphasis on: (1) the income tax exclusion of stock options from qualified high technology businesses (HRS section 235-9.5); (2) the technology infrastructure tax credit (HRS section 235-110.51); (3) the high technology investment tax credit (HRS section 235-110.9); and (4) the tax credit for research activities (HRS section 235-110.91). However, this may be just as daunting a task for the department as it was for the Commission's consultants as the beneficiaries hide behind the confidentiality screen. The legislature should consider the recommendation of the Commission to require a waiver of confidentiality so that successes or failures of individual taxpayers can be tracked and evaluated. The legislature has already adopted a similar waiver of confidentiality when it required American Hawaii Cruises to open its books by Act 228, SLH 1991, in order to secure its exemption from the public service company tax.

Given that these tax credits are a back door expenditure of public dollars, the granting of the credits should be subjected to the same scrutiny that appropriation and expenditure of tax dollars are subjected to under the rubric of the procurement code. How can policymakers justify the establishment of such tax incentives when there is no means by which to measure whether or not the promise of jobs, economic stimulation, or growth in the industry has resulted if this information is not available?

Conversely, if these beneficiaries want to feed on public dollars through these tax incentives, then they should be more than willing to reveal how those dollars were used and how those dollars benefitted the taxpaying public. The analogy is something akin to having to put the quarter in the juke box if one wants to dance.

The proposed measure also provides that after June 30, 2008, no taxpayer shall be eligible to claim the credit for qualified productions that are financed by investments for which a credit has been claimed by the taxpayer as a qualified high technology business; otherwise any credits claimed that do not qualify shall be subject to recapture.

The legislature by Act 107, SLH 1997, enacted an income tax credit of 4% for costs incurred as a result of producing a motion picture or television film in the state and 7.25% for transient accommodations rented in connection with such activity. The credit was adopted largely to address the impost of the state's general excise tax on goods and services used by film producers. That earlier tax credit was replaced by the digital media and film production credit in 2006, Act 88, which provides for a credit of 15% of qualified production costs if the film is made on Oahu and 20% of qualified costs if filmed on a Neighbor Island. The act also prohibited the concurrent claiming of the motion picture, digital media, and film production credit and the high technology business investment tax credit under HRS section 235-110.9.

While this provision would add recapture provisions to motion picture credits if they no longer qualify, it would perpetuate the existence of the motion picture, digital media and film production income tax credit.

It should be noted that income tax credits are designed to reduce the tax burden by providing relief for taxes paid. Tax credits are justified on the basis that taxpayers with a lesser ability to pay should be granted relief for state taxes imposed. As it was pointed out when the Act was originally enacted, these credits merely result in a subsidy by government at the expense of all taxpayers.

If lawmakers want to subsidize the film industry in Hawaii, then a direct appropriation of public funds is more accountable and would subject that expenditure to public scrutiny. If taxpayers do not agree with the subsidy or the amount of public funds being spent, they can hold their lawmakers accountable for that expense.

Finally, nothing has been done to insure that such productions only benefit once from the state trough. As lawmakers learned, investors in the Blue Crush movie will see $16 million in tax credits as a result of Act 221. One has only to ask just how much more will Hawaii taxpayers be asked to underwrite for the film industry that, at best, provides dubious economic gains for the state. If nothing else, lawmakers ought to demand a cost benefit analysis of this proposed credit as well as all the other handouts that have been provided with the various and sundry credits enacted in the last five years.

Digested 3/31/08

The Chamber of Commerce of Hawaii

Since 1850

Testimony to the House Committee on Finance
Tuesday, April 1, 2008 at 2:30 p.m.
Room 308, State Capitol
(Agenda #2)

RE: S.B. 711 HD1 (Proposed HD2) Relating to Taxation

Chair Oshiro, Vice Chair Lee, and Members of the Committee:

My name is Jim Tollefson, President and CEO of The Chamber of Commerce of Hawaii. The Chamber respectfully requests that the committee does not move forward with the language from the proposed HD2 and rather retains language contained in HD1.

The Chamber is the largest business organization in Hawaii, representing over 1100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. The organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

We urge your support of the HD1 version, which: (1) imposes a 10-year statute of limitations on tax collections (Hawaii has no statute of limitations on collections); (2) starts the running of the statute of limitations on assessments from the filing of the earlier of the filing of the periodic or annual returns, not just the annual return as under current law.

(1) Conform Hawaii's statute of limitations on collections of delinquent taxes to that of the federal governnment's 10 years. Under current law, Hawaii has no statute of limitations on collections, which means that the Department of Taxation can pursue a taxpayer until death or dissolution/bankruptcy. Ten years from the date of assessment, which is the federal government's statute of limitations on collections, should be enough time for the Department to act and collect delinquent taxes, and would ensure some measure of urgency in collecting delinquent taxes. Taxpayers would also be assured that they can have a fresh start after a period of time. We note that Hawaii is one of only four states that provide for no statute of limitations on collections.

(2) The three-year statute of limitations on assessment of the GET and other periodic returns should not run only from the filing of the annual reconciliation return. Time and again taxpayers who have filed their periodic returns (monthly, quarterly, semi-annually) on time with full payment of taxes owed are unaware that they must also file the annual reconciliation return due the following April 20 even though no additional tax is owed for the year. Under current law, the three-year statute of limitations only begins to run from the filing of this annual return no matter that all periodic returns were filed and taxes paid, giving the Department the power to assess taxes that can go back far more than three years. This bill requires that the three-year statute of limitations starts to run from the filing of each periodic return or the annual return, whichever is earlier.

Thank you for the opportunity to submit testimony.

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HOUSE OF REPRESENTATIVES
THE TWENTY-FOURTH LEGISLATURE
REGULAR SESSION OF 2008

COMMITTEE ON FINANCE
Hearing on Tuesday, April 1, 2008, 2:30 PM, Conference Room 308
Written Testimony on SB 711
Relating to Taxation

FINtestimony@Capitol.hawaii.gov

Chair Marcus R. Oshiro, Vice-Chair Marilyn B. Lee, and Members of the Committee:

We are writing to request your support for SB 711, which: (1) establishes a ten year statute of limitations on tax collections since Hawaii has no statute of limitations on collections; and (2) allows the statute of limitations on assessments from the filing of the earlier of the filing of the periodic or annual returns, not just the annual return as under current law. We believe that SB 711 is fair and equitable, irrespective of the potential lost in tax revenues, which are possibly significantly overstated by the Department of Taxation for the following reasons:

1. The ten year statutes of limitation on collections is more than a reasonable time in which the Department of Taxation has to pursue collection actions, which economically diminishes with time. Would encourage the Department of Taxation to more aggressively pursue collection actions and enable to State to secure funds to carryout its purpose in a timelier manner. Have Hawaii collection statute of limitations for collections conform to federal law, and be compatible with most other states.

2. The three yeas statute of limitation on the assessment of general excise tax and other periodic returns should not run only from the filing of the annual reconciliation return but when such returns are filed. The current three year statute of limitations which only begins to run from the filing of the annual return is a trap for the unwary. Furthermore, this revision in the current law should not significantly impact the Department of Taxation's ability to administer and fulfill its revenue generating function.

Furthermore, establishing a sunset on the Department of Taxation's ability to pursue tax collections should significantly improve the State's tax collection policies and efforts. It should cause the State to change the way it carryout collection efforts to that of the public sector since it is well established standard practice in the public sector to vigorously pursue collection efforts while receivables are current rather than at some later time since the value of receivable diminish with the passage of time.

Thank you for allowing us to submit written testimony on SB 711.

Very truly yours,

Howard K. Kam Jr.
Its Managing Director
March 29, 2008

Ronald I. Heller
Attorney & CPA

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phone 808 523 6000 fax 808 523 6001
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Before the House Committee on Finance

Tuesday, April 1, 2008
2:30 pm
Conference Room 308

Re: SB 711 **HD 1**
Relating to Taxation

Testimony of Ronald I. Heller

Chair Oshiro, Vice Chair Lee, and Committee members:

Thank you for the opportunity to testify. I support SB 711, **HD 1**.

If you owe money to the Internal Revenue Service, they have 10 years to collect it. Under certain circumstances, that 10 year period can be extended, but at some point, if the IRS hasn't acted, it simply becomes too late.

Our state tax law, in contrast, contains no limitation period for the Department of Taxation. I have seen cases where they've pursued collection 20 years, or 25 years, after the tax liability originally accrued. Generally, taxpayers do not have good records going that far back, and these cases are usually difficult to resolve.

Moreover, the absence of any time limit may encourage an "it can wait" attitude on the part of some Tax Department employees – instead of taking prompt action, they feel they can take their time.

Therefore, imposing a ten-year statute of limitations – the **same** limitation period that exists for federal taxes – would benefit both taxpayers and the State. Taxpayers would no longer

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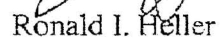
face the threat of trying to defend against claims that go back for decades, and the State would see a greater emphasis on prompt action with respect to tax collections.

Thank you for your attention to this matter.

Respectfully submitted,



Ronald I. Heller

638672

FINTestimony

⁻rom:	Lauren Luis [lluis@dwyerlaw.com]
ˏent:	Monday, March 31, 2008 4:35 PM
To:	FINTestimony; Rep. Marilyn Lee; Rep. Marcus Oshiro
Cc:	Cynthia Arashiro
Subject:	Testimony in Opposition SB 711 Proposed HD2: Relating toTaxation (4/1/08 @ 2:30 pm in Conf. Rm 309)

Aloha Chair, Vice Chair, and Members of the Committee:

As legal counsel to numerous local and mainland clients within the entertainment, intellectual property and high technology sectors, I strongly oppose any provisions of Proposed House Draft 2 of SB 711 that will effect HRS Section 235-17. In its current state, HRS Section 235-17 has proven to:
(1) be an effective catalyst for investment in Hawaii's intellectual property, entertainment (motion picture, television, digital media and recording industries) and high technology sectors, and
(2) effectively prohibit so-called "double dipping" between the Act 221/215 Investment Tax Credit (provided for in HRS § 235-110.9) and the Act 88 Refundable Production Credit (provided for in HRS § 235-17).

In its proposed form, House Draft 2 of SB 711 seeks to expand the existing limitations on "double-dipping" set forth in HRS Section 235-17(e), by absolutely prohibiting a production from utilizing both incentives (Act 221/215 and Act 88) in connection with the same project. Such a prohibition is unnecessary, goes too far and will have an undesirable "chilling effect" upon production activity, especially large projects, in the state of Hawai'i. Under existing law, the Department of Taxation has developed a calculus which allows large productions to utilize both incentives, while at the same time prohibiting the same dollar that is invested in a QHTB pursuant to Act 221/215 from ɿenerating qualified production costs, which in turn can generate refundable tax credits ꝑursuant to Act 88. The outright prohibition proposed by this initiative will remove the flexibility that currently exists in the law and render the state's production incentives less attractive.

However, to the extent that this Committee in fact desires to prohibit production companies from taking advantage of both incentives in connection with the same project, I urge the Committee to revise the language that is intended to accomplish that goal. As currently drafted, the second sentence in Section (E)(2) of SB 711, HD 2, is - at best - ambiguous and fails to clearly articulate the exact credits that are intended to be recaptured. Currently, Section (E)(2) of SB 711, HD 2 provides:

"(e) Claims for credit under this section shall be subject to the following limitations:
.....
(2) After June 30, 2008, no taxpayer shall be eligible to claim the tax credit under this section for qualified productions that are financed, in whole or in part, by investments for which a credit has been claimed by the taxpayer as a qualified high technology business under section 235-110.9. If a claim for credit is made under this section after June 30, 2008, the taxpayer shall no longer qualify for the credit under section 235-110.9 and any credit that has been claimed under that section shall be subject to recapture under section 235-110.9(i)." (emphasis added)

As drafted, it appears that the recapture provision is not limited to prospective Investment Tax Credits claimed under HRS §235-110.9 following the bill's adoption. Stated differently, this language arguably means that any and all Investment Tax Credits claimed by a QHTB under HRS § 235-110.9 since Act 221's enactment in 1999 would be subject to recapture if that QHTB were to make a claim for any Refundable Production Credits under HRS Section 235-17 after June 30, 2008.

On March 18, 2008 - just 2 weeks ago - the House Committee on Labor & Public Employment heard testimony on SB 2273 SD2 HD1: "Relating to Digital Media," which contained the identical language sought to be added by Section 9 of Proposed HD 2 of SB 711. I submitted substantially similar testimony (both written and oral) in opposition to that bill as I am submitting now (a copy of that testimony is attached hereto for your

convenience). As a result, the Labor Committee decided to strike the entire paragraph from the version of the bill that it eventually passed (HD 2) and referred to this Committee. There is no reason why this Committee shouldn't do the same now.

For these reasons, I respectfully request that this Committee refuse to pass House Draft 2 of SB 711 as currently drafted; and instead, urge this Committee to delete Section 9 of the bill. Thank you for the opportunity to testify.

William G. Meyer, III

Dwyer, Schraff, Meyer, Grant & Green
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