

HB 2984 HD2

EDT



Testimony of

Hawaii Council of Mayors

Bernard Carvalho, Jr., Mayor of Kauai County
 Mufi Hannemann, Mayor of the City and County of Honolulu
 William P. Kenoi, Mayor of Hawaii County
 Charmaine Tavares, Mayor of Maui County

Before a Hearing of the
Senate Committee on Economic Development and Technology

March 12, 2010

House Bill 2984, HD 2, Relating to Tax Credits

The Hawaii Council of Mayors (HCOM) supports the Legislature's efforts to review and consider all avenues for revenue stabilization and enhancement, including HB 2984, HD 2.

Like the State, the four counties are suffering the consequences of a stalled economy. The lowered tourism numbers, along with the collapse of the financial and housing markets not only have resulted in higher unemployment, but have affected real property sales and values, the underpinning for our county revenue stream. The resultant budget shortfalls have been excruciatingly painful to deal with. We all have applied widespread restrictions on spending, eliminated funding for positions, and executed specific programmatic cuts. We have reviewed our fees and fares structure, along with real property tax rates. And, we will be proposing furloughs for employees next fiscal year.



Mayor Billy Kenoi
 County of Hawaii
 25 Aupuni Street
 Hilo, Hawaii 98720



Mayor Mufi Hannemann
 City and County of Honolulu
 530 South King Street
 Honolulu, Hawaii 96813



Mayor Bernard Carvalho, Jr.
 County of Kauai
 4444 Rice Street, Suite 235
 Lihue, Hawaii 96766



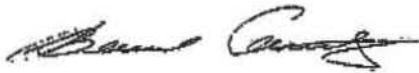
Mayor Charmaine Tavares
 County of Maui
 200 South High Street, 9th Floor
 Wailuku, Hawaii 96793

We empathize with the State's financial plight and fully comprehend the magnitude of the State's financial challenges. As we counties have done, we recognize the Legislature's need to consider everything on the table in balancing the budget. And, we would hope the State Administration can appreciate why it is important for the Legislature not to summarily dismiss all options.

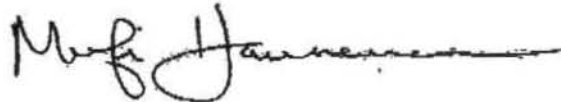
Given these considerations, HCOM believes it important for the Legislature to continue to review and consider all legislative options to stabilize and enhance revenues and balance the State budget, including HB 2984, HD2.

Mahalo.

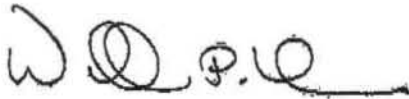
Aloha,



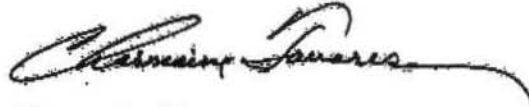
Bernard P. Carvalho, Jr.
Mayor of Kauai



Mufi Hannemann
Mayor of Honolulu

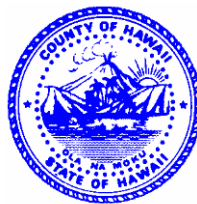


William P. Kenoi
Mayor of Hawaii



Charmaine Tavares
Mayor of Maui

DENNIS "FRESH" ONISHI
Council Member
District 4



PHONE: (808) 961-8396
FAX: (808) 961-8912
EMAIL: donishi@co.hawaii.hi.us

HAWAI'I COUNTY COUNCIL

Mailing Address: 25 Aupuni Street, Hilo, Hawai'i 96720

March 10, 2010

TESTIMONY OF DENNIS "FRESH" ONISHI
HAWAI'I COUNTY COUNCIL MEMBER
ON

HB. NO. 2867, HD1, RELATING TO TAXATION
HB. NO. 2962, HD1, RELATING TO TAXATION
HB. NO. 2984, HD2, RELATING TO TAX CREDITS

Senate Committee on Economic Development and Technology
March 12, 2010 1:30 p.m.
Conference Room 016

Dear Chair Fukunaga, Vice-Chair Baker and Members of the Senate Committee on Economic Development and Technology:

Thank you for the opportunity to provide testimony on the above Bills.

HB No. 2867, HD1 imposes a temporary tax ceiling for certain tax credits, and reduces certain allowable tax credits for taxable years beginning on or after January 1, 2010 and ending before January 1, 2012.

HB No. 2962, HD1, temporarily disallows tax liabilities from being reduced by credits under the Technology Infrastructure Renovation Tax Credit and High Technology Business investment Tax Credit, beginning on July 1,

HB No. 2984, HD2 extends the tax credit for research activities for one year and repeals remaining tax credit provisions of Act 221, Session Laws of Hawai'i 2001, effective July 1, 2020.

The State as well as the Counties face a severe budget crisis. Hard decisions must be made and measures taken to alleviate this. We have all cut spending, eliminated positions and cut programs. Fees, fares and real property tax rates are being reviewed, and employees will be furloughed. HD No. 2867, HD1 and HB No. 2962, HD1 are temporary measures, and the state needs revenue to support operations.

Consequently, I believe it is important the Legislature be given the opportunity to consider all options, including the aforementioned Bills.

Once again, thank you for the opportunity to submit testimony on this matter.

J YOSHIMOTO

*Chair & Presiding Officer
Council District 3*



Phone: (808) 961-8272
Fax: (808) 961-8912
Email: jyoshimoto@co.hawaii.hi.us

HAWAII COUNTY COUNCIL

*County of Hawaii's
Hawaii County Building
25 Aupuni Street, Suite 1402
Hilo, Hawaii 96720*

March 11, 2010

The Honorable Carol Fukunaga, Chair and Members
Senate Committee on Economic Development and Technology
Twenty-Fifth Legislature
State Capitol
Honolulu, Hawaii 96813

RE: HB 2867, HD1 Relating to Taxation

RE: HB 2962, HD1 Relating to Taxation

RE: HB 2877, HD1 Relating to Taxation

Dear Chairs Fukunaga and Baker and Committee Members:

Thank you for the opportunity to testify in support of the Legislature's efforts to review and consider all avenues for revenue stabilization and enhancement, including: HB 2867, HD1; HB 2962, HD1; and HB 2877, HD1. I am testifying in my capacity as an individual Hawaii County Council Member; the current County Council, as a body, has not taken any position on this matter.

Like the State, our County is suffering the consequences of a stalled economy. The lowered tourism numbers, along with the collapse of the financial and housing markets not only have resulted in higher unemployment, but have affected real property sales and values, the underpinning for our county revenue stream. The resultant budget shortfalls have been excruciatingly painful to deal with. We have applied widespread restrictions on spending, eliminated funding for positions, and executed specific programmatic cuts. We have reviewed our fees and fares structure and are raising our real property tax rates. In addition, we will be furloughing our employees.

I empathize with the State's financial plight and fully comprehend the magnitude of the State's financial challenges. As I have done, I recognize the Legislature's need to consider everything on the table in balancing the budget. I would hope the State Administration can appreciate why it is important for the Legislature not to summarily dismiss all options.

J YOSHIMOTO
Chair & Presiding Officer
Council District 3



Phone: (808) 961-8272
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HAWAI'I COUNTY COUNCIL

County of Hawai'i
Hawai'i County Building
25 Aupuni Street, Suite 1402
Hilo, Hawai'i 96720

Given these considerations, I believe it is important for the Legislature to continue to review and consider all legislative options to stabilize and enhance revenues and balance the State budget, including: HB 2867, HD1; HB 2962, HD1; and HB 2877, HD1.

Sincerely,

J Yoshimoto, Council Chair
Hawai'i County Council
JY/so



**Testimony to the Senate Committee on Economic Development and
Technology
Friday, March 12, 2010
1:30 p.m.
Conference Room 016**

SUBJECT: HOUSE BILL 2984 HD2 Relating to Tax Credits

Chair Fukunaga, Vice Chair Baker, 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"). I am here to state the Chamber's support for passage of House Bill 2984 HD2. While the Chamber supports the extension, we leave the methodology to the Legislature.

The Chamber is the largest business organization in Hawaii, representing more than 1,000 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 Chamber also has a role in the military industry in Hawaii. The Chamber's Military Affairs Council (MAC) serves as the liaison for the state in matters relating to the US military and its civilian workforce and families, and has provided oversight for the state's multi-billion dollar defense industry since 1985.

The large presence of all of the Nation's military services in Hawaii has attracted the top defense prime contractors, small and large, to establish operations in the state. It has also spurred local companies to form and emerge into this industry. This has served as a source of funding and contracting opportunities for Hawaii's growing R&D sector, and there is considerable opportunity for even greater growth. There are literally millions of dollars that could be directed to Hawaii R&D businesses via military channels and through the prime defense contractors.

Recognizing the strong ties between the military and dual-use companies, and the tremendous opportunities they provide to our economy, the Chamber recently formed the Defense and Dual-Use Technology Committee. The mission is to create and build business opportunities in Hawaii by linking together the technology capabilities of Hawaii's entire business community; showcase technology-related products and services ready and nearly ready for the market; leverage these technologies to promote stronger partnerships with the military, state and county governments and to create business opportunities with state, federal, and international institutions; and provide advocacy for a healthy and nurturing environment for Research and Development in Hawaii.

We understand the difficult financial condition of the State of Hawaii. With that said, the Defense and Dual Use industry can and will play a vital role in stabilizing the state's economic climate. One of the best ways for the industry to help is to maintain and grow the workforce. Without job creation, cost cutting and tax increases will only create a downward spiral, requiring more costs and more tax increases. The state must maximize its return by spending money that generates multiples of increased spending, garnering the most return from the least amount of tax dollars.

Research and development is one of those areas. In comparing the R&D tax credit to other credits, we observe that the R&D tax credit is one of the most effective in generating and maintaining jobs per tax dollar, generating higher tax revenues for dollar spent, and stimulating measurably more economic activity in the state per dollar of tax credit. Additionally, companies leveraging the R&D tax credits tend to be more mature companies; many on the cusp of significant expansion, which will accelerate the hiring of new employees and concomitant tax revenue.

Additionally, research and development is a highly critical component to a sustainable economy. R&D provides well-paying jobs to highly-educated employees. These employees pay significant taxes back to the state and spend considerable amounts of income within the state for goods and services. Additionally, as the R&D matures it creates product companies that increase the number of jobs and tax base significantly.

Some important facts related to R&D tax credits are:

- (1) The cost of the R&D tax credit is between \$13 and \$14 million per year, but R&D employees are highly paid and pay income taxes at high rates and generate significant other economic activity within the state. For example, the average salary for technology jobs is \$66,000.
- (2) R&D funds are highly leveraged by imported monies, thus generating more economic activity than economic activities that just move money from one in-state entity to another,
- (3) R&D tax credits are only received after the company has expended the funding, generating tax revenues to the state first,
- (4) R&D tax credits typically go back into additional R&D through additional salaries,

While these positive aspects are fairly defined, some have expressed concerns about the competitiveness of Hawaii's R&D tax credit levels and their refundability. However, several factors that are not considered in those concerns include:

- (1) Comparisons are only made to other states and not to other countries. R&D is becoming a economic driver worldwide and Hawaii companies compete worldwide,
- (2) The entire cost of doing R&D is the most important factor. Hawaii has a number of competitive disadvantages such as high income tax rates, high cost of living, high unemployment insurance costs, and high transportation costs, and
- (3) R&D returns are highest after several years when R&D turns into products, resulting in significant growth in job opportunities, increased intellectual property owned by Hawaii residents, and increased travel to the state by customers and technology related conferences.

In summary, the Hawaii R&D tax credit has been effective in generating new taxes, creating new companies and employing a number of residents. Therefore, it is important that a gap does not exist in the R&D tax credit while the 2011 legislature addresses the longer term impact of R&D on the state. Companies need to make long term plans when doing R&D. It is critical to the industry that the tax credit be in place long enough to encourage R&D and its commensurate high paying jobs, job growth, and its direct impact on the sustainability of the state's economy.

Therefore, we urge the committee to pass this measure. Thank you for the opportunity to express our views.

Written Statement of
YUKA NAGASHIMA
Executive Director & CEO
High Technology Development Corporation
before the
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY
Friday, March 12, 2010
1:30 PM
State Capitol, Conference Room 016

In consideration of
HB 2984 HD2 RELATING TO TAX CREDITS.

Chair Fukunaga, Vice Chair Baker, and Members of the Senate Committee on Economic Development and Technology.

The High Technology Development Corporation (HTDC) respectfully opposes HB 2984 HD2, which extends the tax credit for research activities for an additional year to be funded by repealing Act 221/215 upon enactment of this bill.

HTDC respects our collective need to be fiscally responsible and to implement projects that are revenue neutral (or positive) as much as possible. HTDC appreciates the legislature embracing the importance of funding innovation via the research and development (R&D) tax credit portion of Act 221/215. While the continued funding of R&D activities is important, we believe the opportunity cost of repealing the last six months of a 10-year law (which has been contested heavily and consistently with major amendments being made twice), in terms of the State's reputation, is too high.

If we are to seriously consider future capital formation and mechanisms to support the nurturing of an innovation economy, we must take a long-term position. Repealing Act 221/215 six months early will send the message to the investment community not only locally but nationally and internationally that Hawaii's State government is not consistent with respect to its tech policies, at best. At worst, we would be found unstable and unreliable. Having such a profile will cost us when negotiating with financial institutions to have monies loaned to the State for private investment funds (and any other future programs we might consider).

Should we not find other alternatives to fund the extension of the R&D credit, despite the merits of the R&D credit, we should let the R&D credit sunset alongside the rest of Act 221/215.

Thank you for the opportunity to submit testimony on this bill.

fukunaga3 - Doris

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 09, 2010 10:16 AM
To: EDTTestimony
Cc: rick@nova-sol.com
Subject: Testimony for HB2984 on 3/12/2010 1:30:00 PM

Testimony for EDT 3/12/2010 1:30:00 PM HB2984

Conference room: 016
Testifier position: support
Testifier will be present: Yes
Submitted by: Rick Holasek
Organization: NovaSol
Address: 1001 Bishop St., suite 2950 Honolulu, HI
Phone: 808.441.3666
E-mail: rick@nova-sol.com
Submitted on: 3/9/2010

Comments:

An extension of the R&D tax credit will go directly to support innovative R&D work and jobs in Hawaii. These very jobs are a critical part of building a future for Hawaii to diversify the economy that is currently subject to significant downside without the industry supported through the R&D credit.



HB2984 HD1 - Relating to Tax Credits

DATE: February 18, 2010

TIME: 2:00 P.M.

PLACE: Room 308

TO: House Committee on Finance; Rep. Oshiro, Chair; Rep. Lee, Vice Chair

From: Tareq Hoque
President
Concentris Systems LLC

Re: Testimony in Support to HB2984 HD1

Honorable Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in support to HB2984 HD1. Our company, Concentris Systems, is part of Hawaii's emerging defense and dual-use technology sector, one of the fastest growing segments of Hawaii's economy. At our facility at the Manoa Innovation Center, Concentris is engaged in cutting-edge research in wireless networking, as evidenced by our recent award of two Small Business Innovation Research (SBIR) contracts from the US Army Research Development and Engineering Command (RDECOM).

Our company currently generates more than \$800,000 in revenue and pays over \$600,000 in compensation to our 9 employees. We understand the difficult financial condition of the State and want to help by maintaining and growing our workforce. As a technology-based business, we know that to accomplish this we need to continue to invest in research and development (R&D). R&D investment is the key to our ability to innovate, attract customers and outside funding, compete in the global marketplace, and continue to grow our workforce. Without our continued investment in R&D helping to identify potential solutions to the technical problems facing government and industry, Concentris cannot be successful in attracting Federal contracts or earning commercial customers.

The State of Hawaii also has much to gain from our R&D investment, which provides high-paying jobs to our highly-educated employees. These employees pay substantial payroll taxes and spend significant amounts of their income within the State for goods and services as they work on developing new technologies and products that will eventually bring new sources of revenue into Hawaii and help to diversify our economy.

Without Hawaii's R&D tax credit, we may be forced to curtail our investment in R&D. Because of the forward-looking nature of research, few R&D investments have a payoff horizon shorter than one year. In order to continue to invest in R&D and maintain or grow our well-trained workforce, it is critical that we have visibility into the future financial implications of today's R&D investments.

By extending the R&D tax credit for one year, you will enable dual-use technology firms such as Concentris to keep investing in the future of our companies, our employees, and our State. You will also help keep one of the bright spots in our State economy intact, and even growing.

I urge you to support the extension of the R&D tax credit through HB2984 HD1. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Tareq Hoque".

Tareq Hoque
President

Concentris Systems LLC
Indestructible Instant Networks™

Manoa Innovation Center
2800 Woodlawn Drive, Suite 238
Honolulu, HI 96822
Phone: 808-341-4702
www.concentris-systems.com



711 No. Nimitz Hwy. Honolulu, HI. 96817 Phone 808-522-5600
Fax 808-522-5600 • Web Site: www.oceantronics.net • E-mail: fritz@oceantronics.net
Oceantronics is an SBA certified female owned and run Small Disadvantaged Business
Cage Code OAZC8 Fed ID 99-0211572 DUNS 021767554

HB2984 HD1 - Relating to Tax Credits

DATE: February 18, 2010

TIME: 2:00 P.M.

PLACE: Room 308

TO: House Committee on Finance; Rep. Oshiro, Chair; Rep. Lee, Vice Chair

From: Name – Fritz Amtsberg
Title Programs
Company - Oceantronics

Re: Testimony in Support to HB2984 HD1

Honorable Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in support to HB2984 HD1. Our company, Oceantronics, is part of Hawaii's emerging defense and dual-use technology sector, one of the fastest growing segments of Hawaii's economy.

Our company currently generates more than \$2M in revenue and pays over \$350K in compensation to our 11 employees. We understand the difficult financial condition of the State and want to help by maintaining and growing our workforce. As a technology-based business, we know that to accomplish this we need to continue to invest in research and development (R&D). R&D investment is the key to our ability to innovate, attract customers and outside funding, compete in the global marketplace, and continue to grow our workforce.

Without Hawaii's R&D tax credit, we may be forced to curtail our investment in R&D. Because of the forward-looking nature of research, few R&D investments have a payoff horizon shorter than one year. In order to continue to invest in R&D and maintain or grow our well-trained workforce, it is critical that we have visibility into the future financial implications of today's R&D investments.

By extending the R&D tax credit for one year, you will enable dual-use technology firms such as Oceantronics to keep investing in the future of our companies, our employees, and our State. You will also help keep one of the bright spots in our State economy intact, and even growing.



711 No. Nimitz Hwy. Honolulu, HI. 96817 Phone 808-522-5600
Fax 808-522-5600 • Web Site: www.oceantronics.net • E-mail: fritz@oceantronics.net
Oceantronics is an SBA certified female owned and run Small Disadvantaged Business
Cage Code OAZC8 Fed ID 99-0211572 DUNS 021767554

We urge you to support the extension of the R&D tax credit through HB2984 HD1. Thank you for the opportunity to testify.

Sincerely

HB2984 HD1 - Relating to Tax Credits

DATE: February 18, 2010

TIME: 2:00 P.M.

PLACE: Room 308

TO: House Committee on Finance; Rep. Oshiro, Chair; Rep. Lee, Vice Chair

From: Kevin Miyashiro
President
TeraSys Technologies LLC

Re: Testimony in Support to HB2984 HD1

Honorable Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in support to HB2984 HD1. Our company, TeraSys Technologies, is part of Hawaii's emerging defense and dual-use technology sector, one of the fastest growing segments of Hawaii's economy. TeraSys specializes in the development of filters for military wireless communications.

Our company currently generates more than \$1.2M in revenue and employs 9 employees and 1 consultant. We understand the difficult financial condition of the State and want to help by maintaining and growing our workforce. As a technology-based business, we know that to accomplish this we need to continue to invest in research and development (R&D). R&D investment is the key to our ability to innovate, attract customers and outside funding, compete in the global marketplace, and continue to grow our workforce.

We are developing a line of filters for the military for our armed forces deployed in Iraq and Afghanistan so they can use their radios while still protecting themselves from roadside bombs by using high power jammers. Without our technology, our soldiers are forced to turn off their jammers when they need to communicate, leaving them vulnerable to attack. We are building prototypes in our lab and are competing for an opportunity to sell 30,000 of our filters to the military for deployment in the Middle East. Opportunities like these would not be possible if we had not received the R&D funding from the military to develop these technologies early on.

By extending the R&D tax credit for one year, you will enable dual-use technology firms such as ours to keep investing in the future of our companies, our employees, and our State. You will also help keep one of the bright spots in our State economy intact, and even growing. We urge you to support the extension of the R&D tax credit through HB2984 HD1. Thank you for the opportunity to testify.

Sincerely

Kevin Miyashiro
President
TeraSys Technologies LLC



HB2984 HD1 - Relating to Tax Credits

DATE: March 12, 2010

TIME: 1:30 P.M.

PLACE: Room 016

TO: Senate Committee on Economic Development and Technology; Senator Fukunaga, Chair;
Senator Baker, Vice Chair

From: Nelson Kanemoto
President and CEO
Referentia Systems Incorporated

Re: Testimony in Support to HB2984 HD1

Madam Chair, Madam Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in support to HB2984. Our company, Referentia Systems Incorporated, is part of Hawaii's emerging defense and dual-use technology sector, one of the fastest growing segments of Hawaii's economy. Referentia is a Hawaii-based software innovation company committed to building a sustainable high technology company in Hawaii and providing interesting science and technology jobs today and in the future.

Our company currently generates more than \$15M in revenue with a staff of 80+ Hawaii-based employees. We understand the difficult financial condition of the State and want to help by maintaining and growing our workforce. As a technology-based business, we know to accomplish this we need to continue to invest in research and development (R&D). R&D investment is the key to our ability to innovate, attract customers and outside funding, compete in the global marketplace, and continue to grow our workforce.

In the past few years, we have successfully competed against powerhouse R&D small businesses throughout the nation. R&D awards and the R&D credit are creating long-term, valuable intellectual property for Referentia that will bring more economic growth and mainland partnerships here to Hawai'i.

Without Hawaii's R&D tax credit, we may be forced to curtail our investment in R&D. Because of the forward-looking nature of research, few R&D investments have a payoff horizon shorter than one year. In order to continue to invest in R&D and maintain or grow our well-trained workforce, it is critical that we have visibility into the future financial implications of today's R&D investments.

By extending the R&D tax credit for one year, you will enable dual-use technology firms such as Referentia to keep investing in the future of our companies, our employees, and our State. You will also help keep one of the bright spots in our State economy intact, and even growing.

We urge you to support the extension of the R&D tax credit through HB2984 HD1. Thank you for the opportunity to testify.

Sincerely

Nelson Kanemoto
President and CEO



HB2984 HD2 - Relating to Tax Credits

DATE: Friday, March 12, 2010

TIME: 1:30 P.M.

PLACE: State Capitol, Room 016

TO: Chair Fukunaga, Vice Chair Baker, and Members of the Committee

From: Jan Sullivan, COO
Oceanit

Re: Testimony in Support to HB2984 HD2

Honorable Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in support to HB2984 HD2. Your support of the R&D sector has been greatly appreciated and has made a significant difference.

This year marks our company's 25th anniversary. We have found that the growth in the R&D sector has started to really escalate in recent years, and believe that the R&D credit has helped to jump start an industry that is in its infancy in Hawaii.

Oceanit currently employs about 160 scientists, engineers and support staff. Our average employee age is relatively young, and our median salary is around \$79,000. We currently are processing in excess of 300 applicants in our applicant data base, and are looking to fill 20-30 positions this year. We regularly hold activities to host elementary thru college level kids in our office to introduce them to science and engineering careers and to let them know that there are exciting and decent paying jobs for them in Hawaii if they pursue these careers. Many of them have returned to us, equipped with college degrees, wanting to work in science and engineering. It is our hope that we can continue to offer an alternative to kids that want to work in an industry that is growing nationally as well as internationally – and to show them that world class technical work can thrive in Hawaii.

The R&D credit has been responsible for job creation, as well as long term investments that will set the stage for growth into the future. At Oceanit, the R&D credit has allowed us to make investments in the following:

- Establish and launch the "Oceanit Innovation Fund". This is Oceanit funded R&D that is open to any and all staff at Oceanit. We hold a bi-annual proposal process where anyone can submit innovative ideas for internal funding. This has allowed us

to nurture a culture of innovation, risk taking and entrepreneurial spirit that are essential to creating a long term growth industry. These funds have been used to provide the initial early stage research that allows scientists and engineers to make a strong case to obtain follow on funding from traditional sources. As a result, a relatively modest capital investment has allowed us to leverage this into large funding sources that have led to new jobs and opportunities.

- Internally fund prototype developments that would normally flounder in what the dual use community calls the “valley of death”. This is the stage in which federal funding runs out but technology development is perhaps 70% complete. Customers will not fund that final last stretch of technology development so the majority of R&D dies at this stage. We have internally invested in pushing technologies through this stage and are nearing marketable products.
- Invest in equipment and laboratory space that is required in order to conduct cutting edge research that can compete at a national and international level. This investment has allowed us to successfully compete at a national level for R&D funding.

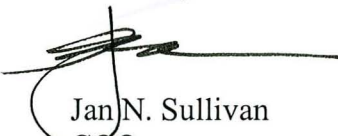
We view all of the above as investments that will act as a catalyst for continued job growth. The reality is that without Hawaii’s R&D tax credit, we will be forced to curtail our investments in R&D across the board.

Because of the forward-looking nature of research, few R&D investments have short term rewards. In order to continue to invest in R&D and maintain or grow our well-trained workforce, it is critical that we have visibility into the future financial implications of today’s R&D investments.

By extending the R&D tax credit for one year, you will enable dual-use technology firms to keep investing in the future of our companies, our employees, and our State. You will also help keep one of the bright spots in our State economy intact, and even growing.

We urge you to support the extension of the R&D tax credit through HB2984 HD2. Thank you for the opportunity to testify.

Sincerely,


Jan N. Sullivan
COO
Oceanit

**Testimony to the Senate Committee on Economic Development and
Technology
Friday, March 12, 2010
1:30 p.m.
Conference Room 211**

RE: HB 2984 HD2 Relating to Tax Credits - SUPPORT

Honorable Chair Fukunaga, Vice-Chair Baker and Committee Members:

Thank you for the opportunity to submit testimony in support of HB2984 HD2. Eyekon Systems LLC is a local technology company established in 2008. It is part of Hawaii's emerging defense and dual-use technology sector, one of the fastest growing segments of Hawaii's economy. Extending Hawaii's research and development (R&D) credit will have a big impact on our company's ability to sustain the R&D activity necessary to succeed.

R&D investment is the key to our ability to innovate, compete in the global marketplace, and grow. We believe that the R&D tax credit will produce a positive return on investment for Hawaii in the form of stronger companies with larger revenues and more jobs. The support of Hawaii's R&D tax credit is critical to accelerating our company's aggressive plans.

By extending the R&D tax credit for one more year, you will be demonstrating your commitment to the future of our local technology companies and their employees. You will also be fueling one of the growing industries in our State economy.

We urge you to support the one-year extension of the R&D tax credit through HB2984 HD2. Thank you for the opportunity to testify.

Sincerely,

Paul Konkola
Principal
Eyekon Systems LLC



700 Bishop Street, Suite 2000 Honolulu, HI 96813

Written Statement of
TRACI H. DOWNS
President & COO
Archinoetics, LLC
before the
SENATE COMMITTEE ON
ECONOMIC DEVELOPMENT AND TECHNOLOGY

Friday, March 12, 2010
1:30 PM
State Capitol, Room 016

In consideration of
HB 2984 HD2 RELATING TO TAX CREDITS

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

Thank you for the opportunity to testify on this bill. Archinoetics **strongly supports** HB 2984 HD2 and its proposed extension of the research and development tax credit. This credit allows companies, like Archinoetics, to take the risks needed to grow its research and grow its business in Hawaii. While we are aware that other credits will sunset early, we support any approach that will make the extension of the research and development credit possible and revenue neutral to the State.

Archinoetics, LLC is a woman-owned world class technology company located in downtown Honolulu. It is focused on the research and development of human-centered technologies. Our current 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 2005 with the help of Act 221 and the research tax credits which allowed my husband and me to make the leap of investing in our own company. Today we employ 34 software and hardware engineers and scientists from varying backgrounds at Archinoetics and have spun off a subsidiary company, Fatigue Science, which now employs 5 employees and is growing. Over ½ of our employees are kama'aina who left Hawaii and never dreamed that they would be able to work in their profession and raise their children back here at home. The research and development tax credit has made a profound impact on life for all of us here on the islands and we support any approach to extend it without adding to the State deficit.

Thank you for the opportunity to testify on this important bill.

Bill: HB 2984 HD2

Date: March 12, 2010

Time: 1:30pm

Place: Room 312

Committee: EDT

Chair: Senator Fukuknaga

Vice Chair: Senator Baker

I oppose this bill

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

My name is Mike Curtis and I run a local software development company called SDC Hawaii, LLC. We employ seven people, five of whom are software designers and developers. We are a start-up company owned and funded by local investors and members of our own employee team.

It pains me to oppose this legislation because I support the extension of the R&D tax credit and I support the development of the local technology industry as a whole. However, this bill as currently written causes the early sunset of the Act 221 investment tax credit which will result in irreparable harm to my company's investors, the company itself, and my employee partners. It will also result in further damage to our state's reputation as a stable place to do business.

Making further changes to Act 221 prior to its established sunset date continues a dangerous precedent set last year wherein the Legislature upset what investors and local tech companies considered to be stable law. The sunset date was put into effect four years ago. Major provisions within the law were then changed last session, critically impacting companies (and costing jobs) throughout the state. Despite last year's changes, local companies revamped their capital financing strategies and proceeded to build their businesses. Now, one year later, we face a great deal of uncertainty and the possibility that our financing strategies will be destroyed and possibly many of our companies in the process. The proposed legislation and resultant uncertainty has itself effectively put a hold on funding since the introduction of the bills.

In addition, the extension of the R&D tax credit beyond the current sunset date is a new promise to industry. Financing this new commitment should not come at the expense of breaking an existing promise. Doing so now upsets existing law and will result in damage to those companies that have relied on the investor tax credit to develop their financing plans for the remainder of this year.

In closing, I want to share with you the impact that your decision on this bill will likely have on our company. Right now our business plan calls for us to add five employees each year for the foreseeable future, with our employees (mostly software engineers)

continuing to earn an average of roughly \$75,000 annually. Our capital structure has been designed for local investors based on Act 221 and the expectation that Act 221 would sunset 12/31/10. Last year's changes were damaging to us, pay cuts were required and several of our employees had to be laid off due to a shortfall in anticipated funding. The proposed laws would likely eliminate our ability to obtain further funding. Without further funding, it is likely that most of our current employees will lose their jobs and these new hires will not happen. Past changes to the investor tax credit, along with the bills proposed this year, have already injected a great deal of uncertainty into investors' minds and reduced our ability to raise funds. The change proposed in this bill will almost certainly eliminate further funding this year when we need it most.

Thank you for the opportunity to testify on this important bill.

Sincerely,

Name: Mike Curtis
Title: Chief Operating Officer
Company: SDC HAWAII, LLC
Phone: 808-292-6862
Email: mcurtis@hawaii.rr.com

ALAN S. HAYASHI
207-4 Kawaihae Street
Honolulu, Hawaii 96825

March 11, 2010

Senator Carol Fukunaga
Hawaii State Legislature
Chair, Economic Development and Technology Committee
Rosalyn H. Baker, Vice Chair
Members of the Committee

SUBJECT: HB2984 HD2 "Relating to Tax Credits"

Chair Fukunaga, Vice Chair Baker, and Members of the Committee:

Thank you for the opportunity to provide comments on HB2984 HD2 "Relating to Tax Credits". My name is Alan Hayashi and I am testifying as an individual employed by a large local defense company. I support the extension of R&D tax credits, but leave the methodology to the legislature

The technology and defense Industry clearly understands the economic and fiscal challenges facing the state. For this reason industry has been working collaboratively with members of the legislature and stakeholders to craft workable proposals which address the state's budget needs while ensuring that we preserve jobs and companies in Hawaii's science and technology sectors.

The impact of HB2984 HD2 in its current form will be to extend the R&D credit to December 31, 2011, and to sunset Act #221 on June 30, 2010, six months prior to current law.

Some facts to consider:

- 1) R&D credits are calculated from funds already prepaid by the technology companies. The labor cost (on which the credits are based) are prepaid to employees (salaries), and to the state of Hawaii (labor / employment taxes).
- 2) These R&D credits are returned directly to these companies who pay the wages.... not to a third party.

Is it worth the return on an annual investment of approximately \$14M (DoTax figures)? To have a high technology industry that can provide clean, high paying, jobs where Hawaii's STEM graduates can be employed, I say the answer is yes! The STEM educational program that the legislature supports and has helped fund is definitely developing high quality graduates who can compete with the best on the mainland. Do we want them to move to the mainland with this valuable expertise when our economy is in need of their talent? Unless we create an environment where high technology can survive and thrive, we will educate our bright young folks for employment elsewhere.

We must develop our technology sector for the benefit of future generations. We cannot just depend on Tourism, or Defense spending. In this time of economic gloom, I ask you to be bold and to plant the seeds for the continued growth of an industry that can become a leader for Hawaii and the Pacific area. This is not the first year, but it does take time and the critical mass is now in place...there are many success stories! Technology is the sector that can lead Hawaii into the future with capability to diversify and to expand our economy.

In my opinion, it is critical to keep the technology sector of Hawaii's economy alive during the current economic downturn.

The technology industry is based on intellectual property (knowledge contained in people's brains) and research and development (R&D). Because intellectual property is not like a factory with steel and concrete buildings needed for production of product, it is easily transportable. Many states in the US and other countries are soliciting companies to relocate to their locations....Hawaii is competing with the world for technology!

Most R&D projects cannot be turned off and restarted with out loss of critical time, and personnel with specific skill sets. As the technology sector degrades, many will relocate to the mainland, or elsewhere in the world to seek employment. It is true that all firms are suffering, not just research and development (R&D) firms. However, R&D has a higher risk and funding profile that companies alone have difficulty bearing with out supplemental support from government. After all, they are developing products that have never been developed before! There are some failures in R&D...that is the price for exploring the unknown. Without this willingness, or capability to risk, there are no new inventions! The government must be a partner with the technology sector. The return will far outweigh the investment of \$14M.

Thank you for the opportunity to provide this information. I would be glad to answer should you have any questions.

Sincerely,

Alan S. Hayashi

fukunaga3 - Doris

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 11, 2010 4:30 PM
To: EDTTestimony
Cc: karins@pukoa.com
Subject: Testimony for HB2984 on 3/12/2010 1:30:00 PM
Attachments: Testimony HB2984 HD2.docx

Testimony for EDT 3/12/2010 1:30:00 PM HB2984

Conference room: 016
Testifier position: support
Testifier will be present: Yes
Submitted by: James Karins
Organization: Pukoa Scientific
Address: 2800 Wodlawn Dr., Suite 141 Honolulu, HI
Phone: (407)694-4485
E-mail: karins@pukoa.com
Submitted on: 3/11/2010

Comments:

I would recommend that section 3 be changed. Instead of repealing Section 235-110.9 of the Hawaii Revised Statutes, I would advise having it terminate on the effective date. This would avoid confusion over previously earned tax credits and avoid potential lawsuits.



HB2984 HD2 - Relating to Tax Credits

DATE: March 12, 2010

TIME: 1:30 P.M.

PLACE: Room 016

TO: Senate Committee on Economic Development and Technology

Senator Fukunaga, Chair

Senator Baker, Vice Chair

FROM: James P. Karins

President and CEO

Puko'a Scientific

Re: Testimony in Support to HB2984 HD2

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in support to HB2984 HD2. My name is Jim Karins and I am the President of Puko'a Scientific. Puko'a Scientific is a 17 person company started in 2004 specializing in the interpretation of image and signal data to identify objects, threats or targets for military, security, medical and industrial applications. Puko'a Scientific is in the dual use sector which has proven to be one of the fastest growing technology sectors. Even during the trying year of 2009 we were able to grow to 17 employees; 13 of our 17 employees are full time and 16 of those 17 reside in Hawaii. Of the 12 full time staff in Hawaii, 10 graduated from high schools in Hawaii, 10 graduated from the 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.

All of us understand the difficult financial condition of the state and industry wants to help. One of the best ways for industry to help is to maintain and grow the workforce. Without job creation, all the cost cutting and all the tax increases will only create a downward spiral, requiring more costs and more tax increases. The state must maximize its return by spending money that generates multiples of increased spending, garnering the most jobs and job income from the least amount of tax dollars. Research and development is one of those areas. In comparing the R&D tax credit to other tax credits, we observe that R&D tax credit is more effective in generating and maintaining a higher number of jobs per tax dollar, generates significantly higher tax revenues for dollar spent, and stimulates significantly more economic activity in the state per dollar of tax credit. Additionally, companies leveraging the R&D tax credits tend to be more mature companies, some of which are on the cusp of becoming much

larger firms, further increasing the number of employees and generating tax revenue. As such, I feel that state benefits greatly from extending the R&D tax credit and making the legislatively determined trade-offs to fund this extension.

Research and development is a highly critical component to a sustainable economy. R&D provides high-paying jobs to highly educated employees. These employees pay significant taxes back to the state and spend significant amounts of their income within the state for goods and services. Additionally as the R&D matures it creates product companies that increase the number of jobs and tax base significantly.

Some important facts related to R&D tax credits are:

- (1) The cost of the R&D tax credit is between \$13 and \$14 million per year, but R&D employees are highly paid and pay income taxes at high rates and generate significant other economic activity within the state (see Appendix A for analysis),
- (2) R&D is so important to the economy of the United States that the federal government is considering making the federal R&D tax credit permanent,
- (3) R&D is so important to the economy of states, that approximately 33 states provide R&D tax credits of various kinds and of the 17 that don't, 4 have no corporate income taxes (see Appendix B),
- (4) R&D is becoming more competitive world-wide. Some countries are offering vastly larger tax credits to lure R&D companies, for example small companies in Quebec are eligible for a 37.5% tax credit in addition to the Canadian tax credits. Additionally, for the first time, China has increased its R&D at a rate higher than the United States (see Appendix C),
- (5) A tax credit of 20% on wages and supplies amounts to about 10% of the cost of doing R&D,
- (6) The tax credits for R&D are comparable or less than those given to other critical industries to economic diversity such as Act 88 (15% credit on costs not just salaries and supplies) for the movie industry or 35% tax credits on renewable energy,
- (7) R&D funds are highly leveraged by imported monies, thus generating more economic activity than economic activities that just move money from one in-state entity to another,
- (8) R&D tax credits are only received after the company has expended the funding, generating tax revenues to the state first,
- (9) R&D tax credits typically go back into additional R&D through additional salaries,
- (10) Studies have shown that for every \$1 in tax credits or lower costs of operation, R&D increases by approximately \$2-\$3.

While these positive aspects are fairly defined, there have been some people who have expressed concerns about the competitiveness of Hawaii's R&D tax credit levels and their refundability. But several factors that are not considered in those concerns include:

- (1) Comparisons are only made to other states and not to other countries. R&D is becoming an economic driver worldwide and Hawaii companies compete worldwide,
- (2) Hawaii's tax credits have been defined to a very small but high payoff group of high technology companies defined as QHTBs while most states provide their tax credits to any company that can qualify under federal tax credit laws,
- (3) The entire cost of doing R&D is the most important factor. Hawaii has a number of competitive disadvantages such as high income tax rates, high cost of living, high unemployment insurance costs, and high transportation costs, and
- (4) R&D returns are highest after several years when R&D turns into products, resulting in significant growth in job opportunities, increased intellectual property owned by Hawaii residents, and increased travel to the state by customers and technology related conferences

In summary the Hawaii R&D tax credit has been effective in generating new taxes, generating new companies and employing approximately 1100 residents. It is important that there not be a gap in the R&D tax credit while the 2011 legislature addresses the longer term impact of R&D on the state. Companies need to make long term plans when doing R&D. It is critical to the industry that the tax credit be in place long enough to encourage R&D and its commiserate high paying jobs, potential job growth, and its impact on the sustainability of the states economy.

I therefore strongly encourage the committee to pass this bill.

Thank you for the opportunity to testify.

/s/James P Karins

James P. Karins
President and CEO
Pukoa Scientific
karins@pukoa.com

APPENDICES

A. Revenue generated to the state by R&D companies compares favorably to the expenses of the R&D tax credit. The table below demonstrates a fairly simple model of the tax revenue generated by the R&D efforts and supporting structure of the companies. In 2008 \$13.4M in tax credits was claimed. Since the credit is 20% of qualified expenses, the qualified expenses are 5 times the credit (\$67M). Typically about half of an R&D companies expenses are qualified, yielding expenses of about \$134M by companies relating to qualified R&D. Wages are about 60% of those expenses and 40% goes to a variety of expenses including rent. I used a 6% income tax rate and a 4.5% GET rate to estimate the taxes directly paid by these companies. An economic multiplier of 2 was used since most of the wages and most the other expenses are recycled in the economy. Total revenue of about \$14.4M is calculated to be attributable to the R&D efforts of the companies receiving \$13.4M in R&D tax credits.

2008		Income Tax	GET
R&D Tax Credit	\$13.4 M		
Qualified Expenses	\$67 M		
Total R&D Related Expenses	\$134 M		
Wages	\$80.4 M	\$4.8 M	
Other Expenses	\$53.6 M		\$2.4 M
Economic Multiplier Effect		\$9.6 M	\$4.8 M
TOTAL REVENUE	\$14.4 M		

B. State R&D tax credits vary greatly from state to state. In some respects Hawaii's tax credit is very good. In a couple it lags other states. For example the credit rate is the best in Hawaii, however only a few states such as Hawaii restrict it to certain companies or R&D areas.

R&D Credit Topic		Notes
R&D Tax Credits	33 States	Of the 17 that do not 4 have no income taxes
Non-incremental	3 States	HI, CT, WV
Credit Refundable	8 States	
Limited Availability	2 States	HI, AR
Taxes the Credit Received	1	HI
Tax Credit	2.5-20%	Average rate is 6.5%

C. International tax credits vary even more and are particularly favorable in some countries. The table below is a summary of some of the tax credits offered by competing nations. A direct comparison is difficult since the incentives are in various forms such as tax abatements or enhanced deductions. One noteworthy example is Quebec Province in Canada where overall tax credits can reach 72.5%.

Country	R&D Tax Incentive
Australia	<ul style="list-style-type: none"> • Allows a 125% deduction for R&D expenses • <i>Plus</i> a 175% deduction for R&D expenditures exceeding a base amount of prior-year spending.
Canada	<ul style="list-style-type: none"> • Offers a permanent 20% flat (i.e., first-dollar) R&D tax credit for large companies Small companies receive 35% flat R&D tax credit Quebec province offers an additional 37.5% for small companies Other provinces offer other incentives
China	<ul style="list-style-type: none"> • Offers foreign investment enterprises a 150% deduction for R&D expenditures, provided that R&D spending has increased by 10% from the prior year.
France	<ul style="list-style-type: none"> • Allows a 50% R&D credit, includes a 10% flat credit and a 40% credit for R&D expenditures in excess of average R&D spending over the two previous years.
India	<ul style="list-style-type: none"> • Companies carrying on scientific research and development are entitled to a 100% deduction of profits for 10 years. • Automobile industry also is entitled to a 150% deduction for expenditures on in-house R&D facilities.
Ireland	<ul style="list-style-type: none"> • Offers a 20% R&D tax credit, plus a full deduction, as well as a low generally applicable 12.5% corporate income tax rate. • Capital expenditures may also qualify for a separate flat credit.
Japan	<ul style="list-style-type: none"> • Offers a flat 10% R&D tax credit (a 15% flat credit is provided for small companies), in addition to other incentives.
Korea	<ul style="list-style-type: none"> • Tax holidays, up to 7 years, are provided for high-technology businesses. • In addition, a variety of tax credits are provided for R&D type expenditures.
Singapore	<ul style="list-style-type: none"> • "R&D and Intellectual Property Management Hub Scheme" offers U.S. companies a 5-year tax holiday for foreign income earned with respect to Singapore-based R&D.
United Kingdom	<ul style="list-style-type: none"> • Allows a 125% deduction for R&D expenses Plus a 175% deduction for R&D expenditures exceeding a base amount of prior-year R&D spending.

March 11, 2010

TO: Committee on Economic Development and Technology, Senator Carol Fukunga, Chair

FROM: Bill Spencer, President, Hawaii Venture Capital Association

SUBJECT: Testimony in Opposition to HB2984, HD 2 being heard March 12, 2010, 1:30p Room 016

Dear Chair and Committee Members:

HVCA strongly supports the extension of the R&D tax refund, but opposes the repeal Act 221/215 prematurely.

Hawaii based qualified high tech businesses doing research and development need both investment to develop and bring products to market and the benefit from the ability to receive a refund on qualified research. If they do not receive investment they consequently do not have the funds to perform necessary R&D.

Therefore, the Hawaii Venture Capital Association opposes this bill and would prefer to allow the R&D credit to continue until the statutory sunset date of Act 221/215 rather than accepting the extension of the R&D refund at the expense of killing Act 221/215 prematurely.

Sincerely,

Bill Spencer

President

Hawaii Venture Capital Association

Bill: HD 2984 HD2

LATE

Hearing Date: March 12, 2010

Time: 1:30 pm

Place: Room 312

Committee: EDT

Chair: Senator Fukunaga

Vice Chair: Senator Baker

I STRONGLY OPPOSE BILL HD 2984 HD 2

My name is Dew-Anne Langcaon and I am President and Co-Founder of Ho'okele Health Technologies, LLC a high tech start up company whose mission is to develop and deploy advanced touchscreen wireless technologies into the homes of the elderly to enable them to live safely, healthy, independently and affordably in their own homes. Our goal is to help seniors, their families and the State of Hawaii to improve the quality and reduce the cost of eldercare which already is having a crushing impact to budgets and our economy through the deployment of technology.

We employ 5 employees including 2 software developers, a physician, an RN and a Social Worker, as well as contract with several local companies for software developers. Our work is focused on developing the technologies and conducting the research as to the efficacy and adoption of such technologies by seniors and their loved ones. Our company is a QHTB and has been funded through investors who believe in our mission and who have been able to mitigate some of their downside risk in our early stage company through the Act 221/215 Investment Tax Credit which has directly allowed us to raise enough capital to bring our vision to near fruition.

While I am a big supporter of the high tech industry and the R&D credit, this bill results in the early sunset of the investment tax credit which will be harmful to my company and its investors. We are nearing the end of our pilot phase of product development and are in process of raising additional capital to bring our product to the next level in order to launch to market. However, the uncertainty which this bill has caused is making it impossible for our current and potential new investors to make an informed investment decision. Without sufficient follow on capital, our ability to complete the development of such leading edge technologies which could bring peace of mind and reduce the cost of eldercare for so many families will be jeopardized.

Additionally, my company is only one of many QHTB's whose future is jeopardized not by the state of the economy or the company's failure to execute, but due to this reversal of a promise to maintain the investment tax credit through its scheduled sunset date at the end of 2010. Our business plan and investors counted on the ability of the company to raise sufficient funding through the end of 2010 to get to the point of revenue generation and self-sustainability. By cutting the investment tax credit prematurely, our and other QHTB's futures are endangered on the cusp of reaching our potential. The

State made an investment in QHTB's through the form of the tax credit, and by prematurely ending the credit it is also prematurely ending the State's own ability to enjoy any return on its investment in the form of tax revenue from GET on sales, payroll taxes and income taxes.

I urge you to strongly fulfill the promise to the high tech industry to maintain the investment tax credit through the end of 2010 so that the companies, investors and the State can realize the expected benefits that were envisioned for Act 221/215.

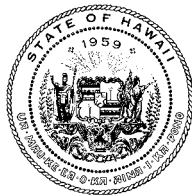
Thank you for the opportunity to testify on this important matter.

Mahalo,

Dew-Anne Langcaon
President
Ho'okele Health Technologies, LLC
808-457-1656
dewanne@hookelehealth.com

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



KURT KAWAFUCHI
DIRECTOR OF TAXATION

STANLEY SHIRAKI
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

LATE

**SENATE COMMITTEE ON ECONOMIC DEVELOPMENT & TECHNOLOGY
TESTIMONY REGARDING HB 2984 HD 2
RELATING TO TAX CREDITS**

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

DATE: MARCH 12, 2010

TIME: 2PM

ROOM: 308

As amended, this measure extends the tax credit for research activities until 2011 and repeals the high technology business investment tax credit and the technology infrastructure renovation tax credit.

The Department of Taxation (Department) **supports the intent** of repealing the high tech and technology infrastructure tax credits; however is **concerned over potential revenue loss** from extending the research credit.

The Department supports what this measure accomplishes, which is a continuation of the research credit and financing that continuation by repealing other tax incentives. The Department's primary concern relates to the cost of the extension, which results in a revenue loss in Year 2. This cost has not been factored into the Executive Budget. The Department suggests that this measure be passed out of committee in order to continue the discussion of maintaining tax incentives for high technology.

This measure will result in the following revenue impacts—

<u>Revenue Gain:</u>	<u>Revenue Loss:</u>	<u>NET REVENUE IMPACT</u>
FY 2011, \$13.1m		FY 2011, \$13.1m gain
<i>FY 2012, \$ 9.4m</i>	<i><FY 2012, \$20.0m></i>	<i><FY 2012, \$10.6m loss></i>
FY 2013, \$ 7.5m		FY 2013, \$ 7.5m gain
FY 2014, \$ 3.8m		FY 2014, \$ 3.8m gain
FY 2015, \$ 3.8m		FY 2015, \$ 3.8m gain

LATE



Bill **HB2984 HD2**
Date **March 12, 2010**
Time **1:30pm**
Place **Conference Room 016**
Committee **EDT**
Chair **The honorable Senator Carol Fukunaga**
Vice Chair **The honorable Senator Rosalyn Baker**

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

Hawaii Science and Technology Council (HSTC) would like to provide comments for HB2984 HD2.

We believe that tax credits represent a tool that governments can use to effectively stimulate economic growth and support the creation of sustainable, high-paying jobs. The Qualified High-Tech Business investment and research credits have been key contributors to making Hawaii's high-tech sector one of the fastest-growing in the state.

However, we also recognize the fiscal realities currently facing the state, and the critical, near-term need to balance the state's budget and provide essential social services. Regrettably, in order to meet immediate economic needs, not all initiatives that build long-term economic growth and prosperity may survive without modification or curtailment. The people of Hawaii look to our elected officials to make these difficult, no doubt unpleasant tradeoff decisions.

Curtailment of such long-term growth initiatives is regrettable, but some changes cause more damage than others. Cancellation of tax credit initiatives means investor money will be left on the table going forward, and fewer high-tech jobs will be brought to the state. More damaging than this by far, however, is changing how tax credits for previously made investments will be treated. Investors place money into Hawaii companies and hire local engineers and scientists with the understanding that the State will continue to issue credits as promised. Once their money is in, they cannot retrieve it, and are reliant on the State to keep its end of the bargain. If tax credits for previously made investments are curtailed, delayed, or capped, Hawaii will earn an unwelcome reputation as a place with uncertain investment and political risk. This will make

it more difficult to raise funds for all sectors of Hawaii's economy, not just the high-tech sector, and may increase the costs for the State to raise bond monies.

We agree with the extension of the research tax credit contained in this bill, and are confident that this provision would directly translate to additional high-tech jobs continuing to come to Hawaii. However, we know that many of these same companies have been planning to raise funds to finance expansion and growth within Hawaii, and the quick end to this investment credit will likely lead to unexpected cash crises and possibly layoffs at a number of growing high-tech companies. Moreover, we are concerned that by wiping from the books all language contained in HRS 235-110.91 (concerning the investment tax credit), there may be problems with the administration of credits due to previously made investments.

HSTC and its member companies and employees understand the need for compromise and shared sacrifice. We request that elected officials carefully consider the damaging effects of retroactivity, and urge the adoption of measures that do not retroactively change the rules of the game for investments already made into Hawaii's economy.

Thank you for your time and consideration.

Respectfully yours,

Jamie Ayaka Moody
Government Relations
Hawaii Science & Technology Council
733 Bishop Street. #1800
Honolulu, HI 96813

LATE

March 12, 2010

*Testimony for Hearing before the
Senate Committee on Economic Development and Technology
Friday, March 12, 2010, 1:30 pm*

*State Capitol, Conference Room 308
415 South Beretania Street
Honolulu, Hawaii 96813*

*Re: Testimony in STRONG OPPOSITION to HB 2984 HD2
Relating to Taxation*

Chair Fukunaga, Vice-Chair Baker, and Committee Members:

Thank you for the opportunity to submit testimony in STRONG OPPOSITION to HB 2984 HD2.

This bill seeks to extend the Act 221 Research Credit for a year while repealing the Act 221 Investment Tax Credit.

While I support the Act 221 Research Credit, I do not think it would be fair or prudent to extend it at the expense of the Act 221 Investment Credit, which according to Tax Department data, is utilized by many more local high tech and media companies.

While somewhat unclear, it appears that Section 4 of this bill may be attempting to address some retroactivity concerns in the language that reads:

This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date, including carryover tax credits.

If this bill is interpreted to retroactively apply to investments already made, it would be unconstitutional and trigger massive litigation against the State and would not result in budgetary savings.

By completely repealing and wiping off the books HRS Section 235-110.9, which is the statutory authority for the Act 221 Investment Credit, this bill would make it extremely difficult, if not impossible for the Tax Department to administer the law in future years for investments already

Testimony in Strong Opposition to HB 2984 HD2
Relating to Taxation
Senate Committee on Economic Development and Technology
Hearing Date: March 12, 2010
Page 2

made. It will also create serious legal ambiguities confusion for investors and Act 221 companies. There is no reason to artificially create such legal confusion and chaos, which would result in a tremendous waste of time and resources for both the State and the private sector.

Thank you for the opportunity to testify.

Respectfully submitted,

Jeffrey K. D. Au
Managing Director and General Counsel
PacifiCap Group, LLC

031210JAUEDTSTRONGOPPOSITIONTOHB2984HD2.031210DRAFT#1

HB2867 HD1 - Relating to Taxation
HB2962 HD1 - Relating to Taxation
HB2984 HD2 - Relating to Taxation

LATE

DATE: March 12, 2010
TIME: 1:30pm
PLACE: Conference Room 016

TO:

COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY
Senator Carol Fukunaga, Chair
Senator Rosalyn H. Baker, Vice Chair

FROM: Roy Tjioe, Principal and Founder, Island Film Group

RE: Testimony in Opposition to HB2867 HD1, HB 2984 HD2 and HB 2962 HD1.

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

Thank you for the opportunity to testify in STRONG OPPOSITION to HB 2867 HD1, which threatens to ruin the ability of local filmmakers to seek local investment to fund their film and television productions, by (a) retroactively and prospectively restricting the amount of investment tax credits that may be claimed between January 1, 2010 and January 1, 2012, including credits generated prior to January 1, 2010; and (b) retroactively and prospectively restricting the ability to carry over tax credits generated between January 1, 2010 and January 1, 2012. For the same reasons, I also STRONGLY OPPOSE HB 2984 HD2, to the extent it seeks to repeal the investment tax credit incentive.

I am a principal and founder of Island Film Group, a local film and television production company that to date has produced the television series **BEYOND THE BREAK** for the N Network, television movies **SPECIAL DELIVERY**, **FLIRTING WITH FORTY** and **DEADLY HONEYMOON** for Lifetime Channel, and the independent feature films **PRINCESS KAIULANI** (which will be released nationally on May 14) and **SOUL SURFER** (currently in production on the North Shore), **ALL** of which were financed using Act 221. As you know or should know, these productions resulted in the hiring of thousands of local tax paying workers in a dedicated effort to build our local film and television industry. We have been working hard to actively develop other projects for production in Hawaii, in reliance on our ability to utilize Hawaii's tax incentives to raise production capital. Indeed, we seek an extension for an additional year of Act 221, which is scheduled to sunset at year end.

If those in support of the present measures believe that Act 88 (the 15/20% refundable production tax credit) will be sufficient to sustain our efforts, they are proceeding under a false assumption. Act 88 is a refund, which means that the production must already have its production budget raised and in place before the refund can be claimed. While Act 88

is attractive to large studio productions (which already have the money), independent film and television productions such as those we produce cannot benefit from Act 88 unless and until they have raised money to produce their projects. The investment tax credit of Act 221 is critical to the survival of local independent filmmakers. The present measures impair our ability to raise money, and sends a clear message that local independent filmmakers that seek to produce local stories and hire local workers are unwanted.

As an attorney with 19 years of litigation experience at Hawaii's largest firm, I would also like to testify that, apart from eroding investor confidence in the State, the retroactive elements of HB 2867 HD1 are very likely to trigger lawsuits from investors who materially relied on the State's promises in regards to the benefits of Act 221 when they decided to invest in film and television productions. It is my understanding that hundreds of local individuals and entities are affected by the current measures, and I estimate that it will be several years before those lawsuits are resolved. I also believe that the litigation will be resolved in favor of the investors.

Although Hawaii is not immune to the national economic recession, this is exactly the right time to strengthen and promote our economic incentives, not weaken them. This is a time when we have the best opportunity to attract film and television productions, which will bring employment to our local workers and publicity for our islands. It would be a huge mistake for the Legislature to pass these measures in their present form, which would strongly discourage independent producers from looking to Hawaii as a production locale and for co-production capital. In fact, the proper remedy is to extend Act 221 for an additional year and enact strong infrastructure tax credit legislation.

In that regard, the original legislation underlying HB 2962 HD1 proposed to enact HRS 235-110.51, creating a technology infrastructure renovation tax credit, in a commendable effort to spur development of much needed infrastructure supporting the local film and television industry. HB 2962 HD1 seeks to delay the tax benefits that may be received until July 1, 2013, making it a much less attractive incentive, at a time when our infrastructure needs to grow and set itself apart as a production locale. Too many other jurisdictions have beautiful tropical locations and a cheaper currency/labor force on top of generous tax incentives (Puerto Rico, Florida, Fiji), and many also have strong infrastructure elements already in place (Australia, New Zealand). We must elevate our infrastructure base merely to compete with those other locations. Accordingly, I support the intent of the legislation, but OPPOSE the limitations contained in the current version of the bill.

Thank you for the opportunity to testify in OPPOSITION to these pending measures as they are currently written.

Roy Tjioe
ISLAND FILM GROUP

LATE

TESTIMONY OF WILLIAM G. MEYER, III

HEARING DATE/TIME: Friday, March 12, 2010
1:30 p.m. in Conference Room 016

TO: Senate Committee on Economic Development and Technology

RE: Testimony in Opposition to HB 2984, HD2

Dear Chair, Vice-Chair and Committee Members:

My name is William G. Meyer, III. I am an intellectual property attorney who has been practicing law in Honolulu for over 30 years. I represent both locally based and national and international motion picture and television production companies and high technology businesses.

I strenuously oppose HB 2984, HD2.

This bill seeks to extend the Act 221 Research Credit for a year while repealing the Act 221 Investment Tax Credit. I support the Act 221 Research Credit, however, it would be a mistake to extend it at the expense of the Act 221 Investment Credit, which according to Tax Department data, is utilized by many local high tech, entertainment and digital media companies.

If this measure applies retroactively to investments already made, it would probably be deemed unconstitutional and could trigger litigation against the State. In addition, by repealing the statutory authority for the Act 221 Investment Credit, this bill could hamper the Tax Department's ability to administer the law going forward for investments already made.

Respectfully submitted,

/s/ William G. Meyer, III

William G. Meyer, III