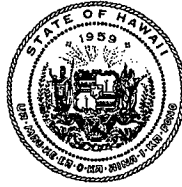


HB 1739

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



KURT KAWAFUCHI
DIRECTOR OF TAXATION

SANDRA L. YAHIRO
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809

PHONE NO: (808) 587-1510
FAX NO: (808) 587-1560

**SENATE COMMITTEE ON WAYS & MEANS
TESTIMONY REGARDING HB 1739 HD 1 PROPOSED SD 1
RELATING TO TAX ADMINISTRATION**

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

DATE: MARCH 24, 2009

TIME: 9:30AM

ROOM: 211

This measure, among other things, conforms Hawaii tax administration law to several components of the Internal Revenue Code.

The Department of Taxation (Department) **strongly supports** this measure and encourages its passage. This measure **levels the tax administration playing field** between the state and federal levels, as well as **provides a much-needed revenue gain** in these current challenging fiscal times.

Fundamentally, this measure is about fairness in the administration of taxes amongst the government, taxpayers and tax practitioners. Except for the provision limiting the ability to use federal grant money to claim tax credits, this measure proposes no new law that practitioners aren't already familiar with under the federal tax administration regime.

I. DISCUSSION OF OPERATIVE PROVISIONS

A. TAX RETURN PREPARER PENALTY FOR TAKING UNREASONABLE POSITIONS

The overall duty of a preparer is to prepare a proper return. The preparer can generally rely in good faith on information furnished by the taxpayer without verification. The preparer is not required to audit, examine, or review books and records, business operations, documents, or other evidence in order to verify independently the taxpayer's information.

The preparer, however, cannot ignore the implications of information furnished to or actually known by the preparer. If the information furnished appears to be incorrect or incomplete, the preparer must make reasonable additional inquiries.

In addition, the preparer must make appropriate inquiries to determine whether the taxpayer has the substantiation required for certain deductions (e.g., travel and entertainment expenses).

This bill imposes penalties of \$500 for an undisclosed, unreasonable position, and \$1,000 for willful or reckless disregard of the law. An unreasonable position is one not based upon substantial authority. The Department may also seek injunctive relief to prevent certain recurring conduct. These penalties are drawn from Internal Revenue Code (IRC) sections 6694 and 7407.

The primary purpose behind this proposal is to enable the Department to hold accountable tax return preparers who take unreasonable positions on tax returns. The need to impose penalties on tax return preparers has become especially critical in the wake of the corporate fraud scandals that led to the indictment of partners and principals of a Big-4 international accounting firm and the subsequent enactment of the Sarbanes-Oxley Act.

The Sarbanes-Oxley Act holds both company executives and external accountants who assist them directly liable for any false information published in financial statements. This Department similarly seeks to hold tax return preparers responsible for their role in furnishing false information and supporting unrealistic positions on tax returns. It has become abundantly clear that those who help to prepare false or unrealistic financial information are just as responsible as those who actually furnish and report that information. This bill would enable the Department to better regulate and enforce unrealistic tax positions, and thereby facilitate the collections process and maximize tax revenues.

With the extremely generous income tax incentives available in Hawaii that are not available on the federal level, the state needs to have parameters and penalties in place to deter over aggressive and unsubstantiated conduct.

Contrary to the federal counterpart to this provision, this provision provides practitioners guidance on what substantial authority can be utilized to rebut an assessment of this penalty. This measure specifically defines the substantial authority that can be relied upon. Also, the federal counterpart presumes all positions are unreasonable unless there is substantial authority. This penalty operates in the inverse by stating that no position is unreasonable unless it is contrary to substantial authority. This should give practitioners comfort that this penalty will not be mismanaged.

RECENT DEVELOPMENT IN THIS AREA—The Department wants to point out that the IRS is scrutinizing certain "prepackaged" research credit claims that have been processed by large accounting firms. In an LMSB Memo dated January 15, 2009, the IRS targeted the federal R & D credit claims where the claims appear to lack the due diligence and lack of documentation to support the claims. This penalty would allow the Department to challenge the behavior of the tax professional who is peddling these prepackaged claims in order to ensure tax professionals are not stepping over the line.

B. ABUSIVE TAX SCHEME PROMOTERS

This bill proposes a penalty and injunctive relief (drawn from IRC sections 6700 and 7407) that apply to two distinct types of conduct: (1) making a false statement; and (2) making a "gross valuation overstatement;" with regard to promoting abusive tax shelters.

The penalty is applicable to any "person" who, directly or indirectly, organizes or assists in the organization of a tax shelter or who participates in the sale of any interests in a shelter. Although the penalty is aimed at individuals organizing and marketing interests in limited partnership tax shelters, the coverage is much broader. Any person--an individual, a corporation, a partnership, a trust, or an estate--can be a promoter. The tax shelter may be in the form of any entity, plan, or arrangement from which a tax benefit may be derived. Moreover, the plan or arrangement need not be an investment; it can include other activities, such as the sale of mail-order ministries or family trust arrangements.

C. ERRONEOUS REFUND CLAIMS

Congress recently amended the Internal Revenue Code to allow for a twenty percent penalty on any excessive refund claims. With certain of the tax incentives provided in Title 14, HRS, providing the Department of Taxation with the ability to assess a penalty for refund or credit claims where a taxpayer's claim lacks a reasonable basis will assist with the administration of Hawaii's taxes by providing a deterrent mechanism, which presently does not exist. This penalty is patterned after IRC section 6676.

Importantly for taxpayers and practitioners, the Department provides more guidance than is currently available under federal law by defining what a reasonable basis is. For example, a reasonable basis for a claim would include a 1-in-4 chance of success on the merits. Also, a reasonable basis includes innocent mistakes. The Department also provides taxpayers and practitioners with some comfort by precluding the penalty from applying where any penalty calculation results in an amount of less than \$400. This means that a taxpayer has to have a refund error of \$2,000 or more to be penalized under this section. The Department suggests that there is little excuse for an error of \$2,000 where there is not a reasonable basis.

RECENT DEVELOPMENT IN THIS AREA—The Department wants to point out that the IRS is scrutinizing certain "prepackaged" research credit claims that have been processed by large accounting firms. In an LMSB Memo dated January 15, 2009, the IRS targeted the federal R & D credit claims where the claims appear to lack the due diligence and lack of documentation to support the claims. The IRS specifically references the § 6676 penalty for erroneous refund claims in the R & D credit area.

D. SUBSTANTIAL UNDERSTATEMENT OR MISSTATEMENTS OF TAX

Under current federal law, a taxpayer is liable for a heightened penalty for any understatements considered substantial. This penalty is equal to twenty per cent of the portion that

is attributable to a substantial understatement. An understatement is considered substantial where the difference between the amount shown on the return and the amount that should properly be on the return is greater than ten per cent of the tax required to be shown or \$1,500 for individuals (\$30,000 for corporations). Any understatement is reduced by any amount disclosed on a return or where there is substantial authority for the position. This penalty is drawn from IRC section 6662. This penalty increases as noncompliance increases by a taxpayer.

In perspective, this penalty would apply where an individual understates their taxable income by approximately \$18,000 at the highest tax rate. For a corporation, the understatement would be equal to approximately \$363,000 at the highest tax rate. As can be seen from these numbers, the Department's position in advocating for this penalty is not unwarranted. Persons making understatements to this level must be deterred.

E. EXTENSION OF STATUTE OF LIMITATION ON ASSESSMENT DUE TO SUBSTANTIAL OMISSIONS

Federal law provides the Internal Revenue Service with the authority to revisit an assessment after the ordinary close of the statute of limitation where a taxpayer has been found to have substantially omitted an item of income. Because Hawaii's tax system is one based upon self-assessment, the government is reliant upon taxpayers to accurately and responsibly report items on their return and to submit a proper return. However, where a taxpayer is found to have omitted a large amount of any item from a return, the government is at a disadvantage after a return is filed where the ordinary three-year statute of limitations closes. This legislation recognizes the government's position and extends the statute of limitations on assessment to six years from the date the return is filed to ensure accurate taxes are paid by those who substantially omit items. This authority is patterned after IRC section 6501.

F. JOHN DOE SUMMONS AUTHORITY

As illegal tax schemes increase in complexity, the government is often unable to identify the beneficiaries of a tax scheme when the scheme or the fruits of the scheme are uncovered. In response, Congress provided the Internal Revenue Service with the authority to subpoena records of unknown persons when unlawful tax activity is detected. Upon making a showing to a court that an ascertainable class is likely to have committed tax violations and that the information is otherwise unavailable, the federal government can obtain documents from third parties. This authority, known as a "John Doe Summons," is another tool to combat aggressive tax schemes. This authority is patterned after IRC 7609(f).

G. FAILURE TO COLLECT AND PAY WITHHOLDING TAXES

This bill proposes a conformity provision to IRC section 7202, which provides a felony offense for anyone who willfully fails to collect, truthfully account for, or pay over withholding taxes. Withholding taxes are considered trust fund taxes where the employer is liable to collect an employee's income taxes and pay them over to the government. Title 14, HRS, is presently void of criminal liability for failure to properly collect, truthfully account for, and pay over taxes owed.

Failure to pay tax or other similar criminal actions are presently charged and prosecuted under a theft theory.

H. SIGNATURES PRESUMED AUTHENTIC

Almost every form filed with the Department of Taxation must be signed by the taxpayer recognizing the penalties allowed for false or fraudulent statements made in connection with a return. The Department relies in good faith that the signatures are authentic and intended to be signed as proffered. By having a presumption that the signature as it appears on the document is authentic, the Department will be relieved of what has proved to be an unnecessary administrative burden, which requires prosecutors and investigators to either establish that a taxpayer signed the return or attempt to prove such through time consuming proceedings. This bill proposes to conform to IRC section 6064, which creates a presumption that any signature on a return or other document is presumed authentic. This mechanism places the burden of showing that the signature is false or fraudulent on the taxpayer, who is in the best position to establish whether or not the signature on the return is authentic.

I. ASSESSMENT AND LEVY UPON FRAUDULENT RETURNS

Certain HRS sections are amended to conform to the federal assessment provision at section 6501, IRC. Conforming to such provisions will allow the Department to assess and levy at any time where taxpayers file a fraudulent return or do not file a return. Currently, section 235-111, HRS, requires a court determination that a taxpayer filed a false or fraudulent return before the Department may assess or levy the associated tax or liability. This requirement is especially burdensome where a taxpayer enters a guilty plea that does not result in a court determination. Moreover, this legislation conforms to taxpayer safeguards when assessments are made at any time by shifting the burden of proof with regard to the liability associated with the falsity or fraud to the government, conforming to Internal Revenue Code section 7454(a).

J. INELIGIBILITY FOR CREDITS PAID WITH GOVERNMENT MONEY

The Department supports the proposal to preclude the use of government grants from being used to then qualify for tax credits.

The Department believes this bill represents good general tax policy. A person should not be allowed to "double dip" by being subsidized by the government and then leveraging that subsidy for further government tax benefits.

K. EFFECTIVE DATE

The Department wants to specifically touch on this measure's effective date. This measure's effective date is retroactive and applies to any tax return where the statute of limitations on assessment remains open. In the interest of fairness to taxpayers and to limit any infringing retrospective application, the effective date also provides a "safety valve" for taxpayers by giving them the ability to come forward and amend any return with an open statute of limitations and the

penalties under this measure will not apply; provided such amendment is filed by October 1, 2009. The Department believes that this effective date is fundamentally fair to taxpayers by providing the opportunity to cure the conduct that could give rise to a penalty.

The tax crimes and tax shelter penalty will apply beginning July 1, 2009.

II. REVENUE IMPACT

This legislation is projected to result in the following revenue gains:

- \$24,200,000 revenue gain in FY 2009-2010;
- \$25,300,000 million revenue gain in FY 2010-2011;
- \$26,400,000 million revenue gain in FY 2011-2012.

Linda Lingle
GOVERNOR



KAREN SEDDON
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
Honolulu, Hawaii 96813
FAX: (808) 587-0600

IN REPLY REFER TO

Statement of
Karen Seddon
Hawaii Housing Finance and Development Corporation
Before the

SENATE COMMITTEE ON WAYS AND MEANS

March 24, 2009, 9:30 a.m.
Room 211, State Capitol

In consideration of
H.B. 1739, H.D.1, Proposed S.D. 1
RELATING TO TAXATION.

The HHFDC has the following comments on Section 8 (page 16, lines 12 through 18) of H.B. 1739, H.D. 1, Proposed S.D. 1 to the extent that it impacts owners of affordable rental housing projects that are allocated State Low-Income Housing Tax Credits pursuant to section 235-110.8, Hawaii Revised Statutes. We defer to the Department of Taxation with respect to the remainder of this bill.

The development of affordable rental housing generally requires the leveraging of various funding sources, including federal and state sources. Currently, five projects totaling 445 units are being financed with Federal HOME Investment Partnership Program grant funds and Federal and State Low-Income Housing Tax Credits.

We also note that under the American Recovery and Reinvestment Act of 2009, the HHFDC will receive Federal funds to provide grants to owners of Low-Income Housing Tax Credit projects that stalled due to the downturn in the financial market. It is our understanding that the Federal grants under the Tax Credit Assistance Program will not reduce the eligible basis for the low-income buildings at issue. Therefore, it would be consistent public policy for the State to continue to allow these projects to claim State Low-Income Housing Tax Credits.

Accordingly, we respectfully request that State Low-Income Housing Tax Credits be exempted from the application of Section 8 of the Proposed S.D. 1.

Thank you for the opportunity to testify.

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: ADMINISTRATION, Adopt federal penalty provisions

BILL NUMBER: HB 1739, Proposed SD-1

INTRODUCED BY: Senate Committee on Ways and Means

BRIEF SUMMARY: Adds a new section to HRS chapter 231 to establish civil penalties for tax preparers relating to understatements due to unrealistic positions. An understatement on a tax return or claim for tax refund by a tax preparer shall be subject to a penalty of \$500. The wilful attempt of the preparer to understate the tax liability or any disregard of the tax laws shall be subject to a penalty of \$1,000. Delineates provisions relating to the extension of the period of collection where the tax preparer pays 15% of the penalty after a notice and demand were made.

Adds a new section to HRS chapter 231 to adopt provisions relating to the offense of promotion of abusive tax shelters and provides that such person shall be subject to a penalty of \$1,000 for each unlawful activity, or if the person establishes that it is less than \$1,000, 100% of the gross income derived (or to be derived) from such activity. Further delineates provisions relating to a civil action that may be brought by the state against an income tax preparer.

Adds a new section to HRS chapter 231 to provide that if a claim for refund or credit with respect to tax is made for an excessive amount, the person making the claim shall be liable for a penalty of 20% of the excessive amount; provided that there shall be no penalty assessed where the penalty calculation is less than \$400. It shall be a defense to the penalty under this section that the claim for refund or credit has a reasonable basis. A person claiming the reasonable basis defense shall have the burden of proof to demonstrate the reasonableness of the claim.

Adds a new section to HRS chapter 231 to establish a penalty for the understatement or misstatement of tax amounts. Twenty percent of any underpayment attributable to any substantial understatement of tax shall be added to any tax due. A substantial understatement of tax is when the amount of the understatement exceeds the greater of: (1) 10% of the tax due for a taxable year; or (2) \$1,500. In the case of a corporation, a substantial understatement of tax occurs if the amount of the understatement exceeds the greater of: (1) 10% of the tax required to be shown on a return; or (2) \$30,000.

Adds a new section to HRS chapter 231 to provide for an extension of the statute of limitations for substantial omissions. If a taxpayer omits any amount of: (1) gross income or gross proceeds of sale; (2) gross rental or gross rental proceeds; (3) price, value, or consideration paid or received for any property; (4) gross receipts; (5) gallonage, tonnage, cigarette count, day, or other weight or measure applicable to any tax that is in excess of 25% of the amount stated in the return, the tax may be assessed or a proceeding in court with respect to such tax without assessment may be begun without assessment, at any time within six years after the return was filed.

Adds a new section to HRS chapter 231 to provide that any person required to collect, account for, and

pay over any tax imposed by Title 14 who wilfully fails to collect or truthfully account for and pay over the tax, shall be guilty of a class C felony which shall be punishable with a fine of up to \$100,000, incarceration for up to five years, or probation; provided a corporation shall be fined up to \$500,000.

Adds a new section to HRS chapter 231 to provide that the fact that an individual's name is signed on a return, statement, or other document shall be prima facie evidence for all purposes that the document was actually signed by the individual.

Amends HRS section 231-7 to authorize the issuance of "John Doe Summons" wherein authority is given to subpoena records of unknown persons when unlawful tax activity is detected.

Amends HRS sections 235-111, 237-40, 237D-9, 243-14, and 251-8 to delete the provision requiring a court determination that a taxpayer filed a false or fraudulent return before the department of taxation may assess or levy the associated tax or liability and provide that the burden of proof with respect to the issue of falsity or fraud shall be on the government.

Adds a new section to HRS chapter 235 to provide that a taxpayer shall not be eligible to claim any state income tax credit on grants or moneys received from the federal government.

EFFECTIVE DATE: July 1, 2050 and as delineated in the measure

STAFF COMMENTS: The proposed measure would establish penalties, similar to those on the federal level, for persons who prepare tax returns for compensation. This proposal focuses on tax return preparers who serve the general public by imposing a \$500 penalty where the return unrealistically understates the amount of liability and a \$1,000 fine for the wilful attempt to understate tax liability. The measure would also establish penalty provisions relating to the promoting of abusive tax shelters. Note well that the definition of a "tax return preparer" is any person who prepares a return. This person does not have to be a licensed tax practitioner such as a CPA or a public accountant. Thus, a property management company or a real estate agent who prepares a general excise tax return for a client would also be included under these penalty provisions. In fact, if interpreted loosely, it could be the taxpayer himself. Further, there is no provision to indicate who prepared the return. In most cases, professionals, like a CPA, will co-sign the return indicating that someone else other than the taxpayer prepared the return.

The proposed measure also: (1) establishes penalties for filing a claim for refund or credit that is an excessive amount and provides that the person filing such claim shall be subject to a penalty of 20% of the excessive amount; (2) provides that a tax of 20% shall be added to any tax due if it is determined that the tax paid is substantially understated; and (3) extends the statute of limitations for six years after the filing of a return for the omission of information to allow the department of taxation to recover unpaid taxes.

The measure would allow the department of taxation to issue a "John Doe Summons" similar to that on the federal level - a summons designed to obtain information about unidentified taxpayers is issued to an individual who is not the subject of an investigation. On the federal level, the IRS may issue such a "John Doe summons" which does not identify the person with respect to whose liability the summons is issued as an investigatory tool to uncover the beneficiaries of an illegal tax scheme.

The measure also adopts provisions for the failure to collect and pay withholding taxes and provides that such failure shall constitute a class C felony.

While the adoption of the proposed measure which establishes penalty provisions that mirror the federal statutes would appear to be desirable, caution should be exercised with respect to whom it would be applied. To that end, the definition of "tax preparer" should be further clarified.

This measure proposes that a taxpayer receiving any grants from the federal government shall not be eligible for any state income tax credits. Since there are no qualifying provisions or restrictions, if this measure is enacted, a person receiving social security would not be able to claim the general income tax credit or the food/excise tax credit. Another example of a taxpayer receiving federal dollars and being qualified for a tax credit is a developer of affordable housing who might be receiving federal stimulus funds but because the project is the construction of affordable housing, the project may qualify for the state's complement of the low-income housing tax credit and the developer may indeed need those credits to round out the financing of the affordable housing project. As proposed, it is questionable whether this was the goal of the proposed measure. If it is the intent to bar the claiming of any one of the targeted business tax credits, such as the high technology investment tax credit or the ethanol production facility tax credit, then those should be singled out.

Although this bill gives the department of taxation some powerful enforcement tools, one should ask what are the rights of the taxpayer? This should be of real concern when the department fails to issue proper guidance or to adopt formal rules under Chapter 91 which would then have the force of law. Absent guidance that gives taxpayers a clear understanding of how the law is being interpreted, caution would be advised in giving the department such harsh tools as there is, no doubt, the innocent will be caught in the overly zealous fervor of some future administration of the department.

Digested 3/23/09

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Ineligibility to claim state income tax credits

BILL NUMBER: HB 1739, HD-1

INTRODUCED BY: House Committee on Finance

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to provide that a taxpayer shall not be eligible to claim any state income tax credit on grants or moneys received from the federal government.

EFFECTIVE DATE: July 1, 2020 applicable to tax years beginning after December 31, 2019

STAFF COMMENTS: This measure proposes that a taxpayer receiving any grants or moneys from the federal government shall not be eligible for any state income tax credits. Since there are no qualifying provisions or restrictions, if this measure is enacted, a person receiving social security would not be able to claim the general income tax credit or the food/excise tax credit.

Another example of a taxpayer receiving federal dollars and being qualified for a tax credit is a developer of affordable housing who might be receiving federal stimulus funds but because the project is the construction of affordable housing, the project may qualify for the state's compliment of the low-income housing tax credit and the developer may indeed need those credits to round out the financing of the affordable housing project.

As proposed, it is questionable whether this was the goal of the proposed measure.

Digested 3/23/09



**Testimony to the Senate Committee on Ways and Means
Tuesday, March 24, 2009
9:30 a.m.
Conference Room 211**

RE: HOUSE BILL NO. 1739. HD1 RELATING TO TAXATION

Chair Mercado Kim, Vice Chair Tsutsui, and Members of the Committee:

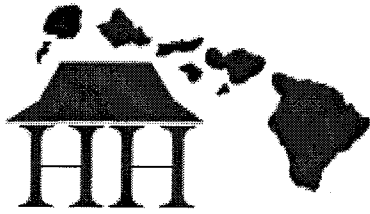
My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). The Chamber is in opposition to HB 1739 HD1.

The Chamber is the largest business organization in Hawaii, representing more than 1,100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

The bill seeks to mirror federal penalties, without mirroring the federal protections. Although the imposition of penalties by the IRS could be appealed to the Office of Appeals, an independent body, there would no such recourse available if the state imposed similar penalties. The bill would also permit the Department of Taxation to impose penalties if the taxpayer took a position that is inconsistent with informal written positions issued by DoTax (such as press releases).

The imposition of these penalties without the corresponding protections would put businesses in a great disadvantage in tax disputes with the state, without any independent bodies to resolve them. Because this bill does not provide the same rights and protections that they have when dealing with the IRS on the federal level, we do not feel that it is fair and balanced.

We respectfully request that the committee holds this measure. Thank you for the opportunity to submit testimony.



Housing Hawaii

Advocating Creating Maintaining Affordable Housing

Board of Directors

President

Kevin Carney, EAH
Housing

Vice-President

Rene Berthiaume,
TransPacific Housing
Development
Corporation

Secretary – Denise

Boswell, Rural
Community
Assistance
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Treasurer - Chuck

Wathen, Wathen and
Associates, Ltd.

Director - Kyle

Chock, The Pacific
Resource Partnership

Director - Ralph

Mesick, Bank of
Hawaii

Director - Laree

Purdy, Abigail
Affordable Housing
and Facilitated Home
Ownership

Director – Gregg

Robertson, Robertson
& Company, LLC

Director – Brian

Takahashi, Architects
Hawaii

Director – Kirk

Caldwell, City and
County of Honolulu

Director – Kamaile

Sombelon, Lokahi
Pacific

March 24, 2009

The Honorable Donna Mercado Kim, Chair
Senate Committee on Ways and Means
Hawaii State Capitol, Room 210
Honolulu, HI 96813

Dear Chair Kim and Members:

RE: HB 1739 HD1 Proposed SD1, RELATING TO TAXATION

I am Nani Medeiros, Executive Director of Housing Hawaii, testifying in opposition to House Bill 1739, Proposed SD1, Relating to Taxation. This bill prohibits recipients of federal grants from qualifying for state tax credits.

Housing Hawaii **opposes Section 8 of this bill and requests the language be deleted.** This language creates additional financial hardships for recipients of federal HOME and low income housing tax credits used to finance affordable housing projects. Additionally, non-profits who receive federal grants are penalized by this language. The American Recovery and Reinvestment Act of 2009 appropriates significant funding to assist non-profits. **We understand the need to create revenue streams for Hawaii, but taxing non-profits is not the answer.**

Thank you for the opportunity to testify.

Executive Director
Nani Medeiros

Housing Hawaii, 841 Bishop Street, Suite 2208, Honolulu, HI 96813

Phone: 808-469-7774

Email: housinghawaii@hawaii.rr.com

www.housinghawaii.org



CERTIFIED PUBLIC ACCOUNTANTS

Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

Subject: House Bill No. 1739
Hearing: March 24, 2009, 9:30 a.m.
Position: Oppose

Chair Kim, Vice Chair Tsutsui, and Members of the Committee,

My name is Kent K. Tsukamoto and I am the managing partner of Acuity LLP, a Hawaii based, locally owned full service CPA firm. I have been a practicing CPA in Hawaii for over 31 years. Thank you for the opportunity to testify in opposition to the provisions contained in proposed SD1 of House Bill 1739.

Most of the proposed SD1 is from SB 973, the Department of Taxation-authored bill that would adopt a number of penalty provisions, including a Hawaii preparer penalty for tax return preparers. There are a number of reasons this provision is seriously flawed and should be rejected, including but not limited to:

(1) The bill would essentially hold taxpayers and return preparers to federal standards without providing them the same protections and rights that exist at the federal level. For example, at the federal level, taxpayers can access a longstanding, fully developed and separately administered IRS Appeals Process and try to get disputes resolved by an independent IRS Appeals Officer. The State does not offer any parallel process. (The Board of Review at the State level is NOT an equivalent -- the Board does not meet with the taxpayer outside of the auditor's presence, and does not negotiate settlements.)

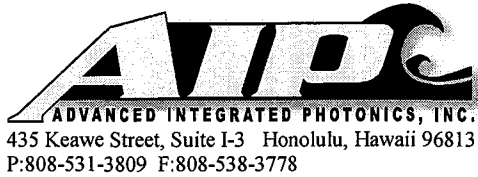
(2) The bill provides that if a taxpayer files a false or fraudulent return, with the intent to evade tax, then the Department of Taxation may assess additional tax at any time, regardless of the statute of limitations that would otherwise apply. However, if the taxpayer disputes an assessment of additional tax, the burden of proof with respect to the issue of falsity or fraud is on the government. Under federal law, it's clear that if the IRS wants to make an assessment of additional tax after the otherwise-applicable limitation period has expired, the IRS must prove BOTH that the return was false or fraudulent, AND that it was filed with the intent to evade tax. These are two separate and distinct issues, and the burden of proof on both of them is on the government at the federal level.

(3) The bill would define "substantial authority" to include announcements by the Department of Taxation - not just formal Administrative Rules adopted after public review and comment, but any announcements that the Department decides to make would be "substantial authority" in deciding when to apply penalties. This is inherently bad tax policy and not in conformity to federal standards.

(4) Section 8 of the bill is from HB 1739 as passed by the House. This section is overly broad and far reaching. As written, it would state that a family getting a Social Security check would be ineligible for the low-income renters' credit if the family used part of the Social Security money to pay the rent, and would be ineligible for the food/excise tax credit if the family spent the money on anything else. Clearly, this unintended consequence is not where this provision should be aimed.

Thank you for this opportunity to offer comments on the measure. In summary, we strongly oppose passage of the language contained in SD1 of House Bill 1739

Acuity LLP is the successor to PricewaterhouseCoopers' Honolulu Practice and is a full service CPA firm. It is one of the largest Accounting firms in Hawaii with more than 90 employees. It serves both local and internationally based clients.



HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM:

Dr. John A. Pescatore, Jr.
Process Engineer
Advanced Integrated Photonics, Inc.

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

The integration of photonics and electronics as wafer-based circuits is crucial in achieving transformational cost, size, and performance for a wide range of applications in communications, data networking, computing, sensors, solar power and more. Advanced Integrated Photonics located in Honolulu, Hawaii applies proprietary design and process technology to develop highly integrated photonic and electronic components for optical interconnections and optical sensors. Our approach to photonic component and module development is founded on a fundamental belief that the best products result from optimizing photonic circuit design, material sciences, and fabrication processes simultaneously. Our current product developments and services take advantage of years of experience in delivering integrated photonics for defense contracts and our 5,000 sqft state-of-the-art photonics wafer fab.

Thank you for the opportunity to testify.

Dr. John A. Pescatore, Jr.

Process Engineer
Advanced Integrated Photonics, Inc.



HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: **Anguel Nikolov**
VP Manufacturing and Operations
APIC Corporation

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

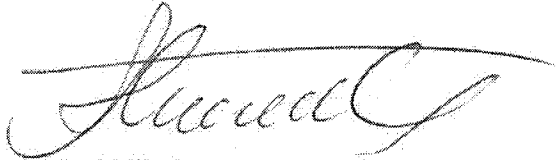
Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

We are a US Government contractor working on key technology to be implemented on military airplane platforms. The technology that we develop is sensitive and we must use only US based facilities. AIP in Honolulu HI has state of the art photonics development prototyping facility financed both by Government and private money. The success of our program depends on use of AIP's engineering talent and process development. The key technology developed at AIP combines photonic (optical) circuits with electronic circuits.

The integration of photonics and electronics as wafer-based circuits is crucial in achieving transformational cost, size, and performance for a wide range of applications in communications, data networking, computing, sensors, solar power and more. Advanced Integrated Photonics located in Honolulu, Hawaii applies proprietary design and process technology to develop highly integrated photonic and electronic components for optical interconnections and optical sensors. Our approach to photonic component and module development is founded on a fundamental

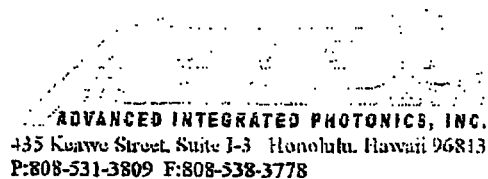
belief that the best products result from optimizing photonic circuit design, material sciences, and fabrication processes simultaneously. Our current product developments and services take advantage of years of experience in delivering integrated photonics for defense contracts and our 5,000 sqft state-of-the-art photonics wafer fab.

Thank you for the opportunity to testify.

A handwritten signature in black ink, appearing to read "Anguel Nikolov". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

Anguel Nikolov

VP Manufacturing and Operations
APIC Corporation



HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Room 211

**TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair**

**FROM: MARK CARTER GILMER
DIRECTOR OF PROCESS ENGINEERING
ADVANCED INTEGRATED PHOTONICS**

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

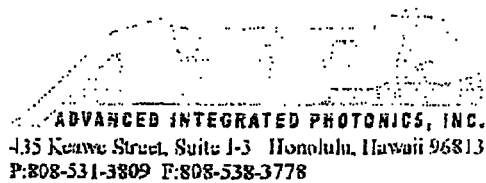
Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

The integration of photonics and electronics as wafer-based circuits is crucial in achieving transformational cost, size, and performance for a wide range of applications in communications, data networking, computing, sensors, solar power and more. Advanced Integrated Photonics located in Honolulu, Hawaii applies proprietary design and process technology to develop highly integrated photonic and electronic components for optical interconnections and optical sensors. Our approach to photonic component and module development is founded on a fundamental belief that the best products result from optimizing photonic circuit design, material sciences, and fabrication processes simultaneously. Our current product developments and services take advantage of years of experience in delivering integrated photonics for defense contracts and our 5,000 sqft state-of-the-art photonics wafer fab.

Thank you for the opportunity to testify.

**Mark Carter Gilmer, Director of Process Engineering
Advanced Integrated Photonics**



HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Room 211

**TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair**

**FROM: Kumkum Dutt
Director, HR**

Advanced Integrated Photonics.

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

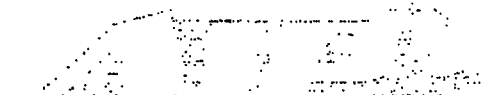
Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

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Thank you for the opportunity to testify.
Kumkum Dutt
Advanced Integrated Photonics



ADVANCED INTEGRATED PHOTONICS, INC.
435 Keawe Street, Suite 1-3 Honolulu, Hawaii 96813
P:808-531-3809 F:808-538-3778

HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Room 211

**TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair**

**FROM: Bernie Torres
Hawaii Clean Room Facility Manager
Advanced Integrated Photonics
Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation**

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

The integration of photonics and electronics as wafer-based circuits is crucial in achieving transformational cost, size, and performance for a wide range of applications in communications, data networking, computing, sensors, solar power and more. Advanced Integrated Photonics located in Honolulu, Hawaii applies proprietary design and process technology to develop highly integrated photonic and electronic components for optical interconnections and optical sensors. Our approach to photonic component and module development is founded on a fundamental belief that the best products result from optimizing photonic circuit design, material sciences, and fabrication processes simultaneously. Our current product developments and services take advantage of years of experience in delivering integrated photonics for defense contracts and our 5,000 sqft state-of-the-art photonics wafer fab.

Thank you for the opportunity to testify.
Bernie Torres
Advanced Integrated Photonics



**5800 UPLANDER WAY
CULVER CITY, CA 90230
310-642-7975 (Voice) 310-642-7829 (Fax)**

HB1739 HD1 SD1 Proposed- Relating to Taxation

**DATE: March 24, 2009
TIME: 9:30am
PLACE: Room 211**

**TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair**

**FROM: Dr. Birendra Dutt
TITLE: President/CEO
APIC Corporation**

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

The integration of photonics and electronics as wafer-based circuits is crucial in achieving transformational cost, size, and performance for a wide range of applications in communications, data networking, computing, sensors, solar power and more. APIC has an office/high technology fabrication lab in Honolulu since 2003. Advanced Integrated Photonics located in Honolulu, Hawaii applies proprietary design and process technology to develop highly integrated photonic and electronic components for optical interconnections and optical sensors. Our approach to photonic component and module development is founded on a fundamental belief that the best products result from optimizing photonic circuit design, material sciences, and fabrication processes simultaneously. Our current product developments and services take advantage of years of experience in delivering integrated photonics for defense contracts and our 5,000 sq ft state-of-the-art photonics wafer fabrication lab.

Thank you for the opportunity to testify.

Dr. Birendra Dutt, President/CEO, APIC Corporation



**5800 UPLANDER WAY
 CULVER CITY, CA 90230
 310-642-7975 (Voice) 310-642-7829 (Fax)**

HB1739 HD1 SD1 Proposed- Relating to Taxation

**DATE: March 24, 2009
 TIME: 9:30am
 PLACE: Room 211**

**TO: Senate Committee on Ways and Means
 Senator Donna Mercado Kim, Chair
 Senator Shan S. Tsutsui, Vice Chair**

FROM: James Chan

**TITLE: Senior Vice President
 APIC Corporation**

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

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Thank you for the opportunity to testify.

James Chan,

Senior Vice President

APIC Corporation



**5800 UPLANDER WAY
 CULVER CITY, CA 90230
 310-642-7975 (Voice) 310-642-7829 (Fax)**

HB1739 HD1 SD1 Proposed- Relating to Taxation

**DATE: March 24, 2009
 TIME: 9:30am
 PLACE: Room 211**

**TO: Senate Committee on Ways and Means
 Senator Donna Mercado Kim, Chair
 Senator Shan S. Tsutsui, Vice Chair**

**FROM: Denise Lortie
 TITLE: Vice President
 APIC Corporation**

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

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Thank you for the opportunity to testify.

Denise Lortie, Vice President, APIC Corporation

kim2 - Arline

From: Raleigh Wong [Wong@Photonic-Corp.com]
Sent: Sunday, March 22, 2009 5:53 PM
To: WAM Testimony
Subject: Testimony: Opposition to HB1739

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Raleigh Wong

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

Raleigh Wong
Hawaii Clean Room Facility Assistant

Advanced Integrated Photonics Inc.
435 Keawe Street I-3
Honolulu, Hi 96813
Tel:808-531-3809
Fax:808-538-3778
Cell: 808-349-3665

The content of this message is AIP Confidential. If you are not the intended recipient and have received this message in error, any use or distribution is prohibited. Please notify me immediately by reply e-mail and delete this message from your computer system. Thank you.

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Marcus McIntosh

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

I am one of the many workers employed in the high tech industry in Hawaii and I would like to share my story with you.

In April of 2008, I made the brave decision to leave family, friends, and essentially my life back in the states and move to the great island of Oahu. Just graduating from college with an extreme amount of student debt and a dream, I held my head high because I knew that better times were in front of me. However, after several months of trying to secure employment, I was unsuccessful.

When I attained my Bachelor's Degree in Accounting, I was confident to take on the world. At that time, I don't think anyone knew how difficult and far-reaching this recession would become. I began to rethink the past 4 years and ponder "was it worth it?" Devastated by the job market and with only a few dollars left, I fortunately had the opportunity to interview with one of the best technology firms located in Honolulu.

I share this story with you so that you understand how far-reaching Act 221 has become. Without Act 221, I am without a job. This legislation not only helps secure high-paying specialized careers, it also creates complimentary opportunities. High-Technology companies need accountants, office assistants, interns, etc., from right here in Hawaii. When we need office supplies, we run down to Fisher Hawaii. We order our bottled water from Menehune Water Company. We have internet service through Oceanic Time Warner. Money invested in our company by the state, is returned to the state.

This proposed change would be detrimental to so many aspects of the already fragile Hawaii economy. The Federal funding that we receive could absolutely not sustain a fraction of this company. The only possible outcomes of this change in legislation would be job loss, and a loss of state revenue.

Act 221 has been and will continue to be successful and in this serious economic time. This Act was created to encourage the growth of this industry and it is working. I implore you not weaken what has become a vital part of this state.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Marcus McIntosh". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Marcus McIntosh

Staff Accountant

Archinoetics, LLC

Sleep Performance d.b.a Fatigue Science

700 Bishop Street, Suite 2000

Honolulu, HI 96813

(808) 585-7439

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Chris A. Russell

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

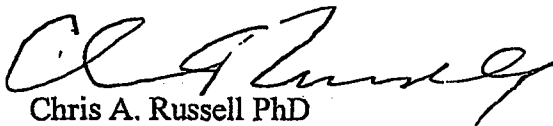
Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,



Chris A. Russell PhD

Senior Scientist

Archinoetics, LLC

Topa Financial Building, Bishop Tower

700 Bishop St, Suite 2000

Honolulu, HI 96813

chris@archinoetics.com

www.archinoetics.com

(808) 203-0387



700 Bishop Street, Suite 2000 Honolulu, HI 96813

March 23, 2009

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Joe Cooper

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1
Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies.

Archinoetics began operations in 2005 and has grown to 30 Hawaii based employees with a payroll of over \$2 million in 2008. We are a research company that develops intelligent human assistive technologies (i.e. we use sensors and computers to improve peoples' lives). We are currently launching a subsidiary company, Fatigue Science. Using a technology that was developed 4 years ago in Hawaii, they have just begun marketing a fatigue risk management system. The market for such systems is easily in the hundreds of millions of dollars annually worldwide. This takes time and it could easily take another 4 years to penetrate and exploit the market. We need this support to continue to grow this business in Hawaii.

Thank you for the opportunity to testify.

Sincerely,

Joe Cooper, CFO
Archinoetics, LLC



700 Bishop Street, Suite 2000 Honolulu, HI 96813

March 23, 2009

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Joe Cooper

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

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Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

Joe Cooper



700 Bishop Street, Suite 2000 Honolulu, HI 96813

HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: J. Hunter Downs, III
Chief Science Officer (co-founder)
Archinoetics, LLC

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

Archinoetics, LLC is a world class technology company focused on the research and development of human-centered technologies. Our current research and development projects include functional brain imaging systems, human fatigue and performance monitoring devices, intelligent algorithms based on genetic programming and biometric sensors, remote sensing, and specialized computing platforms. We were created in 2004 with the help of Act 221 which allowed my husband and I to make the leap of investing in our own company and have brought in over \$10 Million to the State of Hawaii in the past 4 years. Today we employ 30 software

and hardware engineers and scientists from varying backgrounds. A large number of our employees are kamaaina who left Hawaii and never dreamed that they would be able to work in their profession and raise their children back here at home. Act 221 has, and continues to be, vital to our company's success. Please help us survive through this economy and continue to expand the technology sector in Hawaii.

Thank you for the opportunity to testify.

J. Hunter Downs III, Ph.D
Chief Science Officer
Archinoetics, LLC



700 Bishop Street, Suite 2000 Honolulu, HI 96813

HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Traci H. Downs
President & COO
Archinoetics, LLC

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

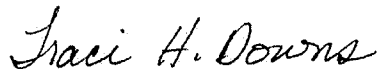
Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

Archinoetics, LLC is a woman owned world class technology company focused on the research and development of human-centered technologies. Our current research and development projects include functional brain imaging systems, human fatigue and performance monitoring devices, intelligent algorithms based on genetic programming and biometric sensors, remote sensing, and specialized computing platforms. We were created in 2004 with the help of Act 221 which allowed my husband and I to make the leap of investing in our own company and have brought in over \$10 Million to the State of Hawaii in the past 4 years. Today we employ 30

software and hardware engineers and scientists from varying backgrounds. A large number of our employees are kamaaina who left Hawaii and never dreamed that they would be able to work in their profession and raise their children back here at home. Act 221 has, and continues to be, vital to our company's success. Please help us survive through this economy and continue to expand the technology sector in Hawaii.

Thank you for the opportunity to testify.

A handwritten signature in cursive script that reads "Traci H. Downs".

Traci H. Downs, Ph.D
President & COO
Archinoetics, LLC

March 23, 2009

Email to: WAMTestimony@Capitol.hawaii.gov

Hearing Date: March 24, 2009, 9:30 a.m., CR 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: David B. Bills, President
Bills Engineering Inc.

**RE: *Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed -
Relating to Taxation***

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawai'i companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long-term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawai'i's tech companies. Therefore, we strongly oppose this bill.

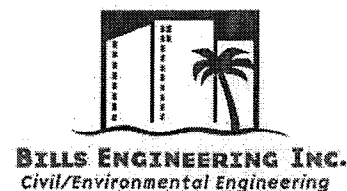
Thank you for the opportunity to testify.

Very truly yours,

BILLS ENGINEERING INC.

By: 
DAVID B. BILLS, President

DBB:flb





Cardax Pharmaceuticals, Inc.

99-193 Aiea Heights Drive, Suite 400, Aiea, HI 96701

telephone 808.457.1400 fax 808.237.5901

www.cardaxpharma.com

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Andrew D. Hieber

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

A handwritten signature in black ink, appearing to be "A. Hieber", written over a horizontal line.

Andrew D. Hieber
Associate Director, Biology
Cardax Pharmaceuticals, Inc.



Cardax Pharmaceuticals, Inc.

99-193 Aiea Heights Drive, Suite 400, Aiea, HI 96701

telephone 808.457.1400 fax 808.237.5901

www.cardaxpharma.com

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Henry L. Jackson

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

A handwritten signature in black ink that reads "Henry L. Jackson". The signature is written in a cursive, flowing style.

Henry L. Jackson
Associate Director, Discovery Chemistry
Cardax Pharmaceuticals, Inc.



Cardax Pharmaceuticals, Inc.

99-193 Aiea Heights Drive, Suite 400, Aiea, HI 96701

telephone 808.457.1400 fax 808.237.5901

www.cardaxpharma.com

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Ricky H. Takushi

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

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Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Takushi", written over a white background.

Ricky H. Takushi
Operations Associate
Cardax Pharmaceuticals, Inc.



Cardax Pharmaceuticals, Inc.

99-193 Aiea Heights Drive, Suite 400, Aiea, HI 96701

telephone 808.457.1400 fax 808.237.5901

www.cardaxpharma.com

HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: David G. Watumull
President & CEO
Cardax Pharmaceuticals, Inc.

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

Cardax Pharmaceuticals is developing proprietary small molecule therapies for large unmet medical needs where inflammation driven by oxidative stress plays an important causative role - including cardiovascular disease, hepatitis, rheumatoid arthritis, macular degeneration, and prostate disease.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "David G. Watumull", written in a cursive style.

David G. Watumull
President & CEO
Cardax Pharmaceuticals, Inc.



Cardax Pharmaceuticals, Inc.

99-193 Aiea Heights Drive, Suite 400, Aiea, HI 96701

telephone 808.457.1400 fax 808.237.5901

www.cardaxpharma.com

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: David M. Watumull

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "David M. Watumull", written in a cursive style.

David M. Watumull
Director, Operations & Finance
Cardax Pharmaceuticals, Inc.



Cardax Pharmaceuticals, Inc.
99-193 Aiea Heights Drive, Suite 400, Aiea, HI 96701
telephone 808.457.1400 ; fax 808.237.5901
www.cardaxpharma.com

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Kazutoshi Fujioka

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

A handwritten signature in black ink that reads "Kazutoshi Fujioka".

Kazutoshi Fujioka
Senior Scientist, Analytical Chemistry
Cardax Pharmaceuticals, Inc.

kim2 - Arline

From: Michael Chun [mchun@cellularbioengineering.com]
Sent: Monday, March 23, 2009 3:30 PM
To: WAM Testimony
Subject: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

HB1739 HD1 SD1 Proposed – Relating to Taxation

Date: March 24, 2009
Time: 9:30 a.m.
Place: Conference Room 211

To: Senate Committee on Ways and Means
The Honorable Donna Mercado Kim, Chair
The Honorable Shan S. Tsutsui, Vice Chair

From: Michael J.W. Chun, M.S., M.B.A.
Product Marketing Manager
Cellular Bioengineering, Inc.

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed – Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful, and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite – it will stop investment dollars which support the establishment and growth of local high tech companies.

With help from Act 221, Cellular Bioengineering Inc., was able to bring talented kama'aimas such as me back home to work, thrive, and pay taxes. In addition, CBI is demonstrating to the world that it is entirely possible for a Hawaii-based technology company to have an impact that is truly global.

Sincerely,

Michael J.W. Chun

Michael J.W. Chun
Product Marketing Manager
CBI Polymers
1946 Young St., Suite 288
Honolulu, HI 96826
www.decongel.com
Ph: 808-949-2208 ext 146
Fax: 808-949-2209

Cellular Bioengineering, Inc.

Invent. Disrupt. Inspire.

HB1739 HD1 SD1 Proposed – Relating to Taxation

Date: March 24, 2009
Time: 9:30 a.m.
Place: Conference Room 211

To: Senate Committee on Ways and Means
The Honorable Donna Mercado Kim, Chair
The Honorable Shan S. Tsutsui, Vice Chair

From: Georgette Ulloa

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed –
Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1
and Section 8 of SD1 Proposed.

I am one of many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite – it will stop investment dollars which support the establishment and growth of local high tech companies.

Sincerely,

Garry J. Edgington, Ph.D.
Sr. Polymer Scientist
Cellular Bioengineering, Inc.
1946 Young St., Suite 480
Honolulu, Hawaii 96826
phone: 808 949-2208
fax: 808 949-2209
gedgington@cellularbioengineering.com

1946 Young Street, Suite 288 · Honolulu, Hawaii 96826
Ph: 808.949.2208 · Fax: 808.949.2209
www.cellularbioengineering.com

Cellular Bioengineering, Inc.

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HB1739 HD1 SD1 Proposed – Relating to Taxation

Date: March 24, 2009
Time: 9:30 a.m.
Place: Conference Room 211

To: Senate Committee on Ways and Means
The Honorable Donna Mercado Kim, Chair
The Honorable Shan S. Tsutsui, Vice Chair

From: Keegan Gotto

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed –
Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite – it will stop investment dollars which support the establishment and growth of local high tech companies. Money put in the hands of the government is not always money well spent. “For the people, by the people.” Please keep this as sacred as I do. Thank you for your consideration.

Sincerely,

Keegan Gotto
Chemist
Cellular Bioengineering, Inc.
1946 Young St., Suite 480
Honolulu, Hawaii 96826
phone: 808 949-2208
fax: 808 949-2209
gedgington@cellularbioengineering.com

Cellular Bioengineering, Inc.

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HB1739 HD1 SD1 Proposed – Relating to Taxation

Date: March 24, 2009
Time: 9:30 a.m.
Place: Conference Room 211

To: Senate Committee on Ways and Means
The Honorable Donna Mercado Kim, Chair
The Honorable Shan S. Tsutsui, Vice Chair

From: Dr. Timothy Learmonth

Re: Testimony in Opposition to HB1739 HD1 and Section 8 of SD1 Proposed – Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do everything possible to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite – it will stop investment dollars which support the establishment and growth of local high tech companies.

Yours,

Timothy Learmonth, Ph.D.
Principal Development Physicist
Cellular Bioengineering, Inc.
1946 Young St., Suite 288
Honolulu, Hawaii 96826
phone: 808 949-2208
fax: 808 949-2209
tlearmonth@cellularbioengineering.com

1946 Young Street, Suite 288 · Honolulu, Hawaii 96826
Ph: 808.949.2208 · Fax: 808.949.2209
www.cellularbioengineering.com

kim2 - Arline

From: Eileen Paulo-Chrisco [epaulo-chrisco@cellularbioengineering.com]
Sent: Monday, March 23, 2009 2:56 PM
To: WAM Testimony
Cc: Michael Coy
Subject: Testimony

HB1739 HD1 SD1 Proposed – Relating to Taxation

Date: March 24, 2009
Time: 9:30 a.m.
Place: Conference Room 211

To: Senate Committee on Ways and Means
The Honorable Donna Mercado Kim, Chair
The Honorable Shan S. Tsutsui, Vice Chair

From: Eileen Paulo-Chrisco

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed – Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite – it will stop investment dollars which support the establishment and growth of local high tech companies.

Sincerely,

Eileen Paulo-Chrisco
Cell Biologist

Cellular Bioengineering, Inc.
1946 Young Street, Suite 288
Honolulu, HI 96826
Tel: 808-949-2208 x126
FAX: 808-949-2209

Cellular Bioengineering, Inc.

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HB1739 HD1 SD1 Proposed – Relating to Taxation

Date: March 24, 2009
Time: 9:30 a.m.
Place: Conference Room 211

To: Senate Committee on Ways and Means
The Honorable Donna Mercado Kim, Chair
The Honorable Shan S. Tsutsui, Vice Chair

From: Krista Peksa

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed –
Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite – it will stop investment dollars which support the establishment and growth of local high tech companies.

Sincerely,

Krista Peksa
Cellular Bioengineering Inc.
1946 Young Street, Suite 480
Honolulu, HI 96826
(808) 949-2208 ext 122

1946 Young Street, Suite 288 · Honolulu, Hawaii 96826
Ph: 808.949.2208 · Fax: 808.949.2209
www.cellularbioengineering.com

Cellular Bioengineering, Inc.

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HB1739 HD1SD1 Proposed: Relating to Taxation

Date: March 24, 2009

Time: 9:30 a.m.

Place: Conference Room 211

To: Senate Committee on Ways and Means

The Honorable Donna Mercado Kim, Chair

The Honorable Shan S. Tsutsui, Vice Chair

From: Roberto Mandanas, General Manager Polymeric Hydrogel Division, Cellular Bioengineering, Inc. (CBI)

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal research and development support plays a critical role in growing Hawaii's science and tech sectors with support coming from a range of federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, Department of Agriculture, etc. Clearly the recently passed "Stimulus" plan, American Recovery and Reinvestment Act of 2009, is a testament to this. However, federal funds are restricted to only research and development activities and may not be used for commercialization, which is critical to long term success. Through leveraging of federal funds the state receives a greater return on investment when companies are able to accelerate commercialization through use of complementary and unrestricted Act 221/215 funds. This proposed Bill will eliminate the ability for the largest research and experimentation sector in Hawaii to qualify for the benefits under HRS Chapter 235 and eviscerate the entire purpose and intent of the Hawaii Legislature in enacting Act 221/215. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. We strongly oppose this bill.

With help from Act 221, CBI has grown from 2 employees to 30; acquired technologies from leading scientific institutions around the world; harnessed a robust portfolio of over 25 patents and patent applications; developed the world's most advanced artificial cornea technology which holds the promise of restoring vision to 10 million people around the world; commercialized from concept to market a new generation of green technology for surface cleaning and decontamination; brought talented kama'āinas back home to work, thrive, and pay taxes; and demonstrated to the world that it is entirely possible for a Hawaii-based technology company to have impact that is truly global. Without Act 221, many of these feats could not possibly be accomplished in Hawaii.

Sincerely,



1946 Young Street, Suite 288 · Honolulu, Hawaii 96826

Ph: 808.949.2208 · Fax: 808.949.2209

www.cellularbioengineering.com

Cellular Bioengineering, Inc.

Invent. Disrupt. Inspire.

HB1739 HD1SD1 Proposed: Relating to Taxation

Date: March 24, 2009

Time: 9:30 a.m.

Place: Conference Room 211

To: Senate Committee on Ways and Means

The Honorable Donna Mercado Kim, Chair

The Honorable Shan S. Tsutsui, Vice Chair

From: Douglas M. Tonokawa, Vice President, Cellular Bioengineering, Inc. (CBI)

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

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www.cellularbioengineering.com

Cellular Bioengineering, Inc.

Invent. Disrupt. Inspire.

HB1739 HD1SD1 Proposed: Relating to Taxation

Date: March 24, 2009

Time: 9:30 a.m.

Place: Conference Room 211

To: Senate Committee on Ways and Means

The Honorable Donna Mercado Kim, Chair

The Honorable Shan S. Tsutsui, Vice Chair

From: Michael J. Coy, Vice President, Cellular Bioengineering, Inc. (CBI)

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

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Sincerely,



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Ph: 808.949.2208 · Fax: 808.949.2209

www.cellularbioengineering.com

Cellular Bioengineering, Inc.

Invent. Disrupt. Inspire.

HB1739 HD1 SD1 Proposed – Relating to Taxation

Date: March 24, 2009
Time: 9:30 a.m.
Place: Conference Room 211

To: Senate Committee on Ways and Means
The Honorable Donna Mercado Kim, Chair
The Honorable Shan S. Tsutsui, Vice Chair

From: Les Bowker, Quality Assurance Director Eyegenix Synthetic Cornea

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed –
Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite – it will stop investment dollars which support the establishment and growth of local high tech companies.

Sincerely,

Les Bowker
Director of Quality Assurance
Cellular Bioengineering Inc. (Eyegenix)

1946 Young Street, Suite 288
Honolulu, Hawaii 96826
(808) 949-2208 x124
(808) 949-2209 Fax

1946 Young Street, Suite 288 · Honolulu, Hawaii 96826
Ph: 808.949.2208 · Fax: 808.949.2209
www.cellularbioengineering.com

kim2 - Arline

From: markm mugiishi [mmugiishi@yahoo.com]
Sent: Sunday, March 22, 2009 12:57 PM
To: WAM Testimony
Subject: HB1739 HD1 SD1 Proposed- Relating to Taxation

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Mark Mugiishi MD, FACS
Medical Director
Cellular Bioengineering Inc.

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants are additional revenue to the State of Hawaii. In a time of great economic need, it would make no sense to dis-incentivize companies from seeking federal grants and prevent infusion of critical revenue into our state economy.

Furthermore, federal grants play a critical role in a variety of Hawaii science and technology companies. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Therefore, I strongly oppose this bill.

Cellular Bioengineering Inc. is a technology venture accelerator with 5 divisions of technology. For every \$1 of private equity investment, we have obtained nearly \$2 of federal grants and contracts, bringing extraordinary value to Hawaii's economy and diversifying our capability for the future generations of entrepreneurs and scientists.

Mark Mugiishi MD, FACS
Medical Director
Cellular Bioengineering Inc.

kim4 - Elizabeth

From: Stacey Higa [shiga@cellularbioengineering.com]
Sent: Monday, March 23, 2009 10:40 AM
To: WAM Testimony
Subject: HB1739 HD1 SD1 Proposed - Relating to Taxation

Importance: High

HB1739 HD1 SD1 Proposed – Relating to Taxation

Date: March 24, 2009
Time: 9:30 a.m.
Place: Conference Room 211

To: Senate Committee on Ways and Means
The Honorable Donna Mercado Kim, Chair
The Honorable Shan S. Tsutsui, Vice Chair

From: Stacey Higa

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed – Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite – it will stop investment dollars which support the establishment and growth of local high tech companies.

Sincerely,

Stacey Higa

Stacey Higa
Cellular Bioengineering, Inc.
1946 Young Street, Suite 288
Honolulu, Hawaii 96826
(808) 949-2208 x129
(808) 949-2209 Fax
www.cellularbioengineering.com

kim4 - Elizabeth

From: Wesley Chen [wchen@cellularbioengineering.com]
Sent: Monday, March 23, 2009 8:43 AM
To: WAM Testimony
Subject: HB1739 HD1 SD1 Proposed - Relating to Taxation

Follow Up Flag: Follow up
Flag Status: Completed

HB1739 HD1 SD1 Proposed – Relating to Taxation

Date: March 24, 2009
Time: 9:30 a.m.
Place: Conference Room 211

To: Senate Committee on Ways and Means
The Honorable Donna Mercado Kim, Chair
The Honorable Shan S. Tsutsui, Vice Chair

From: Wesley Chen

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed – Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite – it will stop investment dollars which support the establishment and growth of local high tech companies.

Sincerely,

Wesley

Wesley T. T. Chen, Ph.D.
Senior Cell Biologist
Cellular Bioengineering, Inc.
1946 Young Street, Suite 288
Honolulu, HI, 96826
Phone: (808) 949-2208, x121
Fax: (808) 949-2209
Email: wchen@cellularbioengineering.com

kim4 - Elizabeth

From: Derek Duan [dduan@cellularbioengineering.com]
Sent: Monday, March 23, 2009 8:44 AM
To: WAM Testimony
Subject: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

HB1739 HD1 SD1 Proposed – Relating to Taxation

Date: March 24, 2009
Time: 9:30 a.m.
Place: Conference Room 211

To: Senate Committee on Ways and Means
The Honorable Donna Mercado Kim, Chair
The Honorable Shan S. Tsutsui, Vice Chair

From: Derek X. Duan

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed – Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite – it will stop investment dollars which support the establishment and growth of local high tech companies.

Sincerely,

Derek X. Duan

Derek X. Duan, M.A. Sc. , Ph.D.
Polymer Scientist
Cellular Bioengineering Inc. (Eyegenix)
1946 Young Street, Suite 288
Honolulu, Hawaii 96826
Tel.: (808) 949-2208 x147
Fax: (808) 949-2209

kim4 - Elizabeth

From: Priscilla Carbajal [pcarbajal@cellularbioengineering.com]
Sent: Monday, March 23, 2009 9:00 AM
To: WAM Testimony
Subject: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

HB1739 HD1 SD1 Proposed – Relating to Taxation

Date: March 24, 2009

Time: 9:30 a.m.

Place: Conference Room 211

To: Senate Committee on Ways and Means
The Honorable Donna Mercado Kim, Chair
The Honorable Shan S. Tsutsui, Vice Chair

From: Priscilla Carbajal

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed – Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite – it will stop investment dollars which support the establishment and growth of local high tech companies.

Sincerely,

Priscilla Carbajal
Cellular Bioengineering, Inc. (Eyegenix)
1946 Young St., Suite 288
Honolulu, Hawaii
Tel: (808)949-2208 x. 148
Fax: (808)949-2209
pcarbajal@cellularbioengineering.com

Cellular Bioengineering, Inc.

Invent. Disrupt. Inspire.

HB1739 HD1SD1 Proposed: Relating to Taxation

Date: March 24, 2009

Time: 9:30 a.m.

Place: Conference Room 211

To: Senate Committee on Ways and Means

The Honorable Donna Mercado Kim, Chair

The Honorable Shan S. Tsutsui, Vice Chair

From: Michael O'Neill, CTO, Cellular Bioengineering, Inc. (CBI)

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

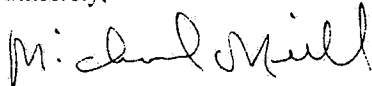
Aloha Chair, Vice Chair and Members of the Committee:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal research and development support plays a critical role in growing Hawaii's science and tech sectors with support coming from a range of federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, Department of Agriculture, etc. Clearly the recently passed "Stimulus" plan, American Recovery and Reinvestment Act of 2009, is a testament to this. However, federal funds are restricted to only research and development activities and may not be used for commercialization, which is critical to long term success. Through leveraging of federal funds the state receives a greater return on investment when companies are able to accelerate commercialization through use of complementary and unrestricted Act 221/215 funds. This proposed Bill will eliminate the ability for the largest research and experimentation sector in Hawaii to qualify for the benefits under IIRS Chapter 235 and eviscerate the entire purpose and intent of the Hawaii Legislature in enacting Act 221/215. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. We strongly oppose this bill.

With help from Act 221, CBI has grown from 2 employees to 30; acquired technologies from leading scientific institutions around the world; harnessed a robust portfolio of over 25 patents and patent applications; developed the world's most advanced artificial cornea technology which holds the promise of restoring vision to 10 million people around the world; commercialized from concept to market a new generation of green technology for surface cleaning and decontamination; brought talented kama'āīnas back home to work, thrive, and pay taxes; and demonstrated to the world that it is entirely possible for a Hawaii-based technology company to have impact that is truly global. Without Act 221, many of these feats could not possibly be accomplished in Hawaii.

Sincerely,



1946 Young Street, Suite 288 · Honolulu, Hawaii 96826

Ph: 808.949.2208 · Fax: 808.949.2209

www.cellularbioengineering.com

Statement of
LYANNE M. KIMURA
Chief Financial Officer
DataHouse Consulting, Inc.

Before the
Senate Committee on Ways and Means

Tuesday, March 24, 2009
9:30 A.M.
State Capitol, Conference Room 211

In consideration of
House Bill No. 1739 HD1 and SD1 Proposed
RELATING TO TAXATION

Chair Mercado Kim, Vice Chair Tsutsui and Members of the Committee:

Thank you for the opportunity to submit testimony in **STRONG OPPOSITION** to HB 1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

DataHouse Consulting, Inc. is engaged in the development (from analysis through implementation) of unique computer software and database applications

Statement of Lyanne M. Kimura
Re: HB 1739 HD1 and Section 8 SD1 Proposed
Hearing Date / Time: March 24, 2009 @ 9:30 a.m.
Page 2 of 2

and enhancements (material modification of third-party software) for sale or license. In 2002, we had 43 full-time employees. Today, we have grown to 62 full-time employees. Our growth can be attributed in part to the funding we have received from the R&D credits.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "Lyanne M. Kimura". The signature is fluid and cursive, with a prominent initial "L".

Lyanne M. Kimura
DataHouse Consulting, Inc.
1585 Kapiolani Blvd., Suite 1800
Honolulu, Hawaii 96814
Direct tel: (808) 948-9137
Email: lyanne_kimura@datahouse.com

kim4 - Elizabeth

From: diver [diver@decisionresearch.com]
Sent: Monday, March 23, 2009 1:42 PM
To: WAM Testimony
Cc: Rep. Barbara Marumoto
Subject: Testimony: Opposed to HB 1739 HD1

HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: W. A. Simmons
President
Decision Research Corporation

Re: Testimony in Opposition to HB1739 HD1

Chair, Vice-Chair and Committee Members:

Act 221 may turn out to have been one of the most positive and significant measures ever enacted. The time is about to arrive for mainland and even European companies to invest in high technology industries in Hawaii.

I call your attention to the case of Singapore, which is getting major investments from Europe. Singapore, an island without resources other than its people, is drawing capital world-wide to high technology because they have created a tax and regulatory environment that attracts large R&D companies.

Please do not make changes that diminish Act 221.

High tech companies, like Decision Research, have made our long range plans based upon the existing law. We have entered into contracts with pricing and terms based, in part, upon Hawaii tax law. Changes to Act221 are potentially very destructive for us.

As to federal money; nearly every high tech company gets some form of federal money. This is great for Hawaii; it brings in money, builds our high tech industries, and creates jobs.

To exclude companies that get federal money would exclude many, many of Hawaii's high tech companies from using the law.

Walt Simmons

President

Decision Research Corporation

kim2 - Arline

From: David Adams [DAdams@dlaa.com]
Sent: Monday, March 23, 2009 3:26 AM
To: WAM Testimony
Subject: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

Thank you for the opportunity to submit testimony regarding HB1739 HD1 and Section 8 of SD1 Proposed. As President and Principal of a consulting engineering company in Hawaii, I am strongly opposed to this bill.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

David L. Adams, P.E., President

D. L. Adams Associates, Ltd.

Consultants in Acoustics, Performing Arts and Technologies

970 North Kalaheo Avenue, Suite A311
Kailua, Hawaii 96734
808/254-3318 · Fax 808/254-5295



March 23, 2009

Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair
Senate Committee on Ways and Means
State Capitol, Room 210
Honolulu, Hawaii 96813

Subject: H.B. 1739 SD1; Hearing March 24, 2009, 9:30AM; **Testimony in Opposition**

Dear Chair Kim, Vice Chair Tsutsui and Members of the Senate Committee on Ways and Means:

EAH Housing strongly opposes the language in Section 8 of H.B. 1739 SD1. This section of the bill prohibits recipients of federal grant programs such as Community Development Block Grants, HOME Investment Partnership, and the American Recovery and Reinvestment Act of 2009 from claiming Low Income Housing Tax Credits (LIHTCs).

EAH Housing is a non-profit public benefit corporation dedicated to developing, managing, promoting and preserving affordable rental housing. In developing and acquiring and rehabilitating properties we depend on LIHTCs as our primary source of equity financing. We are equally dependent on federal grant programs such as those listed above to fill the gap between the equity raised via LIHTCs and the amount of debt that the property can carry and still keep the rents affordable. Eliminating our ability to access these programs will place greater demand on the Dwelling Unit Revolving Fund and Rental Housing Trust Fund to fill the void.

At this point in the history of our nation and our state we need to be thinking of ways to expedite the production of new and the preservation and rehabilitation of existing affordable rental housing projects. Including any reference to LIHTCs in this bill will do exactly the opposite - it will slow down new production and redevelopment. The results will be seen on our beaches and in our parks as the homeless population grows because of the lack of affordable rental housing. We respectfully request that State Low Income Housing Tax Credits be exempted from this bill.

Thank you for this opportunity to submit our thoughts.

Sincerely,

Kevin R. Carney, (PB)
Vice President, Hawaii

kim2 - Arline

From: Todd Nakamura [todd.nakamura@e-telligents.com]
Sent: Sunday, March 22, 2009 1:42 PM
To: WAM Testimony
Subject: TESTIMONY - HB1739 HD1 SD1 Proposed - Relating to Taxation

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: **Todd K. Nakamura**

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

e-telligents, LLC is a QHTB software development company (locally owned and operated), specializing in creating electronic health care (EHR) applications and solutions. We currently have employed locally 2 full-time and 3 part-time employees, with another 3-4 full-time positions to hire within the next 1.5 years, provided no adverse changes occur (HB1739 HD1 and Section 8 of SD1 proposed).

On a personal note, the Act 221 has helped me out considerably by creating a local position that I could apply for (I was laid off for a portion of last year as a government contractor due to the tough economic conditions we are facing here in Hawaii and across the nation.).

The CTO of our company, Mr. Branden I. Tanga, was in the same predicament as myself, being recently laid off and looking for another high tech position. Mr. Tanga was considering job opportunities on the mainland and in the international job markets, but fortunately, with the help of Act 221 and high tech investment dollars, e-telligents, LLC was created, with new positions available for him to continue employment and live in Hawaii.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

Todd K. Nakamura
Operations & Business Manager
e-telligents, LLC
711 Kilani Avenue
Wahiawa, HI 96786

kim4 - Elizabeth

From: Tracy Matsumoto [cphmats@gmail.com]
Sent: Monday, March 23, 2009 9:59 AM
To: WAM Testimony
Subject: Fwd: TESTIMONY - HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Conference Room 211
TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair
FROM: Todd K. Nakamura

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am the manager of a software company that employs two full time and three part time employees. These jobs were created as a direct result of the incentives provided by Act 221. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

e-telligents, LLC is a QHTB software development company (locally owned and operated), specializing in creating electronic health care (EHR) applications and solutions. We plan on hiring another 3-4 full-time positions within the next year, provided no adverse changes occur (HB1739 HD1 and Section 8 of SD1 proposed).

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.
Sincerely,

Tracy C. Matsumoto, D.C., M.B.A.
CEO
e-telligents, LLC
Healthware Made Smart!
808-372-1591

FREITAS & SAITO, LLP

Certified Public Accountants

Pauahi Tower, Suite 610

1003 Bishop Street

Honolulu, Hawaii 96813

Telephone (808) 564-0110

Facsimile (808) 531-4678

Toll Free (888) 837-9890

Website: www.fscpas.biz

Richard E. Freitas

Rodney M. Saito

March 23, 2009

VIA EMAIL

Madame Chair Kim

Vice Chair Tsutsui

Members of the Senate Ways and Means Committee

Re: Written Testimony on HB 1739 Proposed SD 1 (Taxation)

Dear Senate Ways and Means Committee:

We urge you to oppose HB 1739 Proposed SD 1 as written in its present form. HB 1739 appears to put the law abiding Hawaii taxpayers in a precarious disadvantage.

The intention of one of the provision in the current bill attempts to parallel Hawaii tax laws to the federal tax provisions. However, the current structure of the Hawaii tax department is not the same structure as the Internal Revenue Service. For example, the current bill essentially holds taxpayers and return preparers to federal standards without giving them the same protections that exist at the federal level. At the federal level, Taxpayers can go to the Appeals Office and try to get disputes settled by an independent Appeals Officer. The State does not offer any parallel process. You must realize that the Board of Review at the State level is not an equivalent as the Board does not meet with the Taxpayer outside of the auditor's presence, and does not negotiate settlements.

The current Bill defines substantial authority to include announcements by the Department of Taxation not just formal administrative rules adopted after public review and comment, but any press releases or announcements that the Department decides to issue would be substantial authority in deciding when to apply penalties.

Lastly, the current Bill provides that if a Taxpayer files a false or fraudulent return, with the intent to evade tax, then the Department of Taxation may assess additional tax at any time, regardless of the statute of limitations that would otherwise apply. However, if the Taxpayer disputes an assessment of additional tax, the burden of proof with respect to the issue of falsity or fraud is on the government. Under federal law, it's clear that if the IRS wants to make an

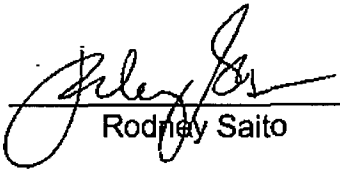
assessment of additional tax after the otherwise-applicable period has expired, the IRS must prove both that the return was false and fraudulent, and that it was filled with the intent to evade tax. These are two separate and distinct issues, and the burden of proof on both of them is on the government at the federal level.

If the intention of the current Bill is make the Hawaii tax law more closely match federal law, then please do it in a fair and unbiased way – if Hawaii Taxpayers are to be subject to penalties comparable to the federal level, then Hawaii Taxpayers should be have the same rights and protections as the federal level.

Respectfully submitted,

Freitas & Saito, LLP


Richard Freitas


Rodney Saito

kim2 - Arline

From: Aiello, Dale [Dale.Aiello@gartner.com]
Sent: Saturday, March 21, 2009 9:40 PM
To: WAM Testimony
Subject: HEARING NOTICE: Senate Committee on Ways and Means (WAM) Testimony

HB1739 HD1 SD1 Proposed- Relating to Taxation

HEARING NOTICE: Senate Committee on Ways and Means (WAM)

DATE: TUESDAY, MARCH 24

TIME: 9:30AM

PLACE: CONFERENCE ROOM 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Dale Aiello
Hawaii Representative
Gartner, Inc.

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

About Gartner

Gartner, Inc. (NYSE: IT) is the world's leading information technology research and advisory company. We deliver the technology-related insight necessary for our clients to make the right decisions, every day. From CIOs and senior IT leaders in corporations and government agencies, to business leaders in high-tech and telecom enterprises and professional services firms, to technology investors, we are the indispensable partner to 60,000 clients in 10,000 distinct organizations. Through the resources of Gartner Research, Gartner Consulting and Gartner Events, we work with every client to research, analyze and interpret the business of IT within the context of their individual role. Founded in 1979, Gartner is headquartered in Stamford, Connecticut, U.S.A., and has 3,800 associates, including 1,200 research analysts and consultants in 75 countries.

Dale Aiello
Gartner

E-Mail dale.aiello@gartner.com

Telephone 808 531.5647

Facsimile 808 748.0600

Gartner delivers the technology-related insight necessary to make the right decisions, every day

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kim4 - Elizabeth

From: Griffith, Doreen [Doreen.Griffith@gt.com]
Sent: Monday, March 23, 2009 12:05 PM
To: WAM Testimony
Subject: Testimony for HB 1739, HD1, proposed SD1; 3/24/09 at 9:30; Conf Room 211

DATE: March 24, 2009
TIME: 9:30 a.m.
PLACE: Conference Room 211

To: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

From: Doreen Griffith
Managing Partner, Honolulu Office and
West Regional Tax Partner
Grant Thornton LLP

Thank you for the opportunity to provide comments on the approach taken in HB 1739, HD1, proposed SD1, which would establish a penalty for the understatement of a taxpayer's liability by a tax return preparer. I do not object to establishing a penalty under Hawaii law for tax return preparers who knowingly participate in the understatement of Hawaii tax through the promotion of unsupported tax positions. However, I do not agree with the language as currently drafted. I believe that any such legislation should be carefully drafted to:

1. Clearly state the obligations of tax preparers and
2. Allow reasoned tax positions supported by substantial authority to be freely taken.

Obligations should be clearly stated

The use of double negatives, particularly in the phrase in subsection (a) of proposed section 231-A "any position is not unreasonable unless the position is contrary to or not supported by substantial authority for the position" is confusing to the average reader. It would be better to directly state what will constitute an "unreasonable position" for the purpose of the section, rather than to attempt to describe what is not an unreasonable position.

Reasoned tax positions should be freely available

Clarifying the above language is particularly important so that it not be read to prevent taking reasonable tax return positions. It is possible to read the above language to mean a position will be considered as unreasonable if it is contrary to any item listed in proposed section 231-A(h)(2), including Department of Taxation press releases and other notices, regardless of the presence of substantial authority in support of the position.

Such an approach is inappropriate. Taxpayers and their return preparers should be allowed to freely take positions that are supported by a reasoned analysis of substantial authority. The Department of Taxation should not be able to defeat this simply by issuing a press release or other notice. This could be accomplished by rewriting the last sentence of proposed section 231-A(a) to read "(F)or the purposes of this section, a position will be considered reasonable if the position is supported by substantial authority."

If this suggestion is rejected and a tax position is to be deemed unreasonable if contrary to substantial authority, substantial authority solely for that purpose should be limited to statutory provisions and final administrative rules, and not the full list of authorities contained in proposed section 231-A(h)(2). This type of "trump card" should be limited to authority established through formal procedures that allow for public input, and not extended to statements that are not subject to that discipline.

Thank you for allowing me the opportunity to comment with respect to this important matter. I respectfully request that any supplemental testimony be accepted when submitted.

Sincerely,

Doreen Griffith, Managing Partner

Grant Thornton LLP

1132 Bishop Street, Suite 2500

Honolulu, Hawaii 96813

T 808-441-2860

F 808-523-8590

E doreen.griffith@gt.com

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HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Allen R. Koenig
Founder & CEO
HARK, Inc., DBA Claim Check

Re: Testimony in **Strong Opposition** to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in **strong opposition** to HB1739 HD1 and Section 8 of SD1 Proposed.

HARK, Inc. was founded in October 2001 as a technology development company. In 2004, a patent pending application was submitted for a unique technological breakthrough for the Workers' Compensation Claims and Personal Injury claims industries with applications to private and public sectors.

Federal science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, these grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success.

By leveraging federal grants the state receives a greater return on investment, and we are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, our technology companies are vetted by the federal agencies and are therefore more likely to develop successful products.

The language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we **strongly oppose** this bill.

We Will Change the World With Integrity and Honor – Not Because We Can, But Because We Will.

HARK, Inc.

~~~~~  
Finally, our business development program is in the late stages of Research and Development and early stages of our start up for an application that could have significant financial savings to our client's current business methods.

The passage of HB1739 HD1 and Section 8 of SD1 Proposed will have a devastating impact on our ability to do business in Hawaii. In anticipation of past expected outcomes by our legislature, we have taken preliminary steps to move our business out of the state to a state that invites and promotes new technology businesses. We would prefer to stay at home in the islands. It appears that our location and the fate of our future business development plans rest in your hands.

Please do the right thing to stimulate our technology climate rather than destroy it.

Thank you for the opportunity to testify.

Allen R. Koenig, Founder, CEO and President  
HARK, Inc.

~~~~~

kim2 - Arline

From: Harold [hdsltd@hawaii.rr.com]
Sent: Monday, March 23, 2009 1:28 PM
To: WAM Testimony
Subject: Testimony relating to Federal Funding/Act 221

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Harold D Sasaki CPA

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

My CPA Firm has many clients and investors in the high tech industry in Hawaii. Their investments are the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

Harold D Sasaki
Harold D Sasaki Ltd CPA
201 Merchant Street Ste 1910
Honolulu HI 96813
Phone: (808) 533-1807
Fax: (808) 536-6176
Email: hdsltd@hawaii.rr.com
Website: www.sasakicpa.com



The REALTOR® Building
1136 12th Avenue, Suite 220
Honolulu, Hawaii 96816

Phone: (808) 733-7060
Fax: (808) 737-4977
Neighbor Islands: (888) 737-9070
Email: har@hawaiiirealtors.com

March 23, 2009

The Donna Mercado Kim, Chair
Senate Committee on Ways and Means
State Capitol, Room 211
Honolulu, Hawaii 96813

RE: H.B. 1739, H.D.1, Proposed S.D.1, Relating to Taxation

HEARING DATE: Tuesday, March 24, 2009 at 9:30 a.m.

Aloha Chair Kim and Members of the Committee:

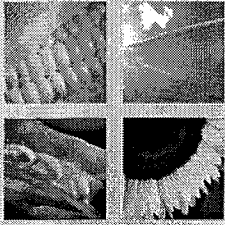
I am Craig Hirai, a member of the Subcommittee on Taxation and Finance of the Government Affairs Committee of the Hawai'i Association of REALTORS® ("HAR"), here to testify on behalf of the HAR and its 9,600 members in Hawai'i. HAR **opposes** Section 8 of H.B. 1739, H.D.1, Proposed S.D.1, Relating to Taxation, which prohibits recipients of federal grants or moneys from qualifying for state tax credits.

Section 1602 of the American Recovery and Reinvestment Tax Act of 2009 (H.R. 1) allows state housing credit agencies such as the Hawaii Housing Finance and Development Corporation ("HHFDC") to elect to receive a grant for low-income housing projects in lieu of their low-income housing credit allocations for 2009. A state housing credit agency receiving a grant under Section 1602 must use such a grant to make subawards to finance the construction or acquisition and rehabilitation of "qualified low-income buildings" as defined under IRC §42(c)(2) for federal low-income housing tax credit purposes.

HAR questions whether it is the intent of H.B. 1739, H.D.1, Proposed S.D.1, to deny or reduce the amount of the state low-income housing credit under HRS §235-110.8 available to a qualified low-income building otherwise qualified for the federal low-income housing tax credit under IRC §42 if the HHFDC elects to receive a grant under Section 1602 of the American Recovery and Reinvestment Tax Act of 2009 (H.R. 1) in lieu of its low-income housing credit allocation for 2009.

HAR looks forward to working with our state lawmakers in building better communities by supporting quality growth, seeking sustainable economies and housing opportunities, embracing the cultural and environmental qualities we cherish, and protecting the rights of property owners.

Mahalo for the opportunity to testify.



Hawaii Crop Improvement Association

Growing the Future of Worldwide Agriculture in Hawaii

Testimony By: Alicia Maluafiti

HB 1739hd1, SD1 Proposed - Relating to Taxation,
Senate WAM Committee - Tuesday, March 24, 2009
Room 211, 9:30 am

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Executive Director

Alicia Maluafiti

Position: Strong Opposition

Chair Mercado Kim, and Members of the Senate WAM Committee:

My name is Alicia Maluafiti, Executive Director of the Hawaii Crop Improvement Association. The Hawaii Crop Improvement Association (HCIA) is a nonprofit trade association representing the agricultural seed industry in Hawaii. Now the state's largest agricultural commodity, the seed industry contributes to the economic health and diversity of the islands by providing high quality jobs in rural communities, keeping important agricultural lands in agricultural use, and serving as responsible stewards of Hawaii's natural resources.

HCIA member companies are not recipients of federal grants or moneys for research and development. However, we recognize that federal research and development support plays a critical role in growing Hawaii's science and tech sectors with support coming from a range of federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, Department of Agriculture, etc.

Federal funds are restricted to only research and development activities and may not be used for commercialization. Through leveraging of federal funds the state receives a greater return on investment when companies are able to accelerate commercialization through use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products.

HB 1739hd1 and the proposed SD1 will eliminate the ability for those who are leveraging federal funds to create new business in Hawaii to qualify for the benefits under HRS Chapter 235.

Thank you for the opportunity to testify on this measure.

kim4 - Elizabeth

From: Genie Joseph [lightwave7@hotmail.com]
Sent: Monday, March 23, 2009 9:45 AM
To: WAM Testimony
Subject: Testimony - Hawaii Movie Studios

HAWAII MOVIE STUDIOS, LLC

2043 Makiki Street Honolulu, Hawaii 96822
808-949-8255 Genie@HawaiiMovieStudios.com

HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Room 211
TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair
FROM: **Genie Joseph, CEO**
Hawaii Movie Studios, LLC

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

Thank you for the opportunity to testify.
Genie Joseph, CEO
Hawaii Movie Studios, LLC

From: Jessica Su [jsu@horwathkam.com]
Sent: Monday, March 23, 2009 2:26 PM
To: WAM Testimony
Subject: Testimony for HB 1739 Proposed SD1, Related to Taxation, Hearing date Tuesday, March 24, 2009

**THE SENATE
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009
COMMITTEE ON WAYS AND MEANS
Hearing date: March 24, 2009
Testimony on HB 1739 Proposed HD 1, SD 1
(Relating to Taxation)**

Dear Chair Kim, Vice Chair Tsutsui and Members of the Committee:

The Tax Committee of the Hawaii Society of Certified Public Accountants opposes HB 1739, Proposed SD1, which is intended to enhance tax compliance and deter tax frauds ("the Bill").

While the Tax Committee supports the notion that Hawaii tax laws should be in conformity with the federal tax law wherever possible, to include taxpayer and tax preparer penalties, we currently oppose HB 1739, Proposed SD1. We oppose the Bill since unlike the Internal Revenue Service, the Department of Taxation unfortunately does not have the necessary wherewithal to administer the tax laws of the State of Hawaii in a consistent, uniform and fair manner. More specifically, unlike the Internal Revenue Service, the Department of Taxation does not have:

- Sufficient rules and regulations which adequately interpret tax laws of the State of Hawaii that are unique or different from the federal government;
- Adequate rules and regulations governing the Department's conduct (e.g., federal Internal Revenue Manual);
- Established set of fair rules to protect the taxpayers' rights (e.g., federal "Taxpayer's Bill of Rights");
- A mechanism to timely publish and maintain all policies established by the Department; or
- An independent body(ies) that ensures that the tax laws of the State of Hawaii is consistently, uniformly and fair manner by the Department (e.g. federal "Taxpayer Advocate" or "Tax Appeals Office").

Therefore, adoption of the Bill at this time without first addressing and resolving the Department of Taxation's ability to administer the tax laws of the State of Hawaii in a consistent, uniform and fair manner will place State taxpayers and tax preparers at an extreme disadvantage while giving the Department of Taxation a tool that would effectively invalidated any tax law passed by the legislature by issuing press releases or other statements of the administration's position. If you decide to make the Hawaii tax law more closely match federal law, we urge you to do it in a fair way - Hawaii state

taxpayers should be subject to penalties comparable to those that apply at federal level when they are given the same right and protections that apply at the federal level.

Thank you for the opportunity to testify.

Very truly yours,

Jessica Swanson
Tax Committee Chair

kim2 - Arline

From: Sailing Wang [go@hawaiistyleguide.com]
Sent: Sunday, March 22, 2009 12:43 AM
To: WAM Testimony
Subject: RE: HB1739 HD1 SD1 Proposed- Relating to Taxation

March 21, 2009

RE: HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Room 211
TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Haifan Huang
President
Hawaii Style Guide Inc.

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

Hawaii Style Guide is a magazine guide for Chinese tourists, educational institutions, businesses and investors in China. The magazine shares information about Hawai'i's various cultures, education system, historic places, travel activities, entertainment, news events, real estate market, and local products. The publication would be written in both Chinese and English published quarterly and distributed in over 300 cities and 2000 counties in China and Hawaii. The objective is to promote Hawai'i's culture, local businesses, and products in China.

Hawaii Style Guide (HSG) magazine is targeted towards promoting study abroad to Chinese students whose families can afford to send their children to study in America, and more particularly to Hawai'i. As you may well be aware, the Chinese were the first immigrant group to Hawai'i in 1789. People in China refer to Hawai'i as the "Fragrant Sandalwood Mountains" for it was the lucrative trade of Iliahi, or Hawaiian sandalwood that

was imported to China in the 1790's, and which led to the migration of thousands of Chinese to Hawai'i.

HSG is unique in that its focus is not limited to tourism alone. The Hawaii Style Guide includes information about education institutions in Hawaii and promoting academic exchange programs. Through these exchanges, thousands of Chinese and American students will have an opportunity to learn of the other's culture and language, and their historical relationship during the time of King Kamehameha and the Qing Dynasty.

Another strategy of HSG is to make available to the Chinese market, Hawaiian products which can be ordered on line. The real estate aspect is targeted towards Chinese investors or those who wish to invest in vacation homes.

HSG will be free, printed in both Chinese and English, and distributed at travel institutions, travel agencies, and huge commercial super market in over 300 cities and 2000 counties in China. The cost and expenses of producing HSG will be generated from selling business advertisements.

If Act 221's investment benefits were to be altered, it would influence so many local companies and cut off financial opportunities to continue support and developing the local business.

Thank you for the opportunity to testify on these important bills. We respectfully ask that you hold these bills and continue support local new businesses with long-term economic opportunities to grow and developing Hawaii local business to international.

Sincerely,
Haifan Huang
President
Hawaii Style Guide Inc.
Cell: (808) 429-8368
E-mail: go@hawaiiistyleguide.com.

kim4 - Elizabeth

From: Bill Spencer [bspencer@hawaii.rr.com]
Sent: Monday, March 23, 2009 9:59 AM
To: WAM Testimony
Subject: Testimony in Strong Opposition - HB1739 SD1 Section 8 - March 24, 2009 -9:30AM Room 211
Attachments: image003.jpg



805 Kainui Drive
Kailua, Hawaii 96734

HB1739 HD1 Section 8

HEARING DATE: March 24, 2009
TIME: 9:30AM
PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Kim, Chair
Senator Shan Tsutsui, Vice Chair

FROM: Bill Spencer, President, Hawaii Venture Capital Association

RE: Testimony In Strong Opposition to HB1739 HD1 Section 8

Aloha Chair Kim, Vice Chair TsuTsui, and Members of the Committee,

On behalf of the 1,500 members and friends of the Hawaii Venture Capital Association, let me express strong opposition to HB1739 HD1 Section 8. This bill proposes measures that would not only limit investment in Hawaii tech sector companies, but would deny companies the opportunity to raise non-dilutive financing from federal sources of research and development grants.

Research and development is the most expensive early stage operation a company has to undertake in order to develop intellectual property, proprietary techniques and competitive advantages. A company cannot survive on government grants alone and needs a combination of grants and equity finance in order to develop. Government grants take a long time to get, require administrative overhead and other expensive compliance measures that are not grant funded.

We respectfully request that Section 8 be eliminated from HB1739 SD1

Thank you for your kind consideration of this testimony.

Sincerely,

/s/
Bill Spencer, President,

Hawaii Venture Capital Association
808-225-3579

MAR 23 2009

Written Testimony of
B. Jeannie Hedberg, Rodney P. Batara
& Amber L. Vaughan-Sarandi
Hedberg, Batara & Vaughan-Sarandi, LLC
1003 Bishop Street, Suite 1925
Honolulu, HI 96813

Before the Senate Committee on
Ways and Means

Tuesday, March 24, 2009
9:30 a.m.
Conference Room 211

Re: HB 1739 Proposed SD 1
(Taxation)

Chair Kim, Vice Chair Tsutsui, and Committee members:

Thank you for the opportunity to testify in **opposition** to House Bill 1739, Proposed SD 1.

The proposed SD 1 version of this bill would insert a number of provisions into our state tax law, adding various potential penalties on taxpayers and tax return preparers. In theory, it would bring our state law closer to federal law. However, when you look closely, the bill is very one-sided: it is roughly parallel to federal law (with some exceptions) in defining penalties applicable to taxpayers and tax return preparers, **but it does not give taxpayers and return preparers the same rights and protections that they have when dealing with the IRS on the federal level.**

For example, when a taxpayer disagrees with a tax assessment, at the federal level, the taxpayer can go to the IRS Appeals Office, where the taxpayer has the opportunity to try to negotiate a settlement of the dispute with an independent Appeals Officer – someone who is not part of the IRS audit division and who has the power to propose a compromise. **The State does not offer any parallel process.** (The Board of Review at the State level is NOT an equivalent – the Board does not meet with the taxpayer outside the presence of the auditor, and does not negotiate settlements.)

The Department of Taxation has also been opposing a 10-year statute of limitations on tax collection, despite the fact that such a statute exists at the federal level.

Testimony of B. Jeannie Hedberg, Rodny P. Batara
& Amber L. Vaughan-Sarandi

HB 1739 Proposed SD 1
Page 2 of 2

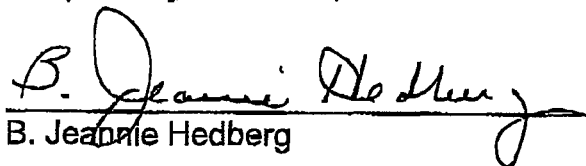
Another concern is that HB 1739, Proposed SD 1 would define "substantial authority" to include press releases and announcements by the Department of Taxation – not just formal Administrative Rules adopted after public review and comment, but any press releases or announcements that the Department decides to issue would be "substantial authority" in deciding when to apply penalties. At the federal level, far more guidance to taxpayers is available in the form of Revenue Rulings, Revenue Procedures, extensive and detailed Regulations, published Private Letter Rulings, etc. Here in Hawaii, a press release issued by the Department of Taxation could potentially be the only "authority" on a particular question.

The bill also provides that if a taxpayer files a false or fraudulent return, with the intent to evade tax, then the Department of Taxation may assess additional tax at any time, regardless of the statute of limitations that would otherwise apply. However, if the taxpayer disputes an assessment of additional tax, the burden of proof with respect to the issue of falsity or fraud would be on the government. Under federal law, it's clear that if the IRS wants to make an assessment of additional tax after the otherwise-applicable limitation period has expired, the IRS must prove **BOTH** that the tax return was false or fraudulent, **AND** that it was filed with the intent to evade tax. These are two separate and distinct issues, and the burden of proof on both of them is on the government at the federal level. **This is a clear example of a provision in the bill that does not actually match the comparable provision in federal law.**

If you decide to make the Hawaii tax law more closely match federal law, then I urge you to do it in a fair and even-handed way – if Hawaii state taxpayers are going to be subject to penalties comparable to those that apply at the federal level, then Hawaii state taxpayers should be given the same rights and protections that apply at the federal level.

Thank you for your attention to this matter.

Respectfully submitted,


B. Jeannie Hedberg


Rodney P. Batara


Amber L. Vaughan-Sarandi



HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Lisa Gibson, President
Hawaii Science & Technology Council

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed -
Relating to Taxation

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1
and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

The Hawaii Science & Technology Council (HISciTech) is a 501(c)6 industry association with a 28-member board. HISciTech serves Hawaii companies engaged in ocean sciences, agricultural biotechnology, astronomy, defense aerospace, biotech/life sciences, information & communication technology, energy, environmental technologies, and creative media.

Sincerely,

Lisa H. Gibson
President
Hawaii Science & Technology Council
(808)536-4670
lgibson@hiscitech.org

kim2 - Arline

From: Howard Kam [hkam@horwathkam.com]
Sent: Monday, March 23, 2009 3:30 PM
To: WAM Testimony
Cc: Amelia Kam; Naoko Tachida; Reed T. Fujimoto; Roy Tsuji; Tabitha Kam; Jessica Su
Subject: Testimony for HB 1739 Proposed SD1, Related to Taxation, Hearing date Tuesday, March 24, 2009
Attachments: image001.jpg
Follow Up Flag: Follow up
Flag Status: Completed

**THE SENATE
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009
COMMITTEE ON WAYS AND MEANS
Hearing date: March 24, 2009
Testimony on HB 1739 Proposed HD 1, SD 1
(Relating to Taxation)**

Dear Chair Kim, Vice Chair Tsutsui and Members of the Committee:

We wish to advise you that we strongly oppose HB 1739, Proposed SD1 as presented that intended to enhance tax compliance ("the Bill").

While we supports the notion that Hawaii tax laws should be in conformity with the federal tax law wherever possible, to include taxpayer and preparer penalties to improve voluntary compliance since the State of Hawaii and Department of Taxation does not have in place sufficient laws, policies and procedures, and checks and balances to administer the tax laws of the State of Hawaii in a consistent, uniform and fair manner. More specifically, unlike the United States Treasury Department and Internal Revenue Service, the State of Hawaii and Department of Taxation does not have:

- Sufficient rules and regulations which adequately interpret tax laws of the State of Hawaii that are unique or different from the federal government;
- Adequate rules and regulations governing the Department's conduct (e.g., federal Internal Revenue Manual);
- Established set of fair rules to protect the taxpayers' rights (e.g., federal "Taxpayer's Bill of Rights");
- A mechanism to timely publish and maintain all policies established by the Department; or
- An independent body(ies) that ensures that the tax laws of the State of Hawaii is consistently, uniformly and fair manner by the Department (e.g. federal "Taxpayer Advocate" or "Tax Appeals Office").

Therefore, adoption of the Bill at this time without first addressing and resolving the Department of Taxation's ability to administer the tax laws of the State of Hawaii in a consistent, uniform and fair manner will place State taxpayers and tax preparers at an extreme disadvantage while giving the Department of Taxation a tool that would effectively invalidated any tax law passed by the legislature by issuing press releases or other statements of the administration's position.

If you decide to make the Hawaii tax law more closely match federal law, we urge you to do it equitably, i.e. similar penalties with similar protection.

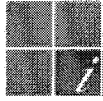
Kindest regards,
Howard Kam, Jr.
Managing Director

 **Horwath Kam & Company**
An Accountancy Corporation
Accountants & Consultants
700 Bishop Street, Suite 1700
Honolulu, Hawaii 96813, USA
www.horwath-hi.com
808.524.8080 Tel
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kim4 - Elizabeth

From: Lynn Fujioka [lfujioka@isishawaii.org]
Sent: Monday, March 23, 2009 9:53 AM
To: WAM Testimony
Subject: Testimony: HB 1739 HD1 SD1 Proposed - Relating to Taxation
Attachments: ATT00001.png



isisHawaii

*the power of one plus one... P.O. Box 161296, Honolulu, Hawaii 96816 * www.isishawaii.org*

DATE: March 24, 2009
TIME: 9:30am
PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Lynn Fujioka, President, isisHawaii

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

isisHawaii is a local not-for-profit organization that provides resources and opportunities for students to foster and sustain interest in STEM (i.e., science, technology, engineering, mathematics) pathways. Many of the companies supported by these bills are active participants in the valuable outreach programs we coordinate throughout the State. They stimulate interest and motivate students who are pursuing higher education and careers in advanced technologies.

Many students participating in our programs enter the STEM pathway as a direct the result of the support from high tech companies that currently benefit from Act 221. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that our best and brightest remain in Hawaii. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

Lynn Fujioka, President
isisHawaii



LOCAL 665

FILM, TELEVISION, STAGE, PROJECTION AND TRADESHOWS
Since 1937

INTERNATIONAL ALLIANCE OF THEATRICAL STAGE EMPLOYEES, MOVING PICTURE TECHNICIANS, ARTISTS AND ALLIED CRAFTS
OF THE UNITED STATES, ITS TERRITORIES AND CANADA. AFL-CIO, CLC

DATE: March 24, 2009
TIME: 9:30am
PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Donovan K. Ahuna, Business Representative

Re: Testimony in **Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation**

Aloha Chair, Vice Chair and Members of the Committee,

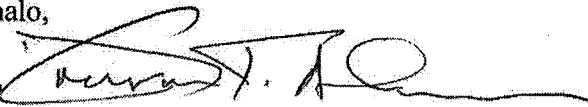
Mahalo for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

My name is Donovan Ahuna and I represent the I.A.T.S.E. Local 665 with over 500 technicians in the entertainment industry. We are the technician workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the State should do more to encourage the growth of this industry to keep the working people of Hawaii working. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies that creates and provides JOBS.....

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Mahalo,

Pau,


Donovan K. Ahuna
Business Agent
IATSE Local 665
875 Waimanu Street, #610
Honolulu, HI. 96813
(808)596-0227office
(808)591-8213fax
(808)292-8709cell
BA@iatse665.org
www.iatse665.org

PRINT NAME:	SIGNATURE:	DEPARTMENT:
GUY BELEGAUD	<i>[Signature]</i>	665
Milo Trenchard	<i>[Signature]</i>	665
William Preston	<i>[Signature]</i>	665
Jason Skaggs	<i>[Signature]</i>	665
Cary Beall	<i>[Signature]</i>	665
Andrew Calm Jr.	<i>[Signature]</i>	665
Andrew Garghee	<i>[Signature]</i>	996
Chris Librie	<i>[Signature]</i>	665
Wannan Roberts	<i>[Signature]</i>	665
Freddy Kalua	<i>[Signature]</i>	996
WILLIAM PATAHAN	<i>[Signature]</i>	996
CHRIS BARNES	<i>[Signature]</i>	'LOST'
Jim Van Houten	<i>[Signature]</i>	LOST
Salvador Anaya	<i>[Signature]</i>	LOST
STEVE BODILLO	<i>[Signature]</i>	LOST
MICHAEL CROWD	<i>[Signature]</i>	LOST
Mel Kinnen	<i>[Signature]</i>	LOST/665
Edward Timmer	<i>[Signature]</i>	LOST/665
ALYCE FAHSHOLDZ	<i>[Signature]</i>	665
Michael WEA	<i>[Signature]</i>	996
SCOTT LIBF	<i>[Signature]</i>	665
Sam. Tialiso	<i>[Signature]</i>	PRIVATE SECURITY
CHRISTOPHER ENGICHY	<i>[Signature]</i>	PRIVATE SECURITY
JOLIE-LYN SMYK	<i>[Signature]</i>	LOST
WALTER GONWEIA JR	<i>[Signature]</i>	PRIVATE SECURITY
WALTER K. WONG	<i>[Signature]</i>	LOST
BERNARD TOI LIMHO	<i>[Signature]</i>	LOST
FRANK S. LAUFER	<i>[Signature]</i>	665
JOHN E RINGGOLD JR	<i>[Signature]</i>	665
Keala Nakawala	<i>[Signature]</i>	Rights 665
Kevin Kersting	<i>[Signature]</i>	Rights 665
John Nihilipati Day	<i>[Signature]</i>	Rights 665
John Sam	<i>[Signature]</i>	Labor
PHILIP NICKI	<i>[Signature]</i>	665
Ronald Wana	<i>[Signature]</i>	665
DERECK KRAPKO	<i>[Signature]</i>	665
Vincent Kane	<i>[Signature]</i>	996

PRINT NAME:

SIGNATURE:

DEPARTMENT:

PRINT NAME:	SIGNATURE:	DEPARTMENT:
Marie Winton	<i>[Signature]</i>	Model
Chantelle Sawa	<i>[Signature]</i>	Model
Jennifer Kennedy	<i>[Signature]</i>	Talent
Christina de la Rosa	<i>[Signature]</i>	Talent/Model
RICHARD DRAKE	<i>[Signature]</i>	PROP MASTER
LAMON DARCULOCK	<i>[Signature]</i>	ART DEPT. TAGS
KELLY ALSTON	<i>[Signature]</i>	ART DEPT. TAGS
ICEBLOD ULITSKY	<i>[Signature]</i>	PRODUCTION
Shoto Kubo	<i>[Signature]</i>	PRODUCTION
Winnie Maryu	<i>[Signature]</i>	Production
SHANNON ALEXANDER	<i>[Signature]</i>	PRODUCTION
WALANDA J. Colborn	<i>[Signature]</i>	Labels/Prod
JOHNNY SHIMABUKU	<i>[Signature]</i>	cosmetologist
Maude Roberts	<i>[Signature]</i>	Makeup/Hair
KAMRAN YOUNG	<i>[Signature]</i>	Sound Effects
Ashleen Rice	<i>[Signature]</i>	996
BERNARD BROWN	<i>[Signature]</i>	SPECIAL EFFECT
ARCHE PETERA	<i>[Signature]</i>	SPECIAL EFFECTS
Shane White	<i>[Signature]</i>	SPECIAL EFFECTS
CHARLES KAYMON	<i>[Signature]</i>	EFX
Fern N. Ahn	<i>[Signature]</i>	EFX
Jim Curtis	<i>[Signature]</i>	EFX
Greg Dye	<i>[Signature]</i>	EFX
Jui Seaman	<i>[Signature]</i>	Grip
Greg Kamm	<i>[Signature]</i>	Audio
DAN GARAB	<i>[Signature]</i>	SOUND/VIDEO
ALLAN E. KILMER	<i>[Signature]</i>	Makeup
Timothy Chinn	<i>[Signature]</i>	Production
Gregory Doi Jr	<i>[Signature]</i>	Electric
STACY NEWHOUSE	<i>[Signature]</i>	STAGE SOUND
John Kendrick	<i>[Signature]</i>	Prod/Stage Sound/Elec
JOEL CARMICHAEL	<i>[Signature]</i>	Makeup/Hair/Stage
JOEL CARMICHAEL	<i>[Signature]</i>	Elec
RON EVANS	<i>[Signature]</i>	PRODUCTION GRIP
John Q. Adams	<i>[Signature]</i>	Set medic/Marine
DAVID WALLACE	<i>[Signature]</i>	Hair/STAGE Elec
Curtis Wingerter	<i>[Signature]</i>	Stage/Prod
Chwick Butler	<i>[Signature]</i>	Stage Prod
HARRY SWIGER	<i>[Signature]</i>	Stage

PRINT NAME:	SIGNATURE:	DEPARTMENT:
James Kincaid Moore		Film & Stage
Robert Wilson		Trade Show
Darren Rodriguez		Trade Show
EVERETT GAZIA		FILM
LARRY SMITHSON		FILM
Kay Carter	Kay Carter	FILM/STAGE
Ben Phelan	Ben Shafter	Film/Stage
Terri L. Laid	Terri L. LAIGO	Film/Stage
MANUEW K. LYONS	Mattie K. J...	STAGE/SOUND
ALEMA RYDER		STAGE
Melvin Pana	Melvin Pana	Film/Stage
Patrick W.K. CARRIAGE		STAGE/RIGGING
PATRICK LIM		AUDIO
Wesley Kason		Stagehand
Edward Koon		Cost Stagehand
Kim Shipton		CARP. Stagehand
Sandy Sandelin		Stagehand
Mark Sticker	MARK STICKER	PROPS
Charles Roberts		Audio
James Takahashi	James Takahashi	Grip, Construction
AL OMO		STAGE
Tim Murphy	Tim Murphy	STAGE
Joseph R. Wahlen II		
"CAROL" CASEY CAMERON	Carol Casey Cameron	Stage/Film
EASTER K LOGAN		STUD
JUDITH MATSUMOTO	Judith Matsumoto	WARDROBE
DOUG KISSEL		Trade Show
RICHARD F. HOUSETT		Construction Keys
PAUL KAHEA UHOK II	Paul Kahea UHOK II	FEL. / CONST.
JONATHAN FEE		STAGE/FILM
RONALD EVANS	RONALD EVANS	STAGE/FILM
WKE THOMPSON	WKE	STAGE/FILM
JOHN LISO		STAGE/FILM
EMILY KIMM		STAGE
GAIL KIMMERS	JOHNNA REYNOLDS	STAGE/FILM
Alexander Aranda		GLASS STAFF

PRINT NAME:	SIGNATURE:	DEPARTMENT:
HENRY FORDHAM		TATSE 665
NATHANIEL E. DEARMORE		TATSE 665 / TEAMSTER 99L
DANIE ANUNA		TATSE 665
Michael R. Karkhant		TATSE 665
Cory L. Bathke		TATSE 665
Drew DesJarlais		TATSE 665
ALLEN MOZO		TATSE 665, 600, SAG
Dwvrell Tachihara		TATSE 665
Francis "Sonny" Julian		TATSE 665 / MEDIC
Rahman Wooten		TATSE 665
Drew DesJarlais		TATSE 665, BEW 1260
CHRIS WICKMAN		TATSE 665, BEW 1260
CHARLEY KAEQ		TATSE 665
Chris Hayes		CYKING
Zachary Kim		665
Mike Weisbrach		665 / 600
KALIKS PALMISTRA		665
DANIEL ROSNER		(GR1) 665
Tiffany Chenay		Set PA - DGA
LUKAS SEND		TATSE 665
Sonja Balmores		SAG Actor
Moz Canite		MODEL
Kelsey Campbell		model
Nalani Pavele		Model
Kiya Lee		wardrobe
Tani Fujimoto		actress/model
Leandro Kato		665 / wardrobe
Kristy Romero		MODEL
Kathy Chingne		Performer
Sarah Indine		model
Meredith Cardenas		model
ASHLEY WOODS BROWN		model
Sophia Dan		Actress
Alanna Yoshioka		model
CHELSEA RODRIGUES		Model
Makinana Aki		model
AGTIA Taraka		Model
Eri Aihara		model
Sayaka Ogura		model

PRINT NAME:	SIGNATURE:	DEPARTMENT:	
Michael A Bready	<i>[Signature]</i>	Set Medic	IA
JAMES THURSTON	<i>[Signature]</i>	YES Grip	IA
Colin Jones	<i>[Signature]</i>	Studios	IA
Sonia Masinovsky	<i>[Signature]</i>	PRODUCTION	DGA
Jim Kalan Sr	Fred Kallina Jr	PRODUCTION	IA
John Stuchman	STEVE EVERETT	WAGONS	IA
ROBERT WEYMAN	<i>[Signature]</i>	STAND IN	
KEITH FRANK	<i>[Signature]</i>	LABORER	IA
KEONI WAIWAI	<i>[Signature]</i>	DRIVER	
Ruben Hansen	<i>[Signature]</i>	Sound Mixer	IA
Tony Nagel	<i>[Signature]</i>	Camera	600
TORRY TURKALI	<i>[Signature]</i>	CAMERA	600
GLEN GRIMES	<i>[Signature]</i>	GRIP	IA
MIKE SCHWARTZ	<i>[Signature]</i>	GRIP	IA
Kevin Savelino	<i>[Signature]</i>	Locations	
Charles Kramer	<i>[Signature]</i>	ELECTRIC	IA
LEZABETH MASSINI-MATTEO	<i>[Signature]</i>	COSTUME	IA
Joey Vidal	<i>[Signature]</i>	BAR	
MATHIAS WESSINGER	<i>[Signature]</i>		IA
Laurel Tronzo	<i>[Signature]</i>	STYLING	
JACK BRADY	<i>[Signature]</i>	Production Director	
John Gerardo	<i>[Signature]</i>	Trucks	
Norman Kats	<i>[Signature]</i>	A.D.	DGA
A. HOVE	<i>[Signature]</i>	Flagging or Gok	IA
JORGE GARCIA	<i>[Signature]</i>	ACTING	
SHARDLE MERSEMAN	<i>[Signature]</i>	SECURITY	
IAN TRAWERS	<i>[Signature]</i>	LOCATIONS	
Gregory Dui Jui	<i>[Signature]</i>	CAMERA	
BERGE NOFIELD	<i>[Signature]</i>	CAMERA	IA
STAN BRADY	<i>[Signature]</i>	ELECTRICIAN	
Patricia Williams	<i>[Signature]</i>	Transportation	
Thornton Lukela	<i>[Signature]</i>	Accounting	
Leon Winger	<i>[Signature]</i>	Cost.	
FRANK S. LAUI	<i>[Signature]</i>	665	
Marcelo Kaaghe	<i>[Signature]</i>	665	
WILLIAM RISSO	<i>[Signature]</i>	665	
LYLE GIBBS	<i>[Signature]</i>	CONT.	
STANLEY JOHNSON	<i>[Signature]</i>	66	
MARY RASMUSSEN	<i>[Signature]</i>	LOCAL 44	
FRANCO CALUNA	<i>[Signature]</i>	Driver	

PRINT NAME:	SIGNATURE:	DEPARTMENT:
Keona Kauboi		Transportation
Niko C. Kamae		Security
Earl Mitchell		Security
Bob Johnson		Elec.
Bruce Vollett		GRIP
Hanny Ladan		Production Mgr/AD
DANA K SATO		Art
MARTIN L. GREGUSARA		FLOR
Melody N. Loan		GRIP
Aileen Joy Lew		GRIP
Tomoko Stagg		Coordinator
Earl Uyeno		Coordinator
Fuan Mariz		Medic
RICK CRUM		Lighting
Scott Lisidor		GRIP
Don Tomach		Lighting
JACOB FRATIS		ELECTRIC
BRANDON PAGE		Coordinator
DEID SMITH		GRIP
JAMES C LEVY		GRIP
ISKIA ROBINS		GREENS
Linda Lee		art dept
KAHUAKAILANI BROWN		SECURITY
CLYDE L. WONG		Greens/Props
WENDELL TITCOMB		CRAFT SERVICE
James Spruill		PROPS
Reuben Iao		PROPS
John Reed		Transportation
Kenneth Smith		TRANSPORTATION
Jon Piper		PROP
LEE KANEAKUA		GRIP
PUNA TITCOMB		CS
Talissa Niko		LABORER
BRIAN COSTA		PROPS
John Kungold		MEDIC

PRINT NAME:	SIGNATURE:	DEPARTMENT:
ANE TRONETZKI	[Signature]	GRIPS IA
Dominic Freitas	[Signature]	Greens IA
Alvin Akai	[Signature]	Greens IA
Mar "Aina" Ribeiro	[Signature]	GRIPS IA
DAVID CARUBA	[Signature]	OBSCURITY IA
Paul Santos	[Signature]	Electrical IA
Mike Scia	[Signature]	FX IA
Charita Bonilla	[Signature]	Makeup IA
Susan Taguira	[Signature]	Wardrobe IA
AARON E. MELLISAP	[Signature]	Wardrobe IA
Soley Chetney	[Signature]	GRIPS IA
Mark Kalanahel	[Signature]	Set Lighting IA
Ben Wenzel	[Signature]	Extras
EDWARD VAUGHN	[Signature]	ACTOR/STUD
Jonathan Shirley	[Signature]	EXTRA
Jeff Hummel	[Signature]	EXTRA
KURT VIMARINKA	[Signature]	LOST... GRIPS IA
Chris Pratt	[Signature]	LOST GRIPS IA
KIM STOWELL	[Signature]	LOST/ACTOR
JASON MATSUZ	[Signature]	LOST/SPR
Brian Matsumura	[Signature]	CAMERA 800
Kevin Craven	[Signature]	Extra
Stan Cooper	[Signature]	EXTRA
STEPHEN RACQUET	[Signature]	Set Lighting IA
Karla Dublin	[Signature]	Set Dressing IA
Jon Mumper	[Signature]	Sound IA
Andrew Childers	[Signature]	Set P.A. DGA
John M. H. Lee	[Signature]	Set Lighting IA
Roger Titcomb	[Signature]	Set Lighting IA
Akoni Kaandi	[Signature]	Set Lighting IA
RACER MOODY	[Signature]	Stand-In IA
Keola Sui'a	[Signature]	Transportation
DIANE FRAUENHARZ	[Signature]	SCRIPT SUPERVISOR
Lance Hookano	[Signature]	GRID IA
W. Jennings Fowler	[Signature]	PROPERTY IA
Brad Berriglia	[Signature]	Actor
Charla Bowen	[Signature]	PRODUCTION DGA
FRANCIS CHAN	[Signature]	Actor
Anne Hoss	[Signature]	Costumes IA
Jon T. Dahl	[Signature]	Tractor

PRINT NAME:

SIGNATURE:

DEPARTMENT:

EKEPITI NIKO	<i>EKEPITI NIKO</i>	DRIVER
Andrew Parryke	<i>Andrew Parryke</i>	DRIVER
ELIZABETH BARTON	<i>Elizabeth Barton</i>	SCRIPT SUPERVISOR
J. Nick Porreca	<i>J. Nick Porreca</i>	Accounting
Shawn Julian	<i>Shawn Julian</i>	labor
Michael Julian	<i>Michael Julian</i>	labor
Makani Young	<i>Makani Young</i>	stage
Sean Breslin	<i>Sean Breslin</i>	Life Guard
Timothy Farnold	<i>Timothy Farnold</i>	Life Guard
EdwENE TENDRICH	<i>EdwENE TENDRICH</i>	Life Guard
Noah Williams	<i>Noah Williams</i>	Security
Brian Julian	<i>Brian Julian</i>	labor
Kainoa Beaple	<i>Kainoa Beaple</i>	LABOR
Patrick Miller	<i>Patrick Miller</i>	labor
DUNCAN COSTA BRUM	<i>Duncan Costa Brum</i>	LABOR

RICHARD WALKER	<i>Richard Walker</i>	IATSE LOCAL 665
Anthony Lehman	<i>Anthony Lehman</i>	IATSE local 665
Lani Tanoai	<i>Lani Tanoai</i>	IATSE Local 665
KATHLEEN FUGHES	<i>Kathleen Fughes</i>	IATSE Local 665
Eric Hughes	<i>Eric Hughes</i>	IATSE Local 665
Heather MacDaniel	<i>Heather MacDaniel</i>	IATSE LOCAL 665
Roberto Torres	<i>Roberto Torres</i>	DHX TRUCKING
June Miyakawa	<i>June Miyakawa</i>	Atco Inc
Robert Rabson	<i>Robert Rabson</i>	IATSE local 665

kim2 - Arline

From: Johnson W. K. Choi, MBA, RFC. [jwkc8168@yahoo.com]
Sent: Saturday, March 21, 2009 5:32 PM
To: WAM Testimony
Cc: CoreyTong@aol.com; Hawaii Science & Technology Council; Anne Misawa; Myrna Young; Jerome Koko; Johnson Choi; Johnson Choi
Subject: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

March 21, 2009

Re: HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Dear Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

Act 221 companies have:

- Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.
- Spent more than \$1.4 billion in Hawaii.
- Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.

- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

MAKAI MOTION PICTURES ('MMP') is an international film financing, development and production company based in Hawaii. The company is committed to creating original, high-quality film and television programming for the international marketplace with a particular emphasis on stories and content originating from or in Hawaii. MMP also forms co-production, creative and financial partnerships with filmmakers, production-distribution companies and original content creators around the Asia-Pacific Region and the globe.

We have always had dreams to work professionally and creatively, and to showcase the unique social, cultural and geographic beauty of the islands to the rest of the world. Hawaii's Act-221 investment credits – created with strong and sustainable vision for the development of new industries – provided me with the single most important opportunity to bring my professional international film knowledge and experiences back to the islands and to create projects in Hawaii that have and could continue to give the islands vast international exposure, not to mention jump-start much needed new industries and sources of international- and mainland-generated revenue. We have helped to produce a film called THE LAND HAS EYES with some Hawaii-partners in 2004, and spending time professionally back in the islands – along with the opportunities to develop new projects that Act-221 provided – gave us the incentives and financial opportunities to launch our media company Makai Motion Pictures.

Makai Motion Pictures is currently in the midst of financing a new international feature film project called THE GATHERING PLACE which we intend to shoot in summer-fall of 2009, set mostly on the island of Oahu (with newly renovated The Royal Hawaiian Hotel, local restaurants and homes, Kapiolani/Sans Souci and Waimanalo beaches as primary locations), with local production crews and as many 'hapa/local' cast as possible. Budgets/expenditures in Hawaii would range from \$1M to more than \$4M; we would hire upwards of 60-100 local positions or roles and extras (per project) and require creative and production services, hotels, transport, catering, post-production, music talent, etc.

MMP is utilizing international (Hong Kong, Japan, mainland U.S.) financing to support this film production leveraged with the vital contributions of Hawaii equity and 221 investment. Makai Motion Pictures also has several other projects in development, most created with Hawaii in mind as primary locations and character inspiration. We want to remain a viable Hawaii production and development company. Our project financing, production and distribution phases depend greatly on the vision and financial opportunities that the state of Hawaii provides: long-term sustainability for companies like ours to remain in the islands.

Especially crucial, Makai Motion Pictures is currently negotiating to bring in upwards of \$2-3 million for our feature film THE GATHERING PLACE from outside the state. The film is one of the few international-level films written and produced by a 'local boy' using local executive/producing teams, and using Hawaii musicians and cast that will have international exposure not only in the U.S. and English-speaking countries but in Japan and Chinese-speaking territories as well.

If Act 221's investment benefits were to be altered, it would effectively cut off opportunities for financing in 2009 and beyond, and our company Makai Motion Pictures will very likely need to move to California. THE GATHERING PLACE film would likely need to be shelved or re-worked into another setting and location, as there would be little or no incentive to use Hawaii creative talent or settings if there are no financial opportunities to support them. Makai has spent over two years developing this project inspired by – and created and set in – Hawaii. We sincerely want to continue developing the local talent base, producing international quality programs and showcasing Hawaii to the world, as no one else will if we don't do it ourselves.

Thank you for the opportunity to testify on these important bills. We respectfully ask that you hold these bills

and continue providing Hawaii and new businesses with long-term unique economic opportunities to flourish and grow.

Sincerely,
Johnson Choi
Executive VP and CFO
Makai Motion Pictures
1188 Bishop Street Ste 3403
Honolulu, Hawaii 96813
+1 808 524 5738
www.makaimotionpictures.com

Johnson W. K. Choi, MBA, RFC
2008 SBA Minority Small Business Champion of the Year - National Winner
<http://www.hkchcc.org/sba.htm>
President - Hong Kong.China.Hawaii Chamber of Commerce
<http://www.hkchcc.org>
Vice Chairman - Hawaii Pacific Export Council
<http://www.hkchcc.org/hawaiipacificdec.htm>
International Businesses: <http://www.johnsonchoi.com/contactus.htm>

kim4 - Elizabeth

From: Michael [m_nedbal@yahoo.com]
Sent: Monday, March 23, 2009 12:05 PM
To: WAM Testimony
Subject: Testimony to HB1739 HD1 SD1 Proposed - Relating to Taxation

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Michael Nedbal

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,
Michael Nedbal
Operations Coordinator at Makai Ocean Engineering

kim2 - Arline

From: Teixeira, Kathy [Kathy.Teixeira@makai.com]
Sent: Monday, March 23, 2009 3:28 PM
To: WAM Testimony
Subject: URGENT TESTIMONY relating to Federal Funding/Act 221
Attachments: image001.gif

Follow Up Flag: Follow up
Flag Status: Completed

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Dale Jensen

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

Dale Jensen, Ocean Engineer, Makai Ocean Engineering, Inc.

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kim2 - Arline

From: Teixeira, Kathy [Kathy.Teixeira@makai.com]
Sent: Monday, March 23, 2009 11:48 AM
To: WAM Testimony
Subject: URGENT TESTIMONY relating to Federal Funding/Act 221

HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: **Jose M. Andres**
President
Makai Ocean Engineering, Inc.

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

Makai Ocean Engineering is a diversified Ocean Engineering and software company established in Hawaii in 1973. We have always taken pride in successfully achieving innovative solutions to difficult problems for a broad base of clientele which includes federal, state and local government. Makai Ocean Engineering performs a substantial amount of R&D work for the U.S. Navy and other Federal government agencies via Federal grants. The R&D credit offered by Act 221 has been absolutely essential to fuel the growth of our company. Funds from Act 221 has allowed us to enhance and commercialize some of the technologies funded via Federal grants. Makai has doubled its size (from 13 to 25 engineers/software developers) in the last 3 years and we expect to double our size again in

the next 2 to 3 years. If the bill HB1739 HD1 passes, it will greatly affect our company and the number of persons we could keep employed.

Thank you for the opportunity to testify.
Jose M. Andres, President
Makai Ocean Engineering, Inc.

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kim2 - Arline

From: Janet Holman [makuapictures@hawaii.rr.com]
Sent: Sunday, March 22, 2009 8:28 AM
To: WAM Testimony
Subject: HB1739 HD1 SD1 Proposed- Relating to Taxation

Importance: High

HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

**FROM: JANET S HOLMAN / MAKUA PICTURES LLC
AUTHOR/PRODUCER/SCREENWRITER**

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

Makua Pictures LLC is a Hawaii based motion picture development company currently developing the first of three large budget motion pictures entitled: The Enlightenment and Captain James Cook.

Thank you for the opportunity to testify.

From the desk of:
Janet Susan Holman

Makua Pictures LLC & CAG
Executive Producer/Author/Screenwriter
www.janetsusanholman.com
Direct Line: 808 778 0007
Office: 808 235 2211
E-fax: 808 236 0891

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kim2 - Arline

From: MCruick@aol.com
Sent: Sunday, March 22, 2009 8:31 PM
To: WAM Testimony
Cc: MCruick@aol.com
Subject: HB1739 HD1 SD1 Proposed - Relating to Taxation

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: **Dr. Michael J. Cruickshank, President**

Marine Minerals Technology Center Associates

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

Michael Cruickshank

A Good Credit Score is 700 or Above. See yours in just 2 easy steps!

kim2 - Arline

From: MCruick@aol.com
Sent: Sunday, March 22, 2009 8:27 PM
To: WAM Testimony
Cc: MCruick@aol.com
Subject: HB1739 HD1 SD1 Proposed- Relating to Taxation

HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: VJ CRUICKSHANK,

Treasurer

MMTC Associates

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

MMTC Associates is a consulting group dedicated to the development of marine minerals.

Thank you for the opportunity to testify.
Victoria Cruickshank, Treasurer

kim4 - Elizabeth

From: Michael Schmicker [Schmicker@navatekltd.com]
Sent: Monday, March 23, 2009 10:02 AM
To: WAM Testimony
Cc: 'robyn@hiscitech.org'; Martin Kao
Subject: Opposition to HB 1739 HD1 SD1 from Navatek Ltd.

HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: **Michael Schmicker**
Vice President-Marketing
Navatek, Ltd.

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

Here is a profile of our company and our role in Hawaii's high-tech industry:

Navatek, Ltd. was founded in 1979 and operates out of offices in Honolulu, Hawaii with 47 employees. It is a privately-owned subsidiary of Pacific Marine, founded in 1944, with 350 employees and annual revenues of \$73 million. Parent company Pacific Marine also owns Pacific Shipyards International LLC, the State's largest commercial ship repair and construction company. Navatek's primary government customer is the U.S. Navy's Office of Naval Research (ONR). Since its founding, Navatek has been a leader in researching, developing and

testing at sea innovative, advanced ship hull designs and associated technologies. The company designed and built the first commercial U. S. Coast Guard-certified SWATH. Later, Navatek teamed with Lockheed Martin to jointly build SLICE, a 30 knot, 105-foot fast SWATH hull form variant. MIDFOIL was the first vessel to demonstrate the benefits of Navatek's patented lifting body technology. Since then, Navatek has demonstrated the benefits of its research and technology in a number of technology demonstrators. These include HYSWAC[®], HDV[®], WAVERIDER[®], and BLB[®].

Our research team has world-class expertise in hydrodynamics and advanced ship hull design, as well as experience with all aspects of vessel design. We maintain our own shipyard facilities and demonstration vessels supported by a staff whose breadth of experience spans vessel design, ship and boat construction, and commercial vessel operations. Leveraging its hydrodynamics and ocean engineering expertise, Navatek also partners with selected technology companies to research and develop novel ocean platform and wave buoy power technologies.

Thank you for the opportunity to testify.

Michael Schmicker, Vice President-Marketing

Michael Schmicker
Vice President, Marketing and Corporate Communications
Navatek Ltd.
Suite 1110, 841 Bishop St.
Honolulu, Hawaii 96813
USA
808-531-7001 Ext. 18
schmicker@navatekltd.com
www.navatekltd.com



maui economic development board, inc.

March 23, 2009

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

VIA Email: WAMTestimony@Capitol.hawaii.gov

TIME: 9:30 a.m.

PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

RE: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Since inception, the Maui Economic Development Board, Inc. was founded with the diversification of the economy as one of our primary goals.

Federal grants play a critical role in a variety of Maui science and technology companies. In the science and technology sector, grants come from a range of Federal sources including the Department of Defense, National Institute of Health, National Science Foundation, Department of Energy, Department of Homeland Security, and the Department of Agriculture. By leveraging federal grants, the state receives a tremendous return on investment, and companies are able to accelerate commercialization through the use of complimentary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products.

Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Maui County tech companies.

Act 221 has drawn significant attention from technology businesses located outside of Hawaii, especially those engaged in the business start-up planning phase. The Act has allowed current employers to use their resources to grow their business, and attract outside investors. Act 221 is one of the most effective incentives Hawaii provides to prospective high technology business to start-up or expand in our state.

Thank you for the opportunity to testify.

Sincerely yours,

A handwritten signature in black ink that reads "Jeanne Skog".

Jeanne Unemori Skog
President & CEO

1305 N. Holopono Street, Suite 1
Kihei, Maui, Hawaii 96753

telephone: 1.808.875.2300

facsimile: 1.808.879.0011

www.medb.org



Before the Senate Committee On Ways and Means

DATE: March 24, 2009
TIME: 9:30 a.m.
PLACE: Conference Room 211

Re: HB 1739 HD1 Relating to Taxation Testimony of Melissa Pavlicek for NFIB Hawaii

Thank you for the opportunity to testify. On behalf of the thousands of business owners who make up the membership of the National Federation of Independent Businesses in Hawaii, we ask that you reject HB 1739 HD1. NFIB respectfully opposes this measure in its current form.

The National Federation of Independent Business is the largest advocacy organization representing small and independent businesses in Washington, D.C., and all 50 state capitals. In Hawaii, NFIB represents more than 1,000 members. NFIB's purpose is to impact public policy at the state and federal level and be a key business resource for small and independent business in America. NFIB also provides timely information designed to help small businesses succeed.

We believe that such legislation during these challenging economic times will add costs to doing business in Hawaii and will ultimately hurt businesses, their employees and the economy as a whole.



March 23, 2009

HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Room 211

TO: Senate Committee on Ways and Means
 Senator Donna Mercado Kim, Chair
 Senator Shan S. Tsutsui, Vice Chair

FROM: Rick Holasek, President and CEO, NovaSol

**Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1
 Proposed - Relating to Taxation**

Aloha Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

NovaSol is a local Hawaii-based high technology firm working in the aerospace/defense sector. Established in 1998, we specialize in reconnaissance camera systems and free space optical communications.

Thank you for the opportunity to testify.

Sincerely,

Rick Holasek, PhD
 President and CEO, NovaSol
 808-441-3666
 rick@nova-sol.com

CORPORATE OFFICE

28th Floor
 733 Bishop St.
 Honolulu, Hawaii 96813
 808.441.3600
 808.441.3601 fax

CALIFORNIA OPERATIONS

15150 Avenue of Science
 San Diego, California 92128
 858.376.0185
 858.376.0190 fax

FINANCE OFFICE

28th Floor
 733 Bishop St.
 Honolulu, Hawaii 96813
 808.680.9601
 808.680.9624 fax



HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Harry G. Jackson
President & CEO
Ocean Engineering and Energy Systems, Inc.

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed -
Relating to Taxation

Chair, Vice-Chair and Committee Members:


Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1
and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

Our small business company is in the renewable energy sector providing local opportunity to develop and commercialize Ocean Thermal Energy Conversion technologies for Hawaii and other locations. Since we are in the early start-up phase of establishing our corporate presence and marketing our technology/ability to build these projects that provide electricity, fresh water, seawater air conditioning and aquaculture, Act 221 is our life source to provide the funding to keep our company operating! Act 221, in its current format, makes investors excited about investing in our technology and

it gives them a stronger incentive to make an investment here in Hawaii with our company instead of going somewhere else like Nevada, Texas or North Carolina to invest their dollars.

Sincerely,



Harry G. Jackson
President & CEO
Ocean Engineering and Energy Systems, Inc.

808-954-6020

hjackson@ocees.com

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Stephen K. Oney
University of Hawaii, PhD program graduate in Ocean Engineering

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed -
Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1
and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is
the result of the incentives provided by Act 221 to encourage high tech companies to
come to Hawaii to do business. Act 221 has been successful and in these serious
economic times, the state should do more to encourage the growth of this industry so that
more people can come home and work. This bill will do just the opposite - it will stop
investment dollars which support the establishment and growth of local high tech
companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,



Stephen K. Oney
Chief Technology Officer & Executive VP
Ocean Engineering and Energy Systems, Inc.

808-954-6020

sony@ocees.com

kim2 - Arline

From: Ian Kitajima [IKitajima@OCEANIT.COM]
Sent: Monday, March 23, 2009 2:37 PM
To: WAM Testimony
Cc: John M. Kuriyama
Subject: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: **Oceanit**

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success.

What is not obvious is Federal research funding is just the beginning of a long development and funding road. For example, to bring its medical device to the US market (FDA approved), Hoana Medical, an Oceanit spin off funded by Act 221, requires about \$75M - \$100M. Only about \$10M came from the Feds, \$40M has come from investors (many from outside of Hawaii), and they have to raise more. From the start of the research, through development, and now into hospitals across the country, it has taken more than 10 years. But the results are amazing and continues to validate that world class technologies can come from Hawaii - the first FDA approved medical device from a Hawaii company, the first vigilance monitoring of its kind anywhere, and most importantly, lives saved every day.

Bottom-line: Federal funding is only part of what a growing high tech company and industry requires. By leveraging federal grants, the state gets a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

Mahalo for the opportunity to testify.

Ian Y. Kitajima, Marketing Manager
Oceanit

Ian Kitajima | Oceanit | Marketing Manager
828 Fort. St. Mall, Suite 600, Honolulu, HI 96813
P: 808.531.3017 x131 | F: 808.531.3177
E: ikitajima@oceanit.com | Skype: [ian.kitajima](#) | Twitter: [ikitajima](#)
Click ▶ | [Map](#) | [Video](#) | [Website](#) | [Careers](#)

NEWS: Watch "Weird Science with Dr. V" every Tues at 6:40am on KGMB9



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kim4 - Elizabeth

From: Cindy Matsuki [cmatsuki@oceanit.com]
Sent: Monday, March 23, 2009 2:15 PM
To: WAM Testimony
Subject: URGENT: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Cindy Matsuki

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.


Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

Cindy

Cindy Matsuki | Oceanit | Deputy Marketing Manager
828 Fort. St. Mall. Suite 600. Honolulu, HI 96813
P: 808.531.3017 xYour ext | F: 808.531.3177
E: cmatsuki@oceanit.com
Click ▶ | [Map](#) | [Video](#) | [Website](#) | [Careers](#)

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kim2 - Arline

From: Russel Cheng [rcheng@OCEANIT.COM]
Sent: Monday, March 23, 2009 3:40 PM
To: WAM Testimony
Subject: HB1739 HD1 SD1 Proposed - Relating to Taxation

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Russel Cheng

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Having spent 16 years in Japan and Asia (the last company I worked for was Microsoft), I am one of the kama'aina come home workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

Russel

Russel Cheng | Oceanit | IT Business Technologist
828 Fort St. Mall, Suite 600, Honolulu, HI 96813
Phone: 808-954-4199
Email: rcheng@oceanit.com
Click ▶ | [Map](#) | [Video](#) | [Website](#) | [Careers](#)

NEWS: Watch "Weird Science with Dr. V" every Tues at 6:40am on KGMB9



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kim4 - Elizabeth

From: Tina Sprague [tsprague@oceanit.com]
Sent: Monday, March 23, 2009 2:16 PM
To: WAM Testimony
Subject: URGENT: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: **Tina Sprague**

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support **the establishment** and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Aloha,

Tina Sprague | Oceanit | Client Services
828 Fort. St. Mall. Suite 600. Honolulu, HI 96813
P: 808.531.3017 x164 | F: 808.531.3177
E: tsprague@oceanit.com
Click ▶ | [Map](#) | [Video](#) | [Website](#) | [Careers](#)

NEWS: Watch "Weird Science with Dr. V" every Tues at 6:40am on KGMB9



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kim2 - Arline

From: Oceantek [Oceantek@hawaii.rr.com]
Sent: Monday, March 23, 2009 6:20 AM
To: WAM Testimony
Subject: HB1739 HD1 SD1 Proposed- Relating to Taxation

HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Dr. Jose Andres
Oceantek Inc.

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

Oceantek is a Hawaii based Chapter S Corporation whose objective is to develop software related to ocean sciences. Continuous research and development has been occurring 100% of the time and all R&D work is done in Hawaii. Oceantek is a high technology ocean engineering firm focusing on development of software for specific marine applications. It utilizes principles of ocean science and engineering combined with software development. The general focus of our research and development work has been on creating software tools for the mission planning and maintenance of submarine cables and Navy arrays. Oceantek also is involved in the development of advanced 3D/4D computer graphic visualization techniques to allow user to interactively visualize very large oceanographic data sets, while using a standard PC computer. Research and development in these

areas has been supported by contracts from the Office of Naval Research and more recently the National Defense Center of Excellence for Research in Ocean Sciences. Thanks to these contracts and the existence of Act 221, we expect to double the size of our company in the next two years.

Thank you for the opportunity to testify.

Jose Andres, Ph.D., P.E.
President
Oceantek Inc.

E-mail message checked by Spyware Doctor (6.0.0.386)
Database version: 5.12020
<http://www.pctools.com/spyware-doctor-antivirus/>

HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: William K. Akiona II
Projects Director
OmniGreen Renewables

RE: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

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

Thank you for the opportunity to testify on this bill. **OmniGreen Renewables LLC** is in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture.

However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds.

In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products.

Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

OmniGreen Renewables LLC is a newly formed **BioEnergy Systems Development Company**, which has received USDA funding for conducting renewable energy biomass research and development on the Wai'anae Coast of O'ahu, where we are planning for sustainable development projects that will simulate the rural economy and create "**Green Jobs.**"

Thank you for the opportunity to testify.

Respectfully,

William K. Akiona II
Projects Director
OmniGreen Renewables LLC
808 923-1737
omnigreen2020@yahoo.com

HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Theresa Alvillar
Office Manager
OmniGreen Renewables

RE: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

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

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

OmniGreen Renewables LLC is a newly formed **BioEnergy Systems Development Company**, which has received USDA funding for conducting renewable energy biomass research and development on the Wai'anae Coast of O'ahu, where we are planning for sustainable development projects that will simulate the rural economy and create "**Green Jobs.**"

Thank you for the opportunity to testify.

Respectfully,

Theresa Alvillar
Office Manager
OmniGreen Renewables LLC
808 923-1737
omnigreen2020@yahoo.com

kim2 - Arline

From: patty@pjs-media.com
Sent: Monday, March 23, 2009 12:44 PM
To: WAM Testimony
Subject: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: **Patty Stemmler, President, pjs media**

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

My company, pjs-media, is involved with all types of media with delivery of all kinds. We use cutting edge technologies and sometimes pursue funds for developing new digital technologies for use on the Internet.

Thank you for the opportunity to testify.
Patty Stemmler
pjs media

kim4 - Elizabeth

From: Kuo Ying-hao [Kuo@Photonic-Corp.com]
Sent: Monday, March 23, 2009 1:31 PM
To: WAM Testimony
Subject: HB1739 HD1 SD1 Proposed - Relating to Taxation

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: **Ying-hao Kuo**

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

Ying-hao Kuo

=====
Ying-hao Kuo

Technical Manager
PhotonIC Corp. / Advanced Integrated Photonics Inc.
Email. kuo@photonic-corp.com
=====



HB1739 - Relating to Taxation

DATE: February 26, 2009

TIME: 11:00am

PLACE: Conference Room 308

TO: House Committee on Finance
Representative Marcus R. Oshiro, Chair
Representative Marilyn B. Lee, Vice Chair

FROM: Norman Wayne Karo
CEO
Pipeline Micro

RE: Testimony in Strong Opposition to HB1739

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

Thank you for the opportunity to testify on this bill. Pipeline Micro strongly opposes HB1739.

Federal research and development support plays a critical role in growing Hawaii's science and tech sectors with support coming from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, Department of Agriculture, etc. Clearly the recently passed "Stimulus" plan, American Recovery and Reinvestment Act is a testament to this. However, federal funds are restricted to only research and development activities and may not be used for commercialization. Through leveraging of federal funds the state receives a greater return on investment when companies are able to accelerate commercialization through use of complementary and unrestricted Act 221/215 funds. The language and specific definitions of qualified research in Act 178/221/215 were originally designed and written to be aligned with the industries, activities, and types of research conducted by companies that do research by and through the federal government. This proposed Bill will eliminate the ability for the largest research and experimentation sector in Hawaii to qualify for the benefits under HRS Chapter 235 and eviscerate the entire purpose and intent of the Hawaii Legislature in enacting Act 221/215. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

Thank you for the opportunity to testify.

HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Norman Wayne Karo
CEO
Pipeline Micro

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed -
Relating to Taxation

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

Hawaii-based Pipeline Micro is the developer of the world's smallest and most efficient liquid cooling systems for consumer electronics, including computers, laptops, and video graphics cards. Liquid cooling systems developed by the company use a patented thermal system design that dramatically improves heat transfer, stabilizes temperature, and enables products to run faster, perform longer, and use less energy.

Pipeline Micro grew from 5 to 13 employees in 2008, and will grow to over 20 employees in 2009. We hire University of Hawaii graduates and are bringing world renowned talent into the State. Our customers are global electronics giants from the Mainland and Japan. Act 221/215 has enabled us to take a "holy grail", breakthrough invention from the University of Hawaii and make products that are in high demand even in this recession.

Thank you for the opportunity to testify.

Sincerely,
Norman Wayne Karo
CEO
Pipeline Micro
(808) 292-0131
wayne.karo@pipelinemicro.com

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

☐TIME: 9:30am☐

PLACE: Conference Room 211

TO: Senate Committee on Ways and Means☐

Senator Donna Mercado Kim, Chair☐

Senator Shan S. Tsutsui, Vice Chair

FROM: David Hales

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1
Proposed - Relating to Taxation

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

Thank you for the opportunity to submit testimony in strong opposition to HB1739
HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

//SIGNED//

David S. Hales
Pipeline Micro, Inc.

kim2 - Arline

From: Eric Griffith [eric.griffith@pipelinemicro.com]
Sent: Monday, March 23, 2009 3:48 PM
To: WAM Testimony
Subject: Testimony

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: **Eric F. Griffith**

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

As President of a high tech company in Hawaii, I am one of the many workers employed and a leader of a company hiring many employees in the high tech industry in Hawaii. Pipeline Micro has been able to expand from 3 to 12 employees in Hawaii as the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home or stay home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

Eric F. Griffith

Eric Griffith, President
Pipeline Micro
Smaller Faster Cooler
Leading the Microscale Revolution
www.pipelinemicro.com
Office: 808-237-5654
Fax: 808-748-0404
Cell: 808-561-6870

kim2 - Arline

From: Chaoying Bossert [chaoying.bossert@pipelinemicro.com]
Sent: Monday, March 23, 2009 3:49 PM
To: WAM Testimony
Subject: testimony

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Conference Room 211
TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair
FROM: Chaoying Deng Bossert

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation
Aloha Chair, Vice Chair and Members of the Committee,
Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

Chaoying

--

ChaoYing Deng Bossert, Vice President
Pipeline Micro
Smaller Faster Cooler
Leading the Microscale Revolution
www.pipelinemicro.com
Office: 808-539-3820
Direct: 808-237-5666
Fax: 808-748-0404
Cell: 808-232-3921

kim2 - Arline

From: Kristine Luna [kristine.luna@pipelinemicro.com]
Sent: Monday, March 23, 2009 3:49 PM
To: WAM Testimony
Subject: Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed -
Relating to Taxation

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: **Kristine Luna**

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: **Kristine Luna**

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

Kristine Luna

--

Kristine Luna
Marketing Specialist
Pipeline Micro, Inc.
1240 Ala Moana Blvd. Suite 240
Honolulu, HI 96814
+1-808-237-5656
www.pipelinemicro.com

kim2 - Arline

From: Seri Lee [seri.lee@pipelinemicro.com]
Sent: Monday, March 23, 2009 4:04 PM
To: WAM Testimony
Subject: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

Thank you for the opportunity to testify.

Seri Lee, PhD
Chief Technology Officer
Pipeline Micro
Smaller. Faster. Cooler.
www.pipelinemicro.com
Office: 808-539-3820
Fax: 808-748-0404

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kim2 - Arline

From: Scott Lee [scott.lee@pipelinemicro.com]
Sent: Monday, March 23, 2009 3:57 PM
To: WAM Testimony
Subject: Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed -
Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

My name is Scott Lee and I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies. I am also a 2001 University of Hawaii Regents Scholar recipient, which has the goal of retaining the top students in Hawaii. However, keeping the best students in Hawaii is not enough. Without competitive jobs to keep them here once they graduate the student will most likely leave.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

Scott Lee

Thermal Engineer

Pipeline Micro

1240 Ala Moana Blvd., Ste. 240

Honolulu, HI 96814

TEL: (808) 539-3820 x155

FAX: (808)-748-0404

www.pipelinemicro.com

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702 Kanaha Street
Kailua, HI 96734

808-221-5955

March 22, 2009

Senate Committee on Ways and Means

DATE: March 24, 2009

TIME: 9:30 am

PLACE: Room 211

HB1739 HD1 SD1 Proposed - Relating to Taxation: Testimony in Strong Opposition

Senator Donna Mercado Kim, Chair

Senator Shan S. Tsutsui, Vice Chair

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Aloha Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

Steiner & Associates is a consulting firm that provides business and management expertise to start-ups, entrepreneurs, and professional service firms. Through my association with Act 221 companies, I have seen the dedication and desire of these firms to bring innovation, business and jobs to the State of Hawaii.

Thank you for the opportunity to testify, in strong opposition, on this important bill.

Sincerely,

Michael Steiner

Michael Steiner, CLM, Principal

Steiner & Associates

Telephone: (808) 221-5955

Email: MSteiner@SteinerAssoc.com

kim2 - Arline

From: esun@sungloballlc.com
Sent: Saturday, March 21, 2009 5:47 PM
To: WAM Testimony
Cc: Edward Sun
Subject: HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Room 211

TO: Senate Committee on Ways and Means Senator Donna Mercado Kim, Chair Senator Shan S. Tsutsui, Vice Chair

FROM: Edward B.T. Sun, President, Sun Global, LLC

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1. Proposed Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NI Health, NSF, Department of Energy, Homeland Security, and the Department of Agriculture.

However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds.

In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

My Company, Sun Global, LLC, has not requested or used Act 221 or 215 for funding. However, our current work with Homeland Security fiber optics development may be soon expanding to energy cell technology and forms of HIV detection systems. As a local graduate of the UH School of Electrical Engineer and formerly involved with various technology companies in Hawaii (Verifone, Intellect, Adtech, Aquasearch/Mera Pharmaceuticals, Pacific Information Exchange, INIX, and now Sun Global, LLC, I can acknowledge the fact that local and limited investors in the islands need additional federal funds to complete the funding round for any significant research and development. The Obama Stimulus Package would be a great complement to local traunches with Act 215.

Thank you for the opportunity to testify.

Edward B.T. Sun
President
Sun Global, LLC
www.sungloballlc.com
Sent via BlackBerry by AT&T



HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Room 211

TO: Senate Committee on Ways and Means

Senator Donna Mercado Kim, Chair

Senator Shan S. Tsutsui, Vice Chair

FROM: James P. Karins

President and CEO

Pukoa Scientific

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

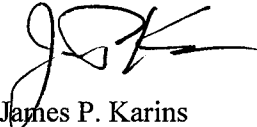
Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

Pukoa Scientific is a 15 person company started in 2004 specializing in the interpretation of image and signal data to identify objects, threats or targets. Pukoa Scientific is in the dual use sector. Our average salary is over \$100,000, 12 of our 15 people are full time and 11 of those 12 reside in Hawaii. Of the 11

full time staff in Hawaii, 8 graduated from high schools in Hawaii, 10 graduated from University of Hawaii or Hawaii Pacific University and at least 4 worked on the mainland prior to finding work in Hawaii. We currently generate more than \$2.5M in revenue and pay over \$1.5M in compensation.

Thank you for the opportunity to testify.



James P. Karins
President and CEO
Pukoa Scientific
karins@pukoa.com



HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Conference Room 211
TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair
FROM: Andrea Kato
RE: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1
Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

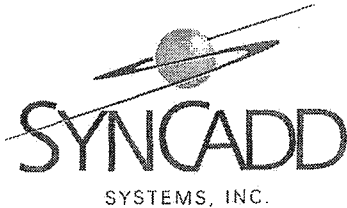
I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,



Andrea Kato
Pukoa Scientific, LLC



1833 Kalakaua Ave., Suite 1000
Honolulu, Hawaii 96815
Tel: (808) 941-8286
Fax: (808) 941-7173
Email: irenem@syncadd.com
www.syncadd.com

Solutions to Empower

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HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009
TIME: 9:30 am
PLACE: Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM:
Irene Motonaga, President
SYNCADD Systems, Inc.

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

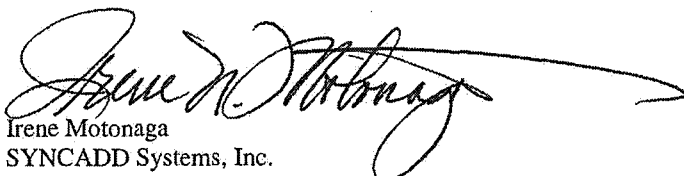
Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

SYNCADD Systems, Inc. is located in Honolulu, Hawaii with resources extending to Alaska, Okinawa, Japan and Korea. SYNCADD is a technology company focused on managing real property assets and resources. The company was incorporated in 1984; for the past 12 years it has been helping its customers to attain data accuracy, capture institutional knowledge, enhance processes, implement a collaborative infrastructure and achieve organizational goals. To date, SYNCADD has laser-measured 33 Army installations; nearly 40 million square feet of facilities drawn in 3-D, automatically calculating net/gross square footages, space utilization ratios, etc.

SYNCADD Systems seeks to create customer valued-products and services that promote organizational readiness and the well-being of mission personnel and their families.

Thank you for the opportunity to testify.



Irene Motonaga
SYNCADD Systems, Inc.



677 Ala Moana Boulevard, Suite 1100, Honolulu, Hawai'i 96813
808.539.9331 / f: 808-539-9345 / www.tissuegenesis.com

Bradley Perkins, Senior Vice President, Administration and General Counsel
d: 808.772.5530/ c: 808.372.2661 / bperkins@tissuegenesis.com

March 23, 2009

HB1739 HD1 SD1 Proposed- Relating to Taxation

Date: Tuesday, March 24, 2009
Time: 9:30 am
Place: Conference Room 211
To: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair
Regarding: Testimony in Strong Opposition to HB1739 HD1
and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies, including Tissue Genesis, to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

Tissue Genesis is an emerging high-growth company in the field of regenerative medicine, using a patient's own cells to coat implants, repair damaged tissue, heal disease, and address other medical concerns. Tissue Genesis is leveraging its automated cell separation and isolation platform, and expertise to deliver products to the regenerative medicine market. Current near term applications include coating of implantable devices, such as vascular grafts and stents; repair of damaged tissue, such as found in heart disease and peripheral artery disease; orthopedic and veterinary applications; and other tissue healing using a patient's own regenerative cells. Act 221 has been instrumental to the progress of our company.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "Bradley Perkins", with a long horizontal flourish extending to the right.

Bradley Perkins
Senior Vice President, Administration and General Counsel

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Carol Yasaka

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed -
Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1
and Section 8 of SD1 Proposed.

I have been employed in the high tech industry in Hawaii for the last 14 years as one of
many who are also employed in the industry. I believe the fact that I have been able to
remain in the industry for this length of time was only possible through the incentives
provided by Act 221 that encouraged high tech companies to come to the State of Hawaii
to do business. Through this time, as part of the accounting staff in various positions, I
have been a participant and witness to the struggles, rewards and accomplishments of
several high tech companies here in Hawaii. Act 221 contributed to the success of these
companies by encouraging many of our talented and brilliant graduates to return home to
Hawaii and by being able to compete for other personnel with the right qualifications. It
encouraged investment in our high tech industry so critical to their success.

I have seen how Act 221 has encouraged the investment in and growth of these high tech
companies and how it has benefited many like myself. Being an island state, this is one
of the ways we can support continued growth and provide job opportunities for many
who are in need especially during these difficult economic times.

Sincerely,
Carol Yasaka

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Conference Room 211

TO: Senate Committee on Ways and Means

Senator Donna Mercado Kim, Chair

Senator Shan S. Tsutsui, Vice Chair

FROM: Michael H. Furoyama

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed -
Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1
and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is
the result of the incentives provided by Act 221 to encourage high tech companies to
come to Hawaii to do business. Act 221 has been successful and in these serious
economic times, the state should do more to encourage the growth of this industry so that
more people can come home and work. This bill will do just the opposite - it will stop
investment dollars which support the establishment and growth of local high tech
companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

Michael H. Furoyama

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Conference Room 211

TO: Senate Committee on Ways and Means: Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: John L. Hinrichs PhD

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed -
Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1
and Section 8 of SD1 Proposed.

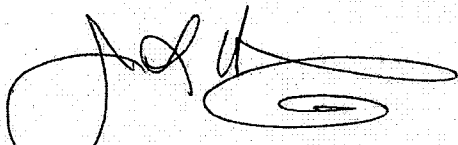
I am one of the many workers employed in the high tech industry in Hawaii. This job is
the result of the incentives provided by Act 221 to encourage high tech companies to
come to Hawaii to do business. Act 221 has been successful and in these serious
economic times, the state should do more to encourage the growth of this industry so
that more people can come home and work. This bill will do just the opposite - it will
stop investment dollars which support the establishment and growth of local high tech
companies.

I'd also like to point out that as an employee of the high tech sector I help support
quality education here in Hawaii... as does my wife. I know many of the other high tech
workers in Hawaii who do likewise. I've personally given science presentations and
demonstrations at my daughter's and nephew's elementary schools. My wife volunteers
her time too. We work hard to improve the education of our keiki.

I would like to remain here in Hawaii but obviously that depends on having a job where
I can effectively use my skills.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,



John L. Hinrichs PhD

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Ryan Kadomoto

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed -
Relating to Taxation

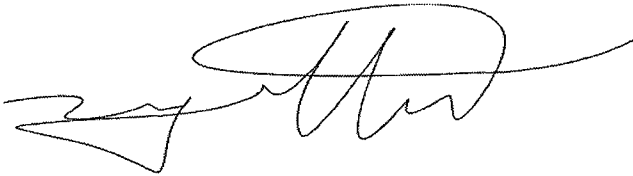
Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and
Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the
result of the incentives provided by Act 221 to encourage high tech companies to come to
Hawaii to do business. Act 221 has been successful and in these serious economic times, the
state should do more to encourage the growth of this industry so that more people can come
home and work. This bill will do just the opposite - it will stop investment dollars which support
the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ryan Kadomoto', with a large, stylized flourish at the end.

Ryan Kadomoto

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Mimi Yoshida

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed -
Relating to Taxation

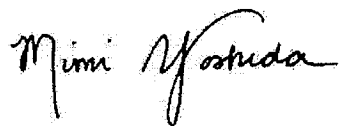
Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

A handwritten signature in black ink that reads "Mimi Yoshida". The signature is written in a cursive, flowing style.

Mimi Yoshida

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Charise Suzuki

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1
Proposed - Relating to Taxation


Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to
HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,


Charise Suzuki

HB1739 HD1 SD1 Proposed - Relating to Taxation
DATE: March 24, 2009
TIME: 9:30am
PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Kelli Goodin

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,



Kelli Goodin

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Conference Room 211

TO: Senate Committee on Ways and Means

Senator Donna Mercado Kim, Chair

Senator Shan S. Tsutsui, Vice Chair

FROM: Danny Yee

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,
Danny Yee

A handwritten signature in cursive script that reads "Danny Yee".

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Conference Room 211

TO: Senate Committee on Ways and Means

Senator Donna Mercado Kim, Chair

Senator Shan S. Tsutsui, Vice Chair

FROM: Ryan Ishizu

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed. I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies. Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

Ryan Ishizu

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Conference Room 211

TO: Senate Committee on Ways and Means

Senator Donna Mercado Kim, Chair

Senator Shan S. Tsutsui, Vice Chair

FROM: Randy Cox

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,


Randy Cox

Testimony of Ronald I. Heller

700 Bishop Street, Suite 1500
Honolulu HI 96813

phone 523 6000 fax 523 6001
e-mail rheller@torkildson.com

Before the Senate Committee on Ways and Means

Tuesday, March 24, 2009

9:30 am

Conference Room 211

Re: HB 1739 Proposed SD 1
(*Taxation*)

Chair Kim, Vice Chair Tsutsui, and Committee members:

Thank you for the opportunity to testify in **opposition** to House Bill 1739, Proposed SD 1.

The proposed SD 1 version of this bill would insert a number of provisions into our state tax law, adding various potential penalties on taxpayers and tax return preparers. In theory, it would bring our state law closer to federal law. However, when you look closely, the bill is very one-sided: it is roughly parallel to federal law (with some exceptions) in defining penalties applicable to taxpayers and tax return preparers, **but it does not give taxpayers and return preparers the same rights and protections that they have when dealing with the IRS on the federal level.**

For example, when a taxpayer disagrees with a tax assessment, at the federal level, the taxpayer can go to the IRS Appeals Office, where the taxpayer has the opportunity to try to negotiate a settlement of the dispute with an independent Appeals Officer – someone who is not part of the IRS audit division and who has the power to propose a compromise. **The State does not offer any parallel process.** (The Board of Review at the State level is NOT an equivalent -- the Board does not meet with the taxpayer outside the presence of the auditor, and does not negotiate settlements.)

The Department of Taxation has also been opposing a 10-year statute of limitations on tax collection, despite the fact that such a statute exists at the federal level.


Another concern is that HB 1739, Proposed SD 1 would define "substantial authority" to include press releases and announcements by the Department of Taxation – not just formal Administrative Rules adopted after public review and comment, but any press releases or announcements that the Department decides to issue would be "substantial authority" in deciding when to apply penalties. At the federal level, far more guidance to taxpayers is available in the form of Revenue Rulings, Revenue Procedures, extensive and detailed Regulations, published Private Letter Rulings, etc. Here in Hawaii, a press release issued by the Department of Taxation could potentially be the only "authority" on a particular question.

The bill also provides that if a taxpayer files a false or fraudulent return, with the intent to evade tax, then the Department of Taxation may assess additional tax at any time, regardless of the statute of limitations that would otherwise apply. However, if the taxpayer disputes an assessment of additional tax, the burden of proof with respect to the issue of falsity or fraud would be on the government. Under federal law, it's clear that if the IRS wants to make an assessment of additional tax after the otherwise-applicable limitation period has expired, the IRS must prove **BOTH** that the return was false or fraudulent, **AND** that it was filed with the intent to evade tax. These are two separate and distinct issues, and the burden of proof on **both** of them is on the government at the federal level. **This is a clear example of a provision in the bill that does not actually match the comparable provision in federal law.**

If you decide to make the Hawaii tax law more closely match federal law, then I urge you to do it in a fair and even-handed way – if Hawaii state taxpayers are going to be subject to penalties comparable to those that apply at the federal level, then Hawaii state taxpayers should be given the same rights and protections that apply at the federal level.

Thank you for your attention to this matter.

Respectfully submitted,



Ronald I. Heller

kim4 - Elizabeth

From: leafishing@aol.com
Sent: Monday, March 23, 2009 10:52 AM
To: WAM Testimony
Subject: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Follow Up Flag: Follow up
Flag Status: Flagged

DATE: March 24, 2009
TIME: 9:30am
PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Phil Kinnicutt

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

The incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 have been successful and in these serious economic times, the State should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Aloha,
Phil Kinnicutt
341 Iliaina Street
Kailua, HI 96734
808-254-4534

Phil Kinnicutt
808-254-4534
Skype Name: philk63

kim2 - Arline

From: LFChao@aol.com
Sent: Saturday, March 21, 2009 6:54 PM
To: WAM Testimony
Subject: HB1739 HD1 SD1 Proposed- Relating to Taxation

HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: **{{NAME}}**
{{TITLE}}
{{COMPANY}}

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

{{Insert company profile}}

Thank you for the opportunity to testify.
Name, Title
Company

kim2 - Arline

From: LFChao@aol.com
Sent: Sunday, March 22, 2009 2:31 AM
To: WAM Testimony
Subject: HB1739 HD1 SD1 Proposed- Relating to Taxation

HB1739 HD1 SD1 Proposed- Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

Name: Lloyd Chao

Title: Film Producer

Address: c/o Shaw Studios, 10th Floor Shaw House, Clearwater Bay, Hong Kong

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 SD1 Proposed - Relating to Taxation

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

Federal grants play a critical role in a variety of Hawaii companies from science and technology companies to low-income housing developers. In the science and technology sector grants come from a range of Federal sources including the Department of Defense, NIH, NSF, Department of Energy, Homeland Security, and the Department of Agriculture. However, science and technology federal grants are restricted to only research and development activities and may not be used for commercialization which is critical to long term success. Through leveraging federal grants the state receives a greater return on investment, and companies are able to accelerate commercialization through the use of complementary and unrestricted Act 221/215 funds. In addition, these technologies and companies have been vetted by the federal agencies and are therefore more likely to develop successful products. Finally, the language of the bill is vague and confusing and may have unintended consequences which negatively impact the growth of Hawaii's tech companies. Therefore, we strongly oppose this bill.

I am a film producer with credits on a number of major Asian films (including ten of Jackie Chan's, and academy award winner Ang Lee's LUST CAUTION) and I represent some of the overseas production and financing partners of MAKAI MOTION PICTURES ('MMP'), an international film financing, development and production company based in Hawaii. We have been working for a couple of years to co-produce with MMP a film which would showcase the unique social, cultural and geographic beauty of the islands to the rest of the world.

Together with Makai Motion Pictures, we are currently in the midst of financing a new international feature film project called THE GATHERING PLACE which we intend to shoot in summer-fall of 2009, set mostly on the island of Oahu (with newly renovated The Royal Hawaiian Hotel, local restaurants and homes, Kapiolani/Sans Souci and Waimanalo beaches as primary locations), with local production crews and as many 'hapa/local' cast as possible. Budgets/expenditures in Hawaii would range from \$1M to more than \$4M; we would hire upwards of 60-100 local positions or roles and extras (per project) and require creative and production services, hotels, transport, catering, post-production, music talent, etc.

MMP is utilizing international (Hong Kong, Japan, mainland U.S.) financing to support this film production leveraged with the vital contributions of Hawaii equity and 221 investment. Makai Motion Pictures also has several other projects in development, most created with Hawaii in mind as primary locations and character inspiration. Our project financing, production and distribution phases depend greatly on the vision and financial opportunities that the state of Hawaii provides.

Especially crucial, Makai Motion Pictures is currently negotiating to bring in upwards of \$2-3 million for our feature film THE GATHERING PLACE from outside the state. The film is one of the few international-level films written and produced by a 'local boy' using local executive/producing teams, and using Hawaii musicians and cast that will have international exposure not only in the U.S. and English-speaking countries but in Japan and Chinese-speaking territories as well.

If Act 221's investment benefits were to be altered, it would effectively cut off opportunities for financing in 2009 and beyond, and THE GATHERING PLACE film would likely need to be shelved or re-worked into another setting and location, as there would be little or no incentive to use Hawaii creative talent or settings if there are no financial opportunities to support them.

Thank you for the opportunity to testify on these important bills. We respectfully ask that you hold these bills and continue providing Hawaii and new businesses with long-term unique economic opportunities to flourish and grow.

Thank you for the opportunity to testify.

Name: Lloyd Chao

Title: Film Producer

Address: c/o Shaw Studios, 10th Floor Shaw House, Clearwater Bay, Hong Kong

A Good Credit Score is 700 or Above. See yours in just 2 easy steps!

kim2 - Arline

From: Terri Chong [chongh004@hawaii.rr.com]
Sent: Saturday, March 21, 2009 3:38 PM
To: WAM Testimony
Subject: HB1739 HD1 SD1 Proposed - Relating to Taxation

Importance: High

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Conference Room 211

**TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair**

FROM: TERRILANI J. CHONG

**Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed -
Relating to Taxation**

Aloha Chair, Vice Chair and Members of the Committee,

**Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and
Section 8 of SD1 Proposed.**

**I am employed by a federally funded project at the University of Hawaii and as such, would
be deeply disturbed to learn that our state would hamstring the innovators of our state in
such a way as this bill would do. This bill would result in the stymied creativity of many
individuals, and I feel would ultimately lead to further stagnation of our economy.**

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

TERRILANI J. CHONG

kim2 - Arline

From: Kerry Wong [kealohilani@mac.com]
Sent: Sunday, March 22, 2009 6:04 PM
To: WAM Testimony
Subject: Testimony: Opposition to HB1739 HD1 and Section 8 of SD1

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Kerry Wong

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

My spouse is one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,
Kerry Wong

kim2 - Arline

From: Chris and Justine [cmnalo@hawaii.rr.com]
Sent: Monday, March 23, 2009 7:48 AM
To: WAM Testimony
Subject: Testimony in Support of HB1739 HD1

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: **Justine Miller**

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

((I am or my child, my son, my daughter is, etc)) one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

Justine Miller

kim2 - Arline

From: Leslie Isaki [lisaki@cellularbioengineering.com]
Sent: Monday, March 23, 2009 12:59 PM
To: WAM Testimony
Subject: Testimony in Opposition to HB1739 HD1 and Section 8 of SD1 Proposed

To: Senate Committee on Ways and Means
The Honorable Donna Mercado Kim, Chair
The Honorable Shan S. Tsutsui, Vice Chair

Dear Chair, Vice Chair and Members of the Committee:

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of many workers employed in the high tech industry in Hawaii. This job is the result of incentives provided by Act 221. Without qualification, Act 221 has been successful. I urge the State to continue to encourage the growth of this industry which provides high paying jobs and career opportunities for the return of Hawaiians who relocated to the mainland for education and pursue careers.

This bill will do just the opposite – it will stop investment dollars which support the establishment and growth of local high tech companies.

Sincerely,
Leslie S Isaki, Ph.D.

kim2 - Arline

From: Andrew Mizon [andrew@casecrest.com]
Sent: Monday, March 23, 2009 2:26 PM
To: WAM Testimony
Subject: HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Andy Mizon

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

Andy Mizon

kim4 - Elizabeth

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 23, 2009 2:21 PM
To: WAM Testimony
Cc: don@doncouch.com
Subject: Testimony for HB1739 on 3/24/2009 9:30:00 AM

Testimony for WAM 3/24/2009 9:30:00 AM HB1739

Conference room: 211
Testifier position: oppose
Testifier will be present: No
Submitted by: Don Couch
Organization: Individual
Address:
Phone:
E-mail: don@doncouch.com
Submitted on: 3/23/2009

Comments:

kim4 - Elizabeth

From: Felix Lau [flau@cellularbioengineering.com]
Sent: Monday, March 23, 2009 8:48 AM
To: WAM Testimony
Subject: Opposition to HB1739 HD1 and Section 8 of SD1 Proposed

HB1739 HD1 SD1 Proposed – Relating to Taxation

Date: March 24, 2009
Time: 9:30 a.m.
Place: Conference Room 211

To: Senate Committee on Ways and Means
The Honorable Donna Mercado Kim, Chair
The Honorable Shan S. Tsutsui, Vice Chair

From: Felix Lau

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed – Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite – it will stop investment dollars which support the establishment and growth of local high tech companies.

Sincerely,

Felix P. Lau

kim4 - Elizabeth

From: Andreas Mylonakis [amylonakis@cellularbioengineering.com]
Sent: Monday, March 23, 2009 8:46 AM
To: WAM Testimony
Subject: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

HB1739 HD1 SD1 Proposed – Relating to Taxation

Date: March 24, 2009
Time: 9:30 a.m.
Place: Conference Room 211

To: Senate Committee on Ways and Means
The Honorable Donna Mercado Kim, Chair
The Honorable Shan S. Tsutsui, Vice Chair

From: Andreas Mylonakis

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed – Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite – it will stop investment dollars which support the establishment and growth of local high tech companies.

Sincerely,

Andreas Mylonakis

kim2 - Arline

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 22, 2009 12:18 PM
To: WAM Testimony
Cc: mcurtis@hawaii.rr.com
Subject: Testimony for HB1739 on 3/24/2009 9:30:00 AM

Testimony for WAM 3/24/2009 9:30:00 AM HB1739

Conference room: 211
Testifier position: oppose
Testifier will be present: No
Submitted by: Mike Curtis
Organization: Individual
Address: 1829 Bertram Street Honolulu, HI
Phone: 808-292-6862
E-mail: mcurtis@hawaii.rr.com
Submitted on: 3/22/2009

Comments:

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

Mike Curtis

kim2 - Arline

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 23, 2009 5:28 AM
To: WAM Testimony
Cc: tiffanygd@yahoo.com
Subject: Testimony for HB1739 on 3/24/2009 9:30:00 AM

Testimony for WAM 3/24/2009 9:30:00 AM HB1739

Conference room: 211
Testifier position: oppose
Testifier will be present: No
Submitted by: G. Douglas Tiffany, PhD.
Organization: Individual
Address: 4125 Pai St. Kalaheo, HI 96741
Phone: 808-652-8727
E-mail: tiffanygd@yahoo.com
Submitted on: 3/23/2009

Comments:
HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: G. Douglas Tiffany, PhD

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies. Hi Tech companies have other lower cost choices around the world in which to establish their operations. Please don't force them to stop considering Hawaii for their operations that bring high paying jobs into our state. What is the use of sending our keiki off to get advanced degrees if they will never have the chance to come home and work?

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

kim4 - Elizabeth

From: john madey [madey@hawaii.edu]
Sent: Monday, March 23, 2009 9:12 AM
To: WAM Testimony
Subject: HB1739 HD1 and Section 8 of SDI Proposed, Adverse Impact on Venture Capital Investment

Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

Re: Adverse Impact of HB1739 HD1 and Section 8 SD1 on Private Sector Investments in Hawaiian High Tech Industries

Although I serve as a faculty member at the University of Hawai'i at Manoa, I am writing to you in my role as a private citizen concerned about the future of Hawaii's High Technology Industries.

Having spent more than 25 years working in the Silicon Valley at Stanford, I can testify at first hand to the critical role played by private investment capital in the transition of new startups from the research stage to fully functioning- and profitable - privately held corporations. The investors who make this transition possible are understandably concerned about recouping their investment at the earliest possible date. It follows clearly and directly that restrictions on the abilities of their companies to compete for the federal funds which are sometimes critical to the early years of these companies will be a major negative for these individuals when considering directing some of their very considerable funds to the new high tech industries on which the future of Hawai'i now depends.

There is at this point in time an opportunity to persuade at least a couple of these investors to set up branch offices here in Hawai'i, partly in response to the severe deterioration of business and quality-of-life conditions in California, and partly due to the growing reputations of Hawaii's high tech entrepreneurs. As an indication of what is possible, some of these firms have already set up local offices in Hong Kong, Shanghai, and the other centers of high tech entrepreneurship in Asia. It would be most unfortunate if through measures restricting the growth of Hawaii's high tech industries like those now before the committee, that we also lost access to the critical sources of private venture capital needed to establish Hawaii's entrepreneurs as competitive in the world economy.

John Madey

kim2 - Arline

From: Virendra Nath [virendra@hdep.com]
Sent: Monday, March 23, 2009 8:58 AM
To: WAM Testimony
Subject: HB1739 HD1 SD1 Proposed- Relating to Taxation

Follow Up Flag: Follow up
Flag Status: Completed

Dear Senator Kim,

While it is crucially important to our State to have a fiscally responsible budget, and difficult choices must be made, I urge the Senate and our elected leaders to differentiate between "eating our seed corn" to satisfy today's hunger. Significant changes to Act 221/215 would be akin to eating our seed corn. All of us are suffering today, every one of us. None has the prosperity or the optimism that we had a year ago. Our State's needs have expanded especially for additional health care and poverty alleviation programs. After all, those who are the most unfortunate and hit the hardest are the ones who need our helping hand the most.

Looked at like that, getting rid of a tax credit that may give us a nebulous return far into the future would be an easy choice. But, it would be wrong because the decisions made today will reverberate for decades - and it is seldom that a bill as innovative and far reaching as Act 221 has ever been passed by any legislature (and it is for exactly this reason that it has been constantly attacked). The successes that come out of Act 221 will provide jobs for decades, make Hawaii truly independent in a world that values innovation above all else, and will allow our brightest children to come home.

I strongly support extension of Act 221 and oppose any measures that would limit its effectiveness. I, therefore, oppose HB1739 HD1 SD1.

With that said, I would encourage the legislature to look for ways to make Act 221 revenue neutral in the short term to allow the State to meet its pressing obligations. The leaders of our legislature are innovative and far sighted, and know that it will take some time to determine the best ways to make the Act revenue neutral. Why not pass a law that extends Act 221 for an additional five years past its sunset date (i.e. to 2015) and direct the Dept. of Taxation to design a way for the Act to be revenue neutral for the extension period. The DoT may be given six months to come up with the method and the agreed upon method could become a corollary to the bill at next year's legislature.

With warm regards,

Virendra Nath
President, HDEP International
Coordinator, Maui Angels

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: F. Olcay Cirit, Software Engineer, Archinoetics LLC

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

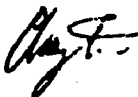
I am one of the many workers employed in the high tech industry in Hawaii. As you may well know, it has become extremely difficult to obtain private venture funding in the recession era economy. The number of new startups funded worldwide has dropped dramatically over the last two years. Furthermore, in the wake of the banking crisis, banks have tightened the reins on revolving lines of credit and small business loans.

Luckily for my company, the federal government continues to support small business research through its SBIR and STTR programs, but this money comes with many restrictions in how it may be spent. The Hawaii research tax credit helps bridge the gap between restrictions on federal funding and the needs of a modern, high-tech research company: it helps Hawaii companies receiving federal funds recruit and retain talented individuals from the global workforce.

Any measure that denies research tax credits to businesses receiving federal money unfairly lowers their competitiveness at a time when federal funding remains one of the only viable options for high-tech companies in Hawaii.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,



F. Olcay Cirit

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: **Peter Wubbels**

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,



Peter Wubbels

03-23-09, 03:48PM, 3887439 # 0 / 14

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: **Eric Taketatsu**

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

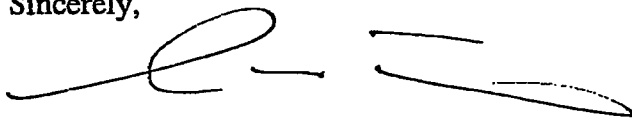
Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,



Eric Taketatsu

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Erin Nishimura

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed -
Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1
and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is
the result of the incentives provided by Act 221 to encourage high tech companies to
come to Hawaii to do business. Act 221 has been successful and in these serious
economic times, the state should do more to encourage the growth of this industry so that
more people can come home and work. This bill will do just the opposite - it will stop
investment dollars which support the establishment and growth of local high tech
companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,



Erin Nishimura

kim2 - Arline

From: Teixeira, Kathy [Kathy.Teixeira@makai.com]
Sent: Monday, March 23, 2009 3:23 PM
To: WAM Testimony
Subject: URGENT TESTIMONY relating to Federal Funding/Act 221

Follow Up Flag: Follow up
Flag Status: Completed

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: **Susan Wilson**

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

Susan Wilson, Office Manager

IMPORTANT: This e-mail, including all attachments, constitute Makai Ocean Engineering, Inc. records and property that is intended only for the use of the individual or entity to which it is addressed. It also may contain information that is privileged, confidential, or otherwise protected from disclosure under applicable law. If the reader of this e-mail transmission is not the intended recipient or the employee or agent responsible for delivering the transmission to the intended recipient, you are hereby notified that any dissemination, distribution, copying or use of this e-mail or its contents is strictly prohibited. If you have received this e-mail in error, please notify the sender by responding to the e-mail and then delete the e-mail immediately.

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Ken Cheung, PhD

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed -
Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1
and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high-tech industry in Hawaii. This job is
the result of the incentives provided by Act 221 to encourage high-tech companies to
come to Hawaii to do business. Act 221 has been successful and in these serious
economic times, the state should do more to encourage the growth of this industry so that
more people can come home and work. This bill will do just the opposite - it will stop
investment dollars which support the establishment and growth of local high-tech
companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

A handwritten signature in black ink that reads "Ken Cheung". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Ken Cheung, PhD

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: **William J Robinson**

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,



William J Robinson

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: **Sandra J. Spring**

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed -
Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1
and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is
the result of the incentives provided by Act 221 to encourage high tech companies to
come to Hawaii to do business. Act 221 has been successful and in these serious
economic times, the state should do more to encourage the growth of this industry so that
more people can come home and work. This bill will do just the opposite - it will stop
investment dollars which support the establishment and growth of local high tech
companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,



Sandra J. Spring

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Harvey Ku

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1
Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition
to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in
Hawaii. This job is the result of the incentives provided by Act 221 to
encourage high tech companies to come to Hawaii to do business. Act 221
has been successful and in these serious economic times, the state
should do more to encourage the growth of this industry so that more
people can come home and work. This bill will do just the opposite - it
will stop investment dollars which support the establishment and growth
of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition
to this bill.

Sincerely,



Harvey Ku
Electrical Engineer

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: **Lianne Kitajima**

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,



Lianne Kitajima

TO: Senate Committee on Ways and Means

Via: the Senate Sergeant-At-Arms Office

Fax: 586-6659

To: The Honorable Senator Donna Mercado Kim, Chairman

The Honorable Senator Shan S. Tsutsui, Vice Chairman

FROM: John Prest

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed -
Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I and thirty co-workers are a few of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Most importantly in 2009 is the impact on the business I am involved with as we just hired the first of eight new positions planned for here Hawaii this year. With the vast majority of our industries reducing their work force numbers this year, it is inconceivable to me that the State would wish to inadvertently take incentives away from one of the few industries hiring employees. In addition, these hires average compensation packages are more than 3 X the average State services worker.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

John Prest



808-277-2406

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009

TIME: 9:30am

PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: **Anna M.Tomalik**

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed -
Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

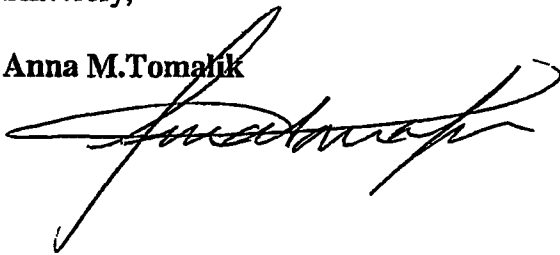
Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1
and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is
the result of the incentives provided by Act 221 to encourage high tech companies to
come to Hawaii to do business. Act 221 has been successful and in these serious
economic times, the state should do more to encourage the growth of this industry so that
more people can come home and work. This bill will do just the opposite - it will stop
investment dollars which support the establishment and growth of local high tech
companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

Anna M.Tomalik



3/23/2009

To: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

From: Jean Garcia

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SDI Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SDI Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Thank you for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,



Jean Garcia

kim2 - Arline

From: Mary Lu Kelley [mkelley@lava.net]
Sent: Monday, March 23, 2009 2:59 PM
To: WAM Testimony
Subject: Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Importance: High

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Mary Lu Kelley

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

Mary Lu Kelley

P. O. Box 289

Lawai, HI 96765

FROM: Adam Hill

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

A handwritten signature in black ink that reads "Adam Hill". The signature is written in a cursive style with a long horizontal stroke at the end.

Adam Hill

kim2 - Arline

From: Maxwell Lee [max@archinoetics.com]
Sent: Monday, March 23, 2009 2:49 PM
To: WAM Testimony
Subject: HB1739 HD1 SD1 Proposed - Relating to Taxation

HB1739 HD1 SD1 Proposed - Relating to Taxation

DATE: March 24, 2009
TIME: 9:30am
PLACE: Conference Room 211

TO: Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

FROM: Maxwell Lee

Re: Testimony in Strong Opposition to HB1739 HD1 and Section 8 of SD1 Proposed - Relating to Taxation

Aloha Chair, Vice Chair and Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition to HB1739 HD1 and Section 8 of SD1 Proposed.

I am one of the many workers employed in the high tech industry in Hawaii. This job is the result of the incentives provided by Act 221 to encourage high tech companies to come to Hawaii to do business. Act 221 has been successful and in these serious economic times, the state should do more to encourage the growth of this industry so that more people can come home and work. This bill will do just the opposite - it will stop investment dollars which support the establishment and growth of local high tech companies.

Mahalo for the opportunity to submit this testimony in strong opposition to this bill.

Sincerely,

Maxwell Lee

MAR 23 2009 2:55

Testimony of Peter L. Fritz

414 KUWILI STREET, #104
HONOLULU, HAWAII 96814
TELEPHONE: (808) 532-7118
E-MAIL: PLFLEGIS@FRITZHQ.COM

THE SENATE THE TWENTY-FIFTH LEGISLATURE REGULAR SESSION OF 2009

COMMITTEE ON WAYS AND MEANS

Hearing date: March 24, 2009
Testimony on HB 1739 HD 1, SD1 (Proposed)
(Relating to Taxation)

Chair Kim, Vice-Chair Tsutsui, and members of the Committee, thank you for the opportunity to testify in opposition to proposed Senate Draft 1 for House Bill 1738.

Proposed Senate Draft 1 adds a number of new provisions into our state tax law, in theory to bring our state law closer to federal law.

This bill gives tools to the Department of Taxation (“Department”) that would effectively invalidate any tax law passed by the legislature by issuing press releases or other statements of the administration’s position that create an atmosphere so chilling that taxpayers will not claim tax treatment allowed by laws passed by the legislature in prior years.

For example, on February 29, 2008, the Department revoked all guidance General Excise Tax (“GET”) and Use Tax exemptions for exported contracting and services, as well as pyramiding tax relief. While replacement guidance was promised, no guidance for this area will be released in 2009. If this law goes into effect, taxpayers will be reluctant to claim these exemptions for a fear that they may be subject to a 20% penalty and tax preparers will be reluctant to suggest such a claim to their clients because of a concern that the lack of substantial authority from the Department will subject them to a penalty for understatement of taxpayers liability by a tax return preparer. Failing to provide guidance or adopt federal tax regulations for areas where Hawaii’s tax law conforms to federal tax law enables the executive branch to shape tax policy years after it is enacted. Because of this problem of separation of powers, this bill should be held.

If this bill is not held, it should be passed out with amendments to protect taxpayers and prevent manipulation of tax law. A redlined copy of this bill with suggested changes is attached to this bill. Some of the suggested changes are:

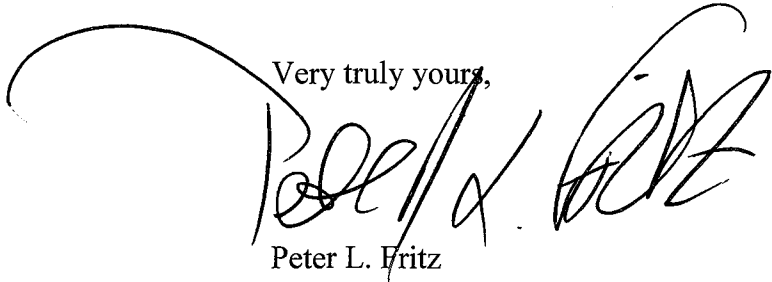
1. A section has been added creating an Appeals Office similar to the IRS’ Appeals Office. When a taxpayer disagrees with a tax assessment at the federal level, the taxpayer can go

to the IRS Appeals Office, where the taxpayer has an opportunity to try to negotiate a settlement of the dispute with an independent Appeals Officer – someone who is not part of the IRS audit division and who has the power to propose a compromise. The State needs a similar process.

2. Making the standard for understatements of liability by a tax preparer the same as the standard for an understatement by a taxpayer. Having the same standard helps with administration of the proposed penalties since guidance from the Department is often lacking. The standard is now a reasonable basis for the tax practitioner and the taxpayer.
3. Requiring the Department to annually prepare a report of the pending and proposed rules projects. This report will provide taxpayers with information about areas that the Department believes need additional guidance.
4. Changing the definition of tax preparer to specify that the preparer must be compensated.
5. Requiring the Department to report on the effectiveness of the provision through reporting the time spent by each person on enforcement of the new provisions.
6. Requiring the Department to provide specific identification of the section of the Internal Revenue Code that will be used to interpret specific sections of the bill instead of the
7. Striking the section on Promotion of Abusive Tax Shelters. As currently written, it would allow the Department to take action against any series of transactions that, in the Department's position were abusive.
8. Providing that the effective date is for taxable years beginning after December 31, 2009. This is to provide fairness to taxpayers who filed tax returns under prior law. It also provides protection against constitutional challenges to a denial of due process under United States v. Carlton 512 U.S. 26 (1994).

Thank you for the opportunity to testify.

Very truly yours,



Peter L. Fritz

Report Title:

Tax Credits; Tax Administration; Penalty and Enforcement Conformity

Description:

Prohibits recipients of federal grants from qualifying for state tax credits. Deters tax fraud and promotes uniformity in the tax system by conforming Hawaii tax law to the Internal Revenue Code for preparer penalties and accuracy-related penalties. Effective 7/1/2050. (SD1)

HOUSE OF REPRESENTATIVES	H.B. NO.	1739
TWENTY-FIFTH LEGISLATURE, 2009		H.D. 1
STATE OF HAWAII		S.D. 1
		Proposed

A BILL FOR AN ACT

RELATING TO TAXATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Chapter 231, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§231-A Understatement of taxpayer's liability by tax return preparer. (a) Any tax return preparer making understatements of liability based upon unreasonable positions on a tax return or claim for tax refund shall pay a penalty of \$500, with respect to each such tax return or claim for tax refund, unless there is the taxpayer has a reasonable cause basis for the understatement and the tax return preparer acted in good faith. For the purposes of this section, any position is not unreasonable unless the position is contrary to or not supported by substantial authority for the position tax treatment.

(b) A tax return preparer wilfully or recklessly makes an understatement of liability based upon unreasonable positions on a tax return or claim for tax refund if the tax return preparer:

- (1) Wilfully attempts to understate a person's tax liability; or
- (2) Recklessly disregards any tax law or rule published or adopted by the department.

Any tax return preparer who violates this subsection shall pay a penalty of \$1,000, with respect to each such tax return or claim. Penalties assessed under this subsection shall be reduced by any penalties assessed under subsection (a).

(c) For purposes of subsections (a) and (b), understatements of liability using unreasonable positions occur when:

(1) Any part of a tax return or claim for tax refund is based on a position that does not have substantial authority; a reasonable basis;

(2) Any tax return preparer who prepares a tax return or claim for tax refund knew or reasonably should have known of such an unreasonable position; and ~~(3) The unreasonable position was not a disclosed item as defined in subsection (h) or was frivolous;~~ does not have a reasonable basis.

(d) If within thirty days after the notice and demand of any penalty under subsection (a) or (b) is made, the tax return preparer:

(1) Pays an amount that is not less than fifteen per cent of the penalty amount; and

(2) Files a claim for refund of the amount so paid, no action to levy or file a proceeding in court to collect the remainder of the penalty shall be commenced except in accordance with subsection (e).

(e) An action that is stayed pursuant to subsection (d) may be brought thirty days after either of the following events, whichever occurs first:

(1) The tax return preparer fails to file an appeal to the tax appeal court within thirty days after the day on which the claim for refund of any partial payment of any penalty under subsection (a) or (b) is denied; or

(2) The tax return preparer fails to file an appeal to the tax appeal court for the determination of the tax return preparer's liability for the penalty assessed under subsection (a) or (b) within six months after the day on which the claim for refund was filed.

Nothing in this subsection shall be construed to prohibit any counterclaim for the remainder of the penalty in any proceeding.

(f) If there is a final administrative determination or a final judicial decision that the penalty assessed under subsection (a) or (b) should not apply, then that portion of the penalty assessed shall be voided. Any portion of the penalty that has been paid shall be refunded to the tax return preparer as an overpayment of tax without regard to any period of limitations that, but for this subsection, would apply to the making of the refund.

(g) At the request of the director of taxation, a civil action may be brought to enjoin a tax return preparer from further acting as a tax return preparer or from engaging in conduct prohibited under subsection (a) or (b) as follows:

(1) Any action under this subsection may be brought in the circuit court of the circuit in which the tax return preparer resides or has a principal place of business, or in which the taxpayer with respect to whose tax return the action is brought resides;

(2) The court may exercise its jurisdiction over the action separate and apart from any other action brought by the State against the tax return preparer or taxpayer;

(3) If the court finds that a tax return preparer has engaged in conduct subject to penalty under subsection (a) or (b) and that injunctive relief is appropriate to prevent the recurrence of that conduct, the court may enjoin the preparer accordingly; and

(4) If the court finds that a tax return preparer has continually or repeatedly engaged in conduct prohibited under subsection (a) or (b) and that an injunction prohibiting that conduct would not be sufficient to prevent the preparer's interference with the proper administration of this chapter, the court may enjoin the preparer from acting as a tax return preparer.

(h) For purposes of this section:

~~"Disclosed item" means any item where:~~

~~(1) The relevant facts affecting the item's tax treatment are adequately disclosed in a tax return or in a statement attached to a tax return; and~~

~~(2) There is a reasonable basis for the tax treatment of the item by the taxpayer.~~

~~"Substantial authority" means, in addition to any definition of substantial authority incorporated by subsection (j), only the following authority for purposes of determining whether there is substantial authority for the tax treatment of an item:~~

~~(1) Statutory provisions;~~

~~(2) Proposed or final administrative rules;~~

~~(3) Tax information releases or procedures;~~

~~(4) Department of taxation announcements or official explanations;~~

~~(5) Court cases;~~

~~(6) Legislative intent reflected in committee reports and floor statements;~~

~~(7) Private letter rulings, comfort letters, technical or advice letters, and written determinations to the extent such are valid and not overruled by other authority;~~

~~(8) Department of taxation press releases; or~~

—(9) Notices or other official pronouncements of the department of taxation.

“Reasonable basis” means a standard of care utilized in tax reporting that is significantly higher than not frivolous or not patently improper. A reasonable basis position will be more than arguable and based on at least one or more authorities of either state or federal tax administration. A position is considered to have a reasonable basis if a reasonable and well-informed analysis by a person knowledgeable in tax law would lead that person to conclude that the position has approximately a one-in-four, or greater, likelihood of being sustained on the merits. A reasonable basis includes innocent mistakes where the excessive amount is the result of inadvertence, mathematical error, or where otherwise defined as innocent by the director pursuant to a formal pronouncement issued without regard to chapter 91.

“Tax return preparer” means any person who prepares, employs, or supervises one or more persons who prepare a tax return or a claim for tax refund for compensation. Preparation of a substantial portion of a tax return or claim for tax refund for compensation shall be treated as if it were the preparation of a tax return or claim for tax refund.

“Understatement of liability” means any understatement of the net amount payable for any tax imposed or any overstatement of the net amount creditable or refundable for any tax. Except as otherwise provided in subsection (f), the determination of whether there is an understatement of liability shall be made without regard to any administrative or judicial action involving the taxpayer.

(i) The penalty imposed by this section shall be in addition to any other penalty provided by law.

(j) The department shall prepare a report of the uncompleted rules projects. The report shall include a description of the project, the type of tax to be addressed by the rules, the statute to be addressed by the rules, the projected date that the rules project will be completed and the employee responsible for the rules project. The department shall keep daily records of time spent by each employee for each rules project. The department shall report to the legislature ten days prior to the convening of each regular legislative session of the time so spent by each such person by category of work for the preceding year.

(k) The department shall keep daily records of time spent by each employee relating to the assessment and/or collection of any penalties assessed and action to collect such penalties under this section. The department shall report to the legislature ten days prior to the convening of each regular legislative session of the time so spent by each such person by category of work for the preceding year.”

(l) This section shall be construed in accordance with regulations and judicial interpretations given to similar provisions Section _____ of the Internal Revenue Code.”

SECTION 2. Chapter 231, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

~~"§231-B Promoting abusive tax shelters. (a) A person promotes an abusive tax shelter by:~~

~~(1) Organizing or assisting in the organization of, or participating directly or indirectly in the sale of, an interest in:~~

~~(A) A partnership or other entity;~~

~~(B) Any investment plan or arrangement; or~~

~~(C) Any other plan or arrangement; and~~

~~(2) In connection with any activity described under paragraph (1), making, furnishing, or causing another person to make or furnish a statement with respect to:~~

~~(A) Whether any deduction or credit is allowed;~~

~~(B) Whether any income may be excluded; or~~

~~(C) The securing of any other tax benefit by reason of holding an interest in the entity or participating in the plan or arrangement;~~

~~which the person knows or has reason to know is false or fraudulent or is a gross valuation overstatement as to any material matter;~~

~~(b) A person found promoting an abusive tax shelter shall pay, with respect to each activity described in subsection (a), a penalty of \$1,000 or, if the person establishes that the abusive tax shelter generated less than \$1,000 of gross income, then one hundred per cent of the gross income derived or to be derived by the person from the activity. For purposes of this section, activities described in subsection (a)(1) shall be treated as a separate activity for each entity or arrangement. Participation in each sale described in subsection (a)(1) shall be treated as a separate activity for each entity or arrangement.~~

~~(c) At the request of the director, a civil action may be brought to enjoin any person described in subsection (a) from engaging in any conduct described in subsection (a). Any action under this section shall be brought in the circuit court of the circuit where the person in subsection (a) resides or where the person's principal place of business is located. The court may exercise its jurisdiction over the action separate and apart from any other action brought by the State against any person described in subsection (a). If the court finds that a person described in subsection (a) has engaged in any conduct subject to penalty under subsection (b) and that injunctive relief is appropriate to prevent the recurrence of that conduct, the court may enjoin the person accordingly.~~

~~(d) For purposes of this section, "gross valuation overstatement" means any statement of value for any property or services if:~~

~~—(1) The value so stated exceeds two hundred per cent of the amount determined to be the correct valuation; and~~

~~—(2) The value of the property or services is directly related to the amount of any deduction or credit allowable to any participant.~~

~~—(c) The director may waive all or any part of the penalty provided by subsection (b) with respect to any gross valuation overstatement on a showing that there was a reasonable basis for the valuation and that the valuation was made in good faith.~~

~~—(f) The penalty imposed by this section shall be in addition to any other penalty provided by law.~~

~~—(g) This section shall be construed in accordance with regulations and judicial interpretations given to similar provisions of the Internal Revenue Code."~~

—SECTION 3. Chapter 231, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows: —"**§231-C Erroneous claim for refund or credit.** (a) If a claim for refund or credit with respect to tax is made for an excessive amount, the person making the claim shall be liable for a penalty in an amount equal to twenty per cent of the excessive amount; provided that there shall be no penalty assessed where the penalty calculation under this section results in an amount of less than \$400.

(b) It shall be a defense to the penalty under this section that the claim for refund or credit had a reasonable basis. A person claiming the reasonable basis defense shall have the burden of proof to demonstrate the reasonableness of the claim.

(c) For purposes of this section:

"Excessive amount" means the amount by which the amount of the claim for refund or credit for any taxable year exceeds the amount of the claim allowable for such taxable year.

"Reasonable basis" means a standard of care utilized in tax reporting that is significantly higher than not frivolous or not patently improper. A reasonable basis position will be more than arguable and based on at least one or more authorities of either state or federal tax administration. A position is considered to have a reasonable basis if a reasonable and well-informed analysis by a person knowledgeable in tax law would lead that person to conclude that the position has approximately a one-in-four, or greater, likelihood of being sustained on the merits. A reasonable basis includes innocent mistakes where the excessive amount is the result of inadvertence, mathematical error, or where otherwise defined as innocent by the director pursuant to a formal pronouncement issued without regard to chapter 91.

(d) This section shall be construed in accordance with regulations and judicial interpretations given to similar provisionsSection _____ of the Internal Revenue Code."

SECTION 4.3. Chapter 231, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§231-DC Substantial understatements or misstatements of amounts; penalty. (a)
There shall be added to the tax an amount equal to twenty per cent of the portion of any underpayment that is attributable to any substantial understatement of any tax. The penalty under this section shall be in addition to any other penalty assessable by law.

(b) Except as provided under subsection (c), there is a substantial understatement of tax for any taxable year if the amount of the understatement for the taxable years exceeds the greater of:

- (1) Ten per cent of the tax required to be shown on the return for the taxable year; or
- (2) \$1,500.

(c) In the case of a corporation other than a corporation taxable under subchapter S of the Internal Revenue Code, there is a substantial understatement of tax for any taxable year if the amount of the understatement for the taxable year exceeds the greater of:

- (1) Ten per cent of the tax required to be shown on the return for the taxable year; or
- (2) \$30,000.

(d) For purposes of this section, "understatement" means the excess of:

- (1) The amount of tax required to be shown on the return for the taxable year; over
- (2) The amount of tax imposed that is shown on the return, reduced by any rebate as that term is defined by section 6211(b)(2) of the Internal Revenue Code.

(e) The amount of any understatement shall be reduced by that portion of the understatement that is attributable to:—(1) The the tax treatment of any item by the taxpayer if there is or was ~~substantial~~ a reasonable basis authority for such treatment; or

—(2) Any item if the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return and there is a reasonable basis, as defined under section 231-C, for the tax treatment by the taxpayer. The reduction in this subsection shall not apply to any item attributable to a tax shelter as described in section 231-B.

(f) This section shall be construed in accordance with regulations and judicial interpretations given to similar provisionsSection _____ of the Internal Revenue Code."

SECTION 5.4. Chapter 231, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§231-ED Statute of limitations; extension for substantial omissions. (a)

Notwithstanding any other law to the contrary limiting the time for assessment of any tax, if a taxpayer omits any amount of:

- (1) Gross income or gross proceeds of sale;
- (2) Gross rental or gross rental proceeds;
- (3) Price, value, or consideration paid or received for any property;
- (4) Gross receipts;
- (5) Gallonage, tonnage, cigarette count, day, or other weight or measure applicable to any tax;

properly includable therein that is in excess of twenty-five per cent of the amount stated in the return, the tax may be assessed or a proceeding in court with respect to the tax without assessment may be begun without assessment, at any time within six years after the return was filed.

(b) In determining any amount omitted, there shall not be taken into account any amount that is stated in the return if the amount is disclosed in the return or in a statement attached to the return in a manner adequate to apprise the department of taxation of the nature and amount of such item attributable to the tax treatment of any item by the taxpayer if there is or was a reasonable basis authority for such treatment.

(c) This section shall be construed in accordance with regulations and judicial interpretations given to similar provisions Section _____ of the Internal Revenue Code."

SECTION 6.5. Chapter 231, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§231-EE Wilful failure to collect and pay over tax. Any person who is required to collect, account for, and pay over any tax imposed by title 14 and who wilfully fails to collect or truthfully account for and pay over such tax shall be guilty of a class C felony, in addition to other penalties provided by law and, upon conviction, shall be subject to one or any combination of the following:

- (1) A fine of not more than \$100,000;
- (2) Imprisonment of not more than five years; or
- (3) Probation;

provided that a corporation shall be fined not more than \$500,000."

SECTION 7.6. Chapter 231, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§231-GF Signature presumed authentic. The fact that an individual's name is signed on a return, statement, or other document shall be prima facie evidence for all purposes that the return, statement, or other document was actually signed by the individual."

SECTION 7. Chapter 231, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§231-G Appeals office. (a) There is established within the department an appeals office to provide independent review of unresolved tax cases. The appeals office shall be administratively independent of any other division of the department and report directly to the director. The primary objective of the appeals office shall be to mediate and expedite the settlement of unresolved tax cases.

(b) The department may adopt rules pursuant to chapter 91 to effectuate this section."

SECTION 8. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§235- Tax credits; ineligibility. Notwithstanding any other law to the contrary, no taxpayer shall be eligible to claim any tax credit under this chapter on grants received from the federal government."

SECTION 9. Section 231-7, Hawaii Revised Statutes, is amended to read as follows:

"§231-7 Hearings and subpoenas. (a) The director of taxation, and any representative of the director duly authorized by the director, may conduct any inquiry, investigation, or hearing, relating to any assessment, or the amount of any tax, or the collection of any delinquent tax, including any inquiry or investigation into the financial resources of any delinquent taxpayer or the collectibility of any delinquent tax.

(b) The director or other person conducting [~~such hearing~~] hearings may administer oaths and take testimony under oath relating to the matter of inquiry or investigation, and subpoena witnesses and require the production of books, papers, documents, and records pertinent to such inquiry.

(c) If any person disobeys [~~such process,~~] any process or, having appeared in obedience thereto, refuses to answer pertinent questions put to the person by the director or other person conducting such hearing, or to produce any books, papers, documents, or records pursuant thereto, the director or other person conducting such hearing may apply to the circuit court of the circuit wherein the inquiry or investigation is being conducted, or to any judge of such court, setting forth such disobedience to process or refusal to answer, and such court or judge shall cite such person to appear before such court or judge to answer such questions or to produce such books, papers, documents, or records, and upon the person's refusal so to do commit such person

to jail until the person testifies but not for a longer period than sixty days. Notwithstanding the serving of the term of commitment by any person, the director may proceed in all respects as if the witness had not previously been called upon to testify. Witnesses (other than the taxpayer or the taxpayer's or its officers, directors, agents, and employees) shall be allowed their fees and mileage as in cases in the circuit courts, to be paid on vouchers of the department of taxation, from any moneys available for expenses of the department.

(d) Any subpoena issued under this section that does not identify the person with respect to whose liability or investigation the subpoena is issued may be served on any person only after a court proceeding in which the director or other person establishes that:

(1) The subpoena relates to the investigation of a particular person or ascertainable group or class of persons;

(2) There is a reasonable basis for believing that the person or group or class of persons may fail or may have failed to comply with any provision of title 14; and

(3) The information sought to be obtained from the examination of records or testimony and the identity of the person or persons with respect to whose liability the subpoena is issued is not readily available from other sources.

(e) The provisions of this section are in addition to all other provisions of law^[5] and apply to any tax within the jurisdiction of the department."

SECTION 10. Section 231-40, Hawaii Revised Statutes, is amended to read as follows:

"~~[[~~**§231-40**~~]]~~ **Interpretation.** Sections 231-34, 231-35, and 231-36, and 231-F shall be construed in accordance with judicial interpretations given to similar provisions of Title 26 of the United States Code; consistent therewith, the term "wilfully" ~~[shall mean]~~ means a voluntary, intentional violation of a known legal duty."

SECTION 11. Section 231-41, Hawaii Revised Statutes, is amended to read as follows:

"~~[[~~**§231-41**~~]]~~ **Statute of limitation for criminal penalties.** Notwithstanding any laws to the contrary, prosecutions under sections 231-34, 231-35, ~~[and]~~ 231-36, and 231-F shall be commenced within seven years after the commission of the offense."

SECTION 12. Section 235-111, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Exceptions; fraudulent return or no return. In the case of a false or fraudulent return with intent to evade tax or liability, or of a failure to file return, the tax or liability may be assessed or levied at any time; provided that ~~[in the case of a return claimed to be false or fraudulent with intent to evade tax or liability, the determination as to the claim shall first be made by a judge of the circuit court for or in the circuit within which the taxpayer or employer has the taxpayer's or employer's residence or principal place of business, or if none in the State~~

~~then in the first circuit, upon petition filed by the department of taxation. The petition and other pleadings and proceedings in the matter shall be governed and conducted in accordance with statutory and other requirements relating to proceedings in equity, including all rights to appeal allowed in the proceedings. No assessment or levy of the tax or liability after the expiration of the three-year period shall be made unless so provided in the final decree entered in the proceedings.]~~ the burden of proof with respect to the issue of falsity or fraud shall be upon the government."

SECTION 13. Section 237-40, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Exceptions. In the case of a false or fraudulent return with intent to evade tax, or of a failure to file the annual return, the tax may be assessed or levied at any time; ~~[however, in the case of a return claimed to be false or fraudulent with intent to evade tax, the determination as to the claim shall first be made by a judge of the circuit court as provided in section 235-111(e) which shall apply to the tax imposed by this chapter.]~~ provided that the burden of proof with respect to the issue of falsity or fraud shall be upon the government."

SECTION 14. Section 237D-9, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) In the case of a false or fraudulent return with intent to evade tax, or of a failure to file the annual return, the tax may be assessed or levied at any time; ~~[however, in the case of a return claimed to be false or fraudulent with intent to evade tax, the determination as to the claim shall first be made by a judge of the circuit court as provided in section 235-111(e) which shall apply to the tax imposed by this chapter.]~~ provided that the burden of proof with respect to the issue of falsity or fraud shall be upon the government."

SECTION 15. Section 243-14, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) In the case of a false or fraudulent statement with intent to evade tax or liability, or of a failure to file a statement, the tax or liability may be assessed or levied at any time; ~~provided that [in the case of a statement claimed to be false or fraudulent with intent to evade tax or liability, the determination as to the claim shall first be made by a judge of the circuit court as provided in section 235-111(e) which shall apply to the tax imposed by this chapter.]~~ the burden of proof with respect to the issue of falsity or fraud shall be upon the government."

SECTION 16. Section 251-8, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) In the case of a false or fraudulent return with intent to evade the surcharge tax, or of a failure to file the annual return, the surcharge tax may be assessed or levied at any time; ~~[however, in the case of a return claimed to be false or fraudulent with intent to evade the surcharge tax, the determination as to the claim shall first be made by a judge of the circuit court as provided in section 235-111(e) which shall apply to the surcharge tax imposed by this~~

chapter.] provided that the burden of proof with respect to the issue of falsity or fraud shall be upon the government."

SECTION 17. Except as provided in section 20, this Act does not affect returns prepared and transactions promoted, rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 18. In codifying the new sections added by section 1 through 7 of this Act, the revisor of statutes shall insert appropriate section numbers for the letters used in designating and referring to the new sections in this Act.

SECTION 19. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 20. This Act shall take effect on July 1, 2050; ~~provided:~~and apply to taxable years beginning after December 31, 2009.

~~— (1) Section 1 (relating to penalties for preparing returns with unreasonable positions), section 3 (relating to erroneous refund claims), section 4 (relating to substantial understatements), section 5 (relating to the statute of limitations on substantial omissions), section 12 (relating to fraud assessments), section 13 (relating to fraud assessments), section 14 (relating to fraud assessments), section 15 (relating to fraud assessments), and section 16 (relating to fraud assessments) shall apply to any return prepared, refund claim, understatement, omission, or fraud contained in any return where the statute of limitations on assessment has not expired; provided that this Act shall not apply to any return prepared, refund claim, understatement, omission, or fraud in any return where an amended return is filed by October 1, 2009, to the extent the amended return cures, corrects, or eliminates any item constituting an unreasonable position, erroneous refund claim, substantial understatement, substantial omission, or fraud as provided in this Act; and~~

~~— (2) Section 2 (relating to promoting abusive tax shelters) and section 6 (relating to failure to collect and pay tax) shall take effect on July 1, 2050.~~

Legend:	
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Style change	
Format change	
Moved deletion	
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