



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:
H.B. NO. 1784, RELATING TO TAXATION.

BEFORE THE:
HOUSE COMMITTEE ON HIGHER EDUCATION AND TECHNOLOGY

DATE: Friday, February 9, 2024 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 309 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Mary Bahng Yokota, Deputy Attorney General

Chair Perruso and Members of the Committee:

The Department of the Attorney General provides the following comments:

The purpose of this bill is “to temporarily reinstate the technology infrastructure renovation [nonrefundable income] tax credit and expand the definition of ‘technology-enabled infrastructure’ to include data servers.” Page 2, lines 4-7.

Under the current section 235-110.51(h), Hawaii Revised Statutes (HRS), as originally enacted by section 2 of Act 221, Session Laws of Hawaii (SLH) 2001, and amended by section 7 of Act 215, SLH 2004, the tax credit could be claimed for taxable years beginning after December 31, 2000, but not after December 31, 2010. It appears that the intent of this bill is to reinstate this tax credit for taxable years beginning after December 31, 2023, with an expanded definition of “technology-enabled infrastructure.” The bill provides that “[t]his Act, upon its approval, shall apply to taxable years beginning after December 31, 2023” (emphasis added). Page 4, lines 3-4. The description on the last page of the bill also provides that the bill reinstates the tax credit “[f]or taxable years beginning after December 31, 2023.” (Emphasis added). This bill, however, amends section 235-110.51(h), HRS, to read as follows:

- (h) The tax credit allowed under this section shall be available for taxable years beginning after:
- (1) December 31, 2000, but shall not be available for taxable years beginning after December 31, 2010; and
 - (2) December 31, 2023, but shall not be available for taxable years beginning after December 31, 2026. [Emphasis added.]

As paragraph (1) may be interpreted as legislative intent to permit taxpayers to retroactively claim the tax credit with the expanded definition of “technology-enabled infrastructure” for taxable years more than 10-20 years ago, we recommend that the bill be clarified. For example, if it is the intent of the bill not to affect the tax credit claimed for the taxable years beginning after December 31, 2000, but not after December 31, 2010, subsection (h) may be amended to read as follows:

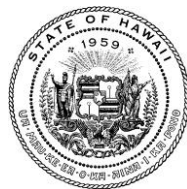
(h) The tax credit allowed under this section shall ~~not~~ be available for taxable years beginning after December 31, ~~2010~~ 2023, but shall not be available for taxable years beginning after December 31, 2026.

As the bill, when enacted, “shall apply to taxable years beginning after December 31, 2023” (page 4, lines 3-4), the deletion of paragraph (1) should not affect the law that was in effect for the tax credits already claimed for the prior years.

Thank you for the opportunity to provide comments on this bill.

JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION

Ka 'Oihana 'Auhau
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GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

**TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

TESTIMONY ON THE FOLLOWING MEASURE:

H.B. No. 1784, Relating to Taxation.

BEFORE THE:

House Committee on Higher Education & Technology

DATE: Friday, February 9, 2024

TIME: 2:00 p.m.

LOCATION: State Capitol, Room 309

Chair Perruso, Vice-Chair Kapela, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding H.B. 1784 for your consideration.

H.B. 1784 amends section 235-110.51, Hawaii Revised Statutes (HRS), to temporarily reinstate the Technology Infrastructure Renovation Tax Credit. The bill also expands the definition of "technology-enabled infrastructure" to include data servers, which are computer systems "used to hold large amounts of electronic data and provide database management and access services to client computers on a computer network." The bill takes effect upon its approval and applies to taxable years beginning after December 31, 2023, but will not be available for taxable years beginning after December 31, 2026.

The Department notes that it lacks the subject-matter expertise to administer the measure's new proposed definition of "data server." Specifically, it is not clear what might constitute a "large" amount of electronic data. The Department recommends adding additional detail to help clarify the credit's eligibility criteria.

Finally, the Department requests that the effective date of this measure be postponed so that the tax credit is applicable to taxable years beginning after December 31, 2024. This will provide the Department with sufficient time to make the necessary

form, instruction, and computer system changes while educating taxpayers about this reinstated credit.

Thank you for the opportunity to provide comments on this measure.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Reinstate Technology Infrastructure Renovation Tax Credit, include data servers

BILL NUMBER: HB 1784, SB 2527

INTRODUCED BY: HB by KITAGAWA; SB by MORIWAKI, AQUINO, CHANG, FEVELLA, HASHIMOTO, SHIMABUKURO, Kidani

EXECUTIVE SUMMARY: For taxable years beginning after December 31, 2023, temporarily reinstates the Technology Infrastructure Renovation Tax Credit and expands the definition of "technology-enabled infrastructure" to include data servers.

SYNOPSIS: Amends section 235-110.51(h), HRS, to add language reinstating the credit for taxable years beginning after December 31, 2022, and before January 1, 2026.

Amends section 235-110.51(i), HRS, to add "data servers" to the definition of "technology-enabled infrastructure" eligible for creditable renovation costs. Adds a definition of "data server" as "a computer system used to hold large amounts of electronic data and provide database management and access services to client computers on a computer network."

Makes a conforming amendment to the definition of "technology-enabled infrastructure."

EFFECTIVE DATE: Upon approval, applicable to taxable years beginning after December 31, 2023.

STAFF COMMENTS: The legislature by Act 221, SLH 2001, enacted a credit of 4% of the "high tech" renovation costs incurred during the taxable year for a commercial building for costs incurred after December 31, 2000, but before January 1, 2006. Act 215, SLH 2004, extended the credit until December 31, 2010. This measure proposes to reestablish the technology infrastructure renovation tax credit that expired on December 31, 2010.

Substantively, over the last decade, Hawaii has adopted various tax incentives to encourage the development of high technology businesses in the state. The acts provided investment and research credits as well as income exclusions providing tax relief to high tech businesses and individuals associated with high tech businesses. While the focus on high technology in the last few years is commendable, it fails to recognize that investments are made with the prospect that the venture will yield a profit. If the prospects for making a profit are absent, no amount of tax credits will attract investment from outside Hawaii's capital short environment. People do not invest to lose money. It should be remembered that until Hawaii's high cost of living can be addressed, all the tax incentives in the world will not make a difference in attracting new investment to Hawaii. The only attractive aspect for resident investors to plow money into such activities is the fact that the credit provides a way to avoid paying state taxes.

Digested: 2/7/2024



Charter Communications
Testimony of Rebecca Lieberman, Director of Government Affairs

HOUSE COMMITTEE ON HIGHER EDUCATION & TECHNOLOGY

Hawaii State Capitol
Friday, February 9, 2024

COMMENTS ON HB 1784 – RELATING TO TAXATION

Chair Perruso, Vice Chair Kapela, and Members of the Committee.

Thank you for the opportunity to provide comments on H.B. 1784, a bill that would temporarily reinstate the technology infrastructure renovation tax credit.

As the largest broadband provider in the state, Charter supports efforts to expand broadband access and **supports the intent of this bill with proposed amendments**, which reinstates the technology infrastructure renovation tax credit. Charter believes that every Hawaii resident should have reliable access to the Internet. We will continue to help bring the benefits of broadband and access to the internet to those who need it most.

Hawaii is slated to receive millions of dollars in federal grants for broadband infrastructure in the immediate future (via the Coronavirus Capital Project Fund and Broadband, Equity, Access, and Deployment Program). This is a unique opportunity for the state to partner with the private sector to connect many unserved residents in rural and remote areas throughout Hawaii. Expanding the existing technology infrastructure tax credit beyond commercial buildings would increase network

investment and broadband penetration. Providers can reinvest this savings into additional projects in unserved areas, maximizing the benefits of the federal aid. Additionally, the new economic activity generated by increased broadband network investment will generate substantial offsetting revenues for state and local governments as new employment and economic activity generates tax revenue.

In order to maximize the benefits of the federal aid as previously described, we offer the following proposed amendments to Section 2:

SECTION 2. Section 235-110.51, Hawaii Revised Statutes, is amended by amending subsections (b), (c), (h) and (i) to read as follows:

"(b) The amount of the credit shall be four percent of the renovation costs incurred during the taxable year ~~[for each commercial building located]~~ in Hawaii.

(c) In the case of a partnership, S corporation, estate, trust, or ~~[any developer of a commercial building]~~ other entity taxed as a partnership for federal income tax purposes, the tax credit allowable is for renovation costs incurred by the entity for the taxable year. The cost upon which the tax credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined pursuant to section 235-110.7(a).

(h) The tax credit allowed under this section shall ~~[not]~~ be available for taxable years beginning after ~~[December 31, 2010]~~:

(1) December 31, 2000, but shall not be available for taxable years beginning after December 31, 2010; and

(2) December 31, 2023, but shall not be available for taxable years beginning after December 31, 2026.

(i) As used in this section:

"Data server" means a computer system used to hold large amounts of electronic data and provide database management and access services to client computers on a computer network.

"Net income tax liability" means income tax liability reduced by all other credits allowed under this chapter.

"Renovation costs" means costs incurred after December 31, 2000, to: plan, design, install, construct, repair, replace, monitor, test ~~[and]~~ or purchase technology-enabled infrastructure machinery and equipment; or ~~[to]~~ provide a commercial building with technology-enabled infrastructure.

"Technology-enabled infrastructure" means:

(1) Either:

~~[(1)]~~ (A) High speed telecommunications systems that provide, in whole or in part, ~~[Internet]~~ internet access,

direct satellite communications access, and
videoconferencing facilities; or

(B) Data Servers;

(2) Physical security systems that identify and verify valid entry to secure spaces, detect invalid entry or entry attempts, and monitor activity in these spaces;

(3) Environmental systems to include heating, ventilation, air conditioning, fire detection and suppression, and other life safety systems; and

(4) Backup and emergency electric power systems.”

In 2021 and 2022, Charter extended its network to reach an additional 27,000 homes and small businesses in Hawaii, investing more than \$200 million across the state. Charter is a member of DBEDT’s weekly Broadband Hui to assist in strategic broadband planning and closing the digital divide. Additionally, Charter participated in the FCC’s Emergency Broadband Benefit Program (EBB) and is now participating in the \$14.2 billion federal Affordable Connectivity Program (ACP). The EBB, and now the ACP, helped connect over 59,000 eligible households in Hawaii with high-speed broadband during the COVID-19 pandemic.

Mahalo for the opportunity to provide suggested amendments to H.B. 1784.



February 9, 2024

**SUPPORT OF HB 1784
RELATING TO TAXATION**

House Committee on Higher Education & Technology
The Honorable Amy A. Perruso, Chair
The Honorable Jeanne Kapela, Vice Chair

Friday, February 9, 2024; 2:00 p.m.
Conference Room 309 & Videoconference
Hawaii State Capitol; 415 South Beretania Street

Chair Perruso, Vice Chair Kapela, and members of the Committee,

Thank you for this opportunity to offer our support for HB 1784, Relating to Taxation. My name is Richard Zheng, President and CEO of Servpac.

As a locally owned company established in 2004, Servpac has evolved from a Hawaii telecommunications provider to an all-in-one cloud-based technology solution, offering high speed fiber internet, VoIP phones, cloud computing, data center colocation and managed IT services. We understand the unique challenges that Hawaii's businesses face and we provide customized solutions to keep them connected in a mission-critical world.

Data centers and fiber optic networks are key contributors to the development and expansion of Hawaii's high-tech sector. These infrastructures facilitate the creation of high-paying jobs in the technology industry, thereby diversifying Hawaii's economy.

The 4% tax credit, although temporary, can have enduring effects as Hawaii strives to establish itself as a leader in the digital economy. With the growing demand for data, equipment becomes a vital component of every business, thereby retaining funds and jobs within Hawaii.

The state's emphasis on high-technology is praiseworthy. The policy direction suggests that state investments will attract further investments both locally and internationally, enhancing Hawaii's economic environment.

Mahalo for allowing Servpac to share our perspectives on HB 1784.

Written Statement of
Jeannine Souki
Senior Manager – Government & Regulatory Affairs

HOUSE COMMITTEE ON HIGHER EDUCATION & TECHNOLOGY

February 9, 2024 2:00 PM
Conference Room 309, Hawai'i State Capitol

COMMENTS FOR:

H.B. 1784 – RELATING TO TAXATION

To: Representative Amy Perruso, Chair
Representative Jeanne Kapela, Vice Chair
Members of the Committee on Higher Education & Technology

Re: Testimony providing comments for HB 1784 with requested amendment

Aloha Honorable Chair, Vice-Chair, and Committee Members:

Thank you for this opportunity to provide testimony on HB 1784, which would temporarily reinstate the technology infrastructure renovation tax credit.

Hawaiian Telcom supports the intent of this measure and requests the bill be amended to include investments to construct broadband facilities in Hawai'i. Having a high-speed fiber internet connection and services to address the digital equity needs of all households opens up a world of opportunity. Broadband is essential for business and government operations, delivering telemedicine, education, remote work, staying in touch with family and friends, and so much more. The availability of adequate broadband infrastructure helps to close digital gaps, especially in rural areas and Hawaiian Homelands. Regulatory burdens and the cost to bring in machinery and equipment to Hawai'i is significantly higher compared to other states.

As the construction of fiber-enabled networks continues, having adequate tax incentives and streamlining regulation are the blueprint to stimulate and maximize private and public sector investments. A national Tax Foundation article noted that a light touch regulatory regime, and smart, pro-growth tax policy can help strengthen private investment in infrastructure like broadband. Austan Goolsbee, former Obama administration Council of Economic Advisers chair, found that taxing new technology such as broadband is more harmful than those of most taxes because the taxes slow the diffusion of productivity-enhancing technology.¹

¹ ["What the Internet Can Teach Us About Capital Investment, Infrastructure, and Tax Policy,"](#) Alex Mureisanu, Tax Foundation, June 17, 2020, accessed February 8, 2024.

In November 2021, Congress approved \$65 billion to help states and U.S. territories close gaps in the digital divide through the federal Infrastructure Investment and Jobs Act (IIJA) and Broadband Equity, Access, and Deployment (BEAD) programs. Hawai'i will over \$300 million in federal funding for broadband deployment and services. While these federal dollars provide a temporary infusion of funding for broadband infrastructure and services, we support efforts for the State to further leverage federal IIJA and BEAD funds with private sector investments to address the digital divide, especially in unserved and underserved areas such as the neighbor islands where the cost to build is much higher than in metropolitan areas like Honolulu. The temporary reinstatement of infrastructure renovation tax credits is critical to maximizing this once-in-a-generation opportunity to extend broadband infrastructure to areas that are currently lacking services.

For these reasons, Hawaiian Telcom urges your Committee's consideration of the requested amendment. We stand ready to work with your Committee, the Hawai'i Department of Taxation, and other stakeholders to help further investments in technology that will in turn generate substantive revenue returns for our state with increased employment and economic activity driven by broadband infrastructure investments.

Thank you for the opportunity to provide testimony on HB 1784.

Attachments: 1

A BILL FOR AN ACT

RELATING TO TAXATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that upgrading and modernizing equipment necessary for data storage will improve the resilience against physical damage caused by weather-related events and cybersecurity threats and ensure the continued, uninterrupted provision of services to Hawaii businesses, state government and satellite agencies, and residents.

Leveraging modern and up-to-date technology to support critical operation systems is a significant benefit of data center operations, where one of the core missions is to stay at the forefront of technological advancements, enabling reliable data access 99.999 per cent of the time.

In mid-2023, dozens of Hawaii business in health care, airline, and finance fields, and state agencies, were operationally disrupted due to a local data outage, frustrating customers and residents.

Over the last decade, Hawaii has adopted various tax incentives to encourage the development of high-technology businesses in the State. The focus on high-technology is commendable and recognized as

a policy direction that will yield greater investment from within and outside of the State.

Accordingly, the purpose of this Act is to temporarily reinstate the technology infrastructure renovation tax credit and expand the definition of "technology-enabled infrastructure" to include data servers.

SECTION 2. Section 235-110.51, Hawaii Revised Statutes, is amended by amending subsections (b), (c), (h) and (i) to read as follows:

"(b) The amount of the credit shall be four percent of the renovation costs incurred during the taxable year [~~for each commercial building located~~] in Hawaii.

(c) In the case of a partnership, S corporation, estate, trust, or [~~any developer of a commercial building~~] other entity taxed as a partnership for federal income tax purposes, the tax credit allowable is for renovation costs incurred by the entity for the taxable year. The cost upon which the tax credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined pursuant to section 235-110.7(a).

(h) The tax credit allowed under this section shall [~~not~~] be available for taxable years beginning after [~~December 31, 2010~~]:

- (1) December 31, 2000, but shall not be available for taxable years beginning after December 31, 2010; and
- (2) December 31, 2023, but shall not be available for taxable years beginning after December 31, 2026.

(i) As used in this section:

"Data server" means a computer system used to hold large amounts of electronic data and provide database management and access services to client computers on a computer network.

"Net income tax liability" means income tax liability reduced by all other credits allowed under this chapter.

"Renovation costs" means costs incurred after December 31, 2000, to: plan, design, install, construct, repair, replace, monitor, test ~~[and]~~ or purchase technology-enabled infrastructure machinery and equipment; or ~~[to]~~ provide a commercial building with technology-enabled infrastructure.

"Technology-enabled infrastructure" means:

(1) Either:

~~[(1)]~~ (A) High speed telecommunications systems that provide, in whole or in part, ~~[Internet]~~ internet access, direct satellite communications access, and videoconferencing facilities; or

(B) Data Servers;

(2) Physical security systems that identify and verify valid entry to secure spaces, detect invalid entry or entry attempts, and monitor activity in these spaces;

(3) Environmental systems to include heating, ventilation, air conditioning, fire detection and suppression, and other life safety systems; and

(4) Backup and emergency electric power systems.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act, upon its approval, shall apply to taxable years beginning after December 31, 2023.



**TESTIMONY BEFORE THE HOUSE COMMITTEE ON
HIGHER EDUCATION AND TECHNOLOGY**

HB1784

Relating to Taxation

Friday, February 9, 2024

2:00 PM

State Capitol, Conference Room 309

Ruthie Griffin
Director, Enterprise Architecture and Planning
Hawaiian Electric

Dear Chair Perruso, Vice Chair Kapela, and Members of the Committee,

My name is Ruthie Griffin and I am testifying on behalf of Hawaiian Electric **in support** of HB1784, Relating to Taxation. This bill temporarily reinstates the technology infrastructure renovation tax credit and expand the definition of “technology-enabled infrastructure” to include data servers.

Hawaiian Electric strives to provide resilient services to our community, which requires us to keep our technology infrastructure modernized and to implement effective systems to protect us from growing cybersecurity threats and from physical damage caused by weather-related events. Reinstating the tax credits makes these efforts more cost effective for Hawaiian Electric, thereby increasing our ability to provide more cost-effective services to our customers and the community.

Accordingly, Hawaiian Electric supports HB1784. Thank you for this opportunity to testify.