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**HOUSE COMMITTEE ON FINANCE  
TESTIMONY REGARDING HB 1907  
RELATING TO TAXATION**

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

**DATE: FEBRUARY 10, 2010**

**TIME: 3PM**

**ROOM: 308**

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This measure suspends the use of net operating loss carry-backs for the next two taxable years.

The Department of Taxation has no comments on this measure at this time, other than it will result in a revenue gain.

# TAXBILLSERVICE

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SUBJECT: INCOME, Suspend net operating loss carryback

BILL NUMBER: HB 1907

INTRODUCED BY: Say

BRIEF SUMMARY: Amends HRS section 235-7(d) to suspend the net operating loss carryback deduction for losses generated in 2009 and 2010.

EFFECTIVE DATE: Tax years beginning after December 31, 2009

STAFF COMMENTS: It appears that this measure would temporarily suspend the net operating loss carryback deduction for state income tax purposes, for losses generated in tax years 2009 and 2010 to address the state's dire financial condition. It should be remembered that by suspending the carryback provision for state income tax purposes, taxpayers will then have to keep two sets of books to record the application of the losses for both the federal and state income tax. It should also be remembered that the carryback provisions are there to provide relief to taxpayers during times of financial and economic hardship in their businesses. To deny that ability to recapture taxes previously paid when such a lifeline may be sorely needed could ultimately have dire consequences for that business and, of course, for its employees.

While the adoption of this measure would penalize Hawaii businesses, in the search for additional revenues to alleviate the shortfall in revenues, consideration should be given to running government like a real business. In the private sector real world, if sales are down, a business does not expand and each cent is scrutinized to eliminate waste. Government must examine its priorities and pare down spending commensurate with the revenues it receives.

Digested 2/9/10



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**Karolyn Mossman**  
Vice President

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**Jim Williams**  
Interim Executive Director

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON  
FINANCE**

**RE: HB 1970 – RELATING TO TAXATION.**

February 10, 2010

**WIL OKABE, PRESIDENT  
HAWAII STATE TEACHERS ASSOCIATION**

Chair Oshiro and Members of the Committee:

The Hawaii State Teachers Association supports enactment of HB 1907 and respectfully suggests that the bill be amended to eliminate the loss carry back provision altogether.

This bill temporarily suspends the income tax net operating loss carry back deduction for losses generated in 2009 and 2010. The effect of this bill would be to temporarily eliminate this corporate tax loophole and to generate additional revenue for the State to use for priorities such as education, health and human services. In this time of declining State revenues and cutbacks in essential services to our citizens, the State cannot afford to provide special tax breaks to corporations.

The net operating loss carry back provision of our tax code gives a break to a corporation that is not available to ordinary tax payers. If the ordinary citizen suffers a financial set back, he/she is not able to change prior years' tax returns to recover taxes paid when income was higher. The HSTA does not support providing corporate tax breaks that are not available to teachers, firefighters, carpenters, nurses, hotel workers, etc. That is why we suggest that this committee go one step further and permanently eliminate the loss carry back provision.

Thank you for this opportunity to testify.

Presentation of the Committee on Finance

Wednesday, February 10, 2010 at 3:00 p.m.

Testimony on Bill H.B. 1907 Suspends Loss Carryback Deductions

**In Opposition**

TO: The Honorable Chair Marcus R. Oshiro  
The Honorable Vice Chair Marilyn B. Lee  
Members of the Committee

I am Gary Fujitani, Executive Director of the Hawaii Bankers Association (HBA), testifying on behalf of HBA in **opposition** of H.B.1907. HBA is the trade organization that represents all FDIC insured depository institutions doing business in Hawaii.

HB 1907 temporarily suspends the income tax net operating loss carryback deduction for losses generated in 2009 and 2010. The legislation would prevent all businesses from applying losses, sustained recently due to the economy slump, against taxes on profits paid in earlier years.

In March 2009, Congress, as part of the American Recovery and Reinvestment Act of 2009, allowed small businesses, with a net operating loss in 2008, to offset this loss against income earned in up to five prior years. Then in November 2009n Congress provided further relief under the Worker, Homeownership, and Business Assistance Act of 2009 (WHBAA), which provided relief not only to small business, but also made it applicable to most taxpayers with business losses.

The rationale for Congress and the President was to provide this tax relief in hope of savings jobs and keeping some business afloat. This legislation could help many struggling business benefit from the infusion of capital to help them stay in business until the economy improves.

It is hoped that our Hawaii Legislature also deems it appropriate to continue the current loss carryback statues to allow local business to benefit from those losses now. Rather than waiting to claim them on future tax returns, which may be to late if the business is on longer in operation. This in turn may save some needed jobs.

Thank you for the opportunity to provide our testimony and we respectfully urge to hold this bill.