

MAR 20 2009  
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**EXECUTIVE CHAMBERS**  
HONOLULU

LINDA LINGLE  
GOVERNOR

Testimony of  
**Linda L. Smith**  
Senior Policy Advisor to the Governor

Before the  
**SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY**  
Friday, March 20, 2009, 1:15 p.m.  
Room 016, State Capitol

**HB1451 HD2 RELATING TO TAXATION**

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

The Administration supports HB1451 HD2, which includes various provisions originally introduced by the Administration to revamp the High Technology Business Investment Tax Credit. This measure caps aggregate credit claims to \$50 million per year, redefines "qualified research" to mean the same as IRC 41(d), eliminates multiples, increases recapture from 10% to 50%, requires 75% of business activity and workforce to be in Hawaii, and requires investments to remain with the business for five years. This measure also precludes the use of government funds to qualify for state tax credits, adds tax preparer penalties and accuracy-related penalties to conform to federal law, and extends Act 221 from 2010 to 2011.

The Administration recognizes the important role that high technology industries play in diversifying our economy, creating better paying jobs, and attracting talent to the State. The Administration also acknowledges the importance of Act 221 in attracting investments for high technology industries. However, it is also important to ensure that the tax credit is used effectively and efficiently to encourage investment in Hawaii's high technology businesses.

Hawaii's High Technology Business Investment Tax Credit has been documented as the most generous tax credit available in the United States for high technology business investments. With no limit on the amount claimable per business and no limit on the aggregate amount claimable per tax year, it is the only of its kind. According to our research, the next most generous technology business investment credit available in the United States may be Ohio's, which has in place an aggregate limit of \$30 million on claims per year and \$1.5 million on claims per business.

In December of 2008, as requested by the Legislature, the department issued a report on job creation and economic impact relating to Act 221. At that time, 177 companies had completed the N-317 form documenting their activities. As this committee recalls, the report identified 1,450 full-time workers, 154 part-time workers, 641 temporary workers, and 2,118 independent contractors for 2007.

Also at that time, we recognized this data did not include QHTBs that may have previously received tax credits, but may not have filed N-317 forms in 2007. In order to get a more complete picture of the employment data, the Department of Taxation then added these known QHTBs. This resulted in a total of 335 companies, of which 177 had already been reported in December, leaving a balance of 158 previously unreported companies. For these companies, we were able to determine through late N-317 and unemployment insurance tax filings the number of employees they have. This data showed us that these 158 companies employed 615 workers in 2007. This means for the entire universe of known QHTBs, total full-time employment for 2007 was 2,065 individuals. We have asked these 158 companies to also provide us with any data on temporary workers or independent contractors not captured by unemployment insurance data.

What is most interesting about the data is that there are 70 companies that never received any investments for which a tax credit was claimed, but created 758 jobs that are counted in the total. The bottom line is that for an investment of \$1.2 billion, and tax credit claims of \$747 million, QHTBs have created 2,065 full-time positions, 165 part-time positions, 644 temporary positions, and 2,146 independent contracts.

As a result, we believe the provisions in this bill, such as requiring more QHTB activities and workforce to be in Hawaii, are necessary in order to encourage job creation in innovative high technology companies. Additionally, eliminating multiples, increasing recapture amounts, and requiring investments to remain with businesses for longer periods will also ensure that investors are making long-term commitments to the success of these businesses, while also diversifying Hawaii's economy.

Finally, capping the tax credit will ensure our tax dollars are used efficiently to help Hawaii's high technology businesses grow. A cap is fiscally prudent for budget management purposes since it will aid the Council on Revenues and the Department of Budget and Finance in forecasting the expected revenue impact to our State's general fund.

In light of the current fiscal climate, it is important for the State to examine its expenditures and wisely manage its resources. It is estimated by the Department of Taxation that this measure would save \$36.3 million in FY10, \$66.6 million in FY11, \$43 million in FY12, \$32.1 million in FY13, \$22.8 million in FY14, and \$17.5 million in FY15.

For the above reasons, The Administration supports HB1451 HD2 and recommends that the measure be passed by this Committee.

**Table 1. Employment Data of 335 QHTBs (Include 137 QHTBs that Did Not File 2007 N-317 and 21 QHTBs that Filed 2007 N-317 After the Deadline).**

QUALIFIED ACTIVITIES	No. of QHTB	Total Investments		2007 Full-Time Employees*	2007 Part-Time Employees	2007 Temporary Workers	2007 Independent Contractors
		Received (2000-2007)	Total 2007 Payroll Expenses				
<b>COMPANIES THAT RECEIVED INVESTMENTS (2000 - 2007)</b>							
Biotechnology	29	105,401,546	16,600,705	197	21	7	157
Computer Software	89	176,742,061	46,399,266	590	56	50	233
Multiple Activities and Others	47	312,772,869	26,893,548	342	7	50	131
Non-Fossil Fuel Energy	18	94,511,713	3,290,231	35	12	0	152
Performing Art	62	445,229,994	9,415,096	53	15	501	1,254
Research Activities as defined in IRS Sec. 41(d)**	20	77,385,070	9,075,738	90	11	9	66
<b>SUBTOTAL</b>	<b>265</b>	<b>\$1,212,043,253</b>	<b>\$111,674,585</b>	<b>1,307</b>	<b>122</b>	<b>617</b>	<b>1,993</b>
<b>COMPANIES THAT DID <u>NOT</u> RECEIVED INVESTMENTS (2000 - 2007)</b>							
Biotechnology	4	0	829,198	16	0	0	18
Computer Software	26	0	15,444,697	249	10	7	5
Multiple Activities and Others	15	0	22,390,842	384	31	20	121
Non-Fossil Fuel Energy	7	0	1,339,849	25	0	0	0
Performing Art	11	0	454,764	2	0	0	0
Research Activities as defined in IRS Sec. 41(d)**	7	0	5,934,615	82	2	0	9
<b>SUBTOTAL</b>	<b>70</b>	<b>\$0</b>	<b>\$46,393,964</b>	<b>758</b>	<b>43</b>	<b>27</b>	<b>153</b>
<b>TOTAL</b>	<b>335</b>	<b>\$1,212,043,253</b>	<b>\$158,068,549</b>	<b>2,065</b>	<b>165</b>	<b>644</b>	<b>2,146</b>

Source: 2002 - 2007 Form N-317s, Department of Taxation; and Unemployment Insurance Tax Data, Department of Labor and Industrial Relations. Unemployment Insurance Tax ("UI") data includes individuals who were paid wages for services performed (*i.e.* : workers covered under CH 383, HRS).

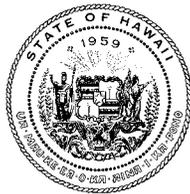
Of the 333 known QHTBs, 177 timely filed 2007 Form N-317s. Of the 156 (333 - 177) QHTBs, we found that 10 QHTBs filed 2007 Form N-317s after the deadline of June 30, 1008; 9 QHTBs timely filed 2007 Form N-317s timely using different Name/FEIN/SSN (*e.g.* : the company became incorporated, limited liability corporation, or filed under the parent company's name) (Data on the 9 QHTBs already included in the September and December 2008 reports). We further found that an additional 11 [un-known] QHTBs filed 2007 N-317s after June 30, 2009. Therefore, the total QHTBs count is 335 (333 known QHTBs - 9 filed using different name + 11 formerly unknown QHTBs).

Notes:

\*May contain part-time or temporary workers who were paid wages for services performed (UI data doesn't differentiate full-time, part-time, or temp workers).

\*\*Contain QHTBs that did not check the qualifying activity.

LINDA LINGLE  
GOVERNOR  
JAMES R. AIONA, JR.  
LT. GOVERNOR



KURT KAWAFUCHI  
DIRECTOR OF TAXATION  
SANDRA L. YAHIRO  
DEPUTY DIRECTOR

STATE OF HAWAII  
DEPARTMENT OF TAXATION  
P.O. BOX 259  
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**SENATE COMMITTEE ON ECONOMIC DEVELOPMENT & TECHNOLOGY  
TESTIMONY REGARDING HB 1451 HD 2  
RELATING TO TAXATION**

**TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)**  
**DATE: MARCH 20, 2009**  
**TIME: 1:15PM**  
**ROOM: 016**

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As amended in its current form, this measure extends the high technology business investment tax credit (Act 221) and the research credit to 2011. This measure also caps the amount of investment credits that can be generated per qualified high technology business and in the aggregate. The measure also precludes government funds from qualifying those funds for certain state tax credits; expands the use of the tax administration special fund; and modifies the definition of investment.

The Department of Taxation (Department) supports this measure and offers comments.

**I. SUPPORT FOR HIGH TECH BUSINESSES GENERALLY**

The Department and the Administration support the use of tax incentives to assist with the development of Hawaii's high tech industry. Act 221 has been effective in encouraging local and out-of-state investment in Hawaii's high tech businesses.

The importance of promoting innovation and research-based activities was recognized with the enactment of several ground-breaking tax credits and programs intended to promote growth in technology and other innovation-related sectors. Beginning with Act 178, Session Laws of Hawaii 1999, the State vigorously encouraged the development of high technology businesses in order to further diversify its economy, attract former residents to return home, and develop business sectors with better paying jobs.

Act 178 was followed by Act 221, Session Laws of Hawaii 2001, which provided for what is believed to be the only one hundred percent tax credit available for investments into businesses conducting high technology research-related activities. Act 221 provided financial backing for these companies by attracting capital from both local and out-of-state sources through government incentives. Recognizing the amount the State has invested in these companies through tax incentives

to date, coupled with the viability these companies demonstrate as promising profitable ventures, it is important that the State maintain its commitment to making Hawaii a high technology hub of the future for the sake of its overall economy, which is overly tourism- and real estate-based.

## **II. INELIGIBILITY FOR CREDITS PAID WITH GOVERNMENT MONEY**

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

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

## **III. MODIFYING THE DEFINITION OF "INVESTMENT"**

The Department supports the amendments to the term "investment" for purposes of the investment credit. This measure clarifies, among other things, that any money for which a 100% credit is provided, must actually be put "at risk" as that phrase is generally understood, rather than the technical definition in the Internal Revenue Code. The definition also ensures that investors receiving the 100% credit are doing so only for an equity stake, thus assuming the inherent risk that this credit seeks to minimize, which is what this law originally intended. The amendment eliminates the ability to claim a credit for exchanges of licensing rights, marketing rights, and other unrelated transactions.

Importantly, the amendments also ensure that investors receiving the 100% credit invest their money for true business purposes other than simply receiving a 100% credit. An investment must remain in the company and cannot be repaid in any form for 5 years. The time requirement currently is one year and there is less than clear language on how that repayment can be made. Also, this definition allows for distributions of earnings and profits of a company, which preserves the ability to encourage profitability and to distribute those earnings.

## **IV. ELIMINATING THE MUTIPLE**

The Department supports the amendments to conform to Internal Revenue Code § 704(b). The Department generally supports conforming to the Internal Revenue Code in all respects. The effect of this amendment is to ensure that an investor receives a 100% credit for their investment, subsidized by state funds, and no more. Under current law, it is possible for taxpayers to receive up to 200% of their investment in credits. At a time when the State's budget shortfall has grown month-after-month, the important and responsible budgeting decisions must be made. These amendments are such decisions that ensure investors maintain a very generous incentive—but not more than they actually put at risk.

**V. EXTENDING THE ACT 221 INCENTIVES.**

It is important to point out that the high technology business investment tax credit is the most expensive credit to the State. At the same time; however, it has also effectively generated substantial investments into the local economy. The Department does not support repealing or extending Act 221; only modifying it to improve budget planning. There is a need for tax incentives to assist fledgling high technology business. At the same time; however, it is important to provide incentives responsibly by instituting, among other things, transparency and caps.

**VI. CAP FRAMEWORK**

The Department supports instituting a cap on the investment credit. Instituting a cap preserves the State's commitment to diversifying Hawaii's economy with a booming high technology industry by maintaining the current structure of the one hundred percent investment tax credit; however capping the amount of credits that may be generated.

By implementing this cap, the State will be better able to insulate the general fund from unpredictable drains in revenue due to volatile credit claims. From a budgeting perspective, knowing the maximum amount of liability the State will be forced to fund allows for predictability, especially in such trying times.

**THE CAP CONCEPT WAS DISCUSSED WITH INDUSTRY**—The Department believes it is important that the general concept of a cap, including the per-qualified high technology business cap, was discussed previously with the input of the high tech industry that benefits from this credit. Though the industry may not agree with the policy of this measure, the industry has been given the opportunity to help shape how the cap procedures in HB 1157/SB 975 operate.

**VII. INCREASED RECAPTURE; ACTIVITIES; AND WORKFORCE REQUIREMENTS**

The Department supports the amendments to increase recapture, increase the activities requirement to qualify as a high technology business, and the workforce requirements in Hawaii. In short, the Department believes that these are rational and reasonable expectations of policymakers who subsidize investors' risk in these companies through a 100% credit. These amendments ensure that the companies are "real," invest back into Hawaii by providing jobs, and conduct sufficient innovation to continue shifting Hawaii's economy to one based upon technology.

**VIII. RESEARCH CREDIT AMENDMENTS**

The Department points out problematic amendments to the research credit. The certification of investments and subsidiary amendments are not relevant to the research credit. The Department is unsure whether these amendments were intended for the investment credit; however points them out.

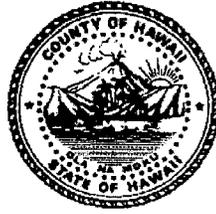
**IX. REVENUE IMPACT & METHODOLOGY**

If the measure's effective date is July 1, 2009, the revenue gains would be:

- \$36.3 million for FY10,
- \$66.6 million in FY11,
- \$43.0 million in FY12;
- \$32.1 million in FY13;
- \$22.8 million in FY14; and
- \$17.5 million in FY15.

Without the bill, it is assumed that investments claimed for the credit per year would be \$150 million. With the new law, investments claimed would be \$90 million less in 2009 and \$112.5 million less in 2010. Investments for 2011 would be \$37.5 million (cap at \$50 million x 75% utilization).

William P. Kenoi  
*Mayor*



Randall M. Kurohara  
*Director*

Diane L. Ley  
*Deputy Director*

## County of Hawaii

### DEPARTMENT OF RESEARCH AND DEVELOPMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
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March 20, 2009

The Honorable Carol Fukunaga, Chairperson  
And Members of the Senate Committee on Economic Development and  
Technology  
Hawaii State Capitol, Conference Room 016  
415 South Beretania Street  
Honolulu, HI 96813

RE: House Bill No. 1451, HD2 Relating to Taxation

Dear Chairpersons Fukunaga and Committee Members:

Thank you for this opportunity to submit testimony regarding House Bill 1451, HD2, relating to Taxation. The County of Hawaii Department of Research and Development supports the intent of House Bill 1451, HD2, which extends the availability of the high technology business investment, research activities, and technology infrastructure renovation tax credits.

The High Technology Tax Credits have attracted investment and stimulated the growth of technology resulting in the diversification of the economy and the expansion of Hawai'i's economic base by generating more than \$1.2 billion in investments from 2,645 investors into 333 high technology companies. These companies created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salaries and other compensation in 2007, while the cumulative cost of State tax credits through 2007 is estimated at \$657.5 million for investments made in qualified high technology businesses. Also, high technology businesses buy locally and spend 87 percent of their expenses in Hawai'i, high technology investments results in a significant impact in Hawai'i's communities though the multiplier effect.

The Department supports the extension of the Renovation Credit, Investment Credit and Research Credit to December 31, 2015 and the establishment of limitations that maybe claimed annually by taxpayers for investments.

Honorable Carol Fukunaga, Chairperson & Members  
Senate Committee on Economic Development and Technology  
March 20, 2009  
HB 1451, HD2, Relating to Taxation  
Page 2.

The proposed amendments in House Bill 1451, HD2 will provide a vehicle through which investors can support technology and diversify Hawai'i's economy beyond tourism and agriculture and create high-skill, high-paying jobs; hence, your Committee's favorable consideration of this bill would be appreciated.

Sincerely,

A handwritten signature in cursive script, appearing to read "Diane Ley".

Diane Ley  
Deputy Director



March 19, 2009

HB 1451 HD1 - **Relating to Taxation**

VIA Email: [edttestimony@capitol.hawaii.gov](mailto:edttestimony@capitol.hawaii.gov)

DATE: Friday, March 20

TIME: 1:15 p.m.

PLACE: Conference Room 016

Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair  
State Capitol  
Honolulu, HI 96813

Re: Oppose HB 1451 HD 2 Relating to Taxation

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

Thank you for this opportunity to provide testimony in opposition to HB 1451. The Maui Economic Development Board, Inc. (MEDB) supports the intent of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but does NOT support the amendments included in HB1451 HD2 passed by the House Finance Committee.

Since inception, the Maui Economic Development Board, Inc. was founded with the diversification of the economy as one of our primary goals. Without a doubt Act 221 in its current form has been a major factor in a large part of recent high technology industry growth in the county. Maui County's technology industry now has over \$120 million dollars in yearly revenues, \$40 million in payroll, and employs an estimated 1,000 Maui residents. These jobs pay an estimated median of \$70,000 per year, and are established, reputable businesses involved in genuine research and development.

Although MEDB supports the extension of the availability of the high technology business investment, research activities, and technology infrastructure renovation tax credits. MEDB strongly opposes the HB1451 HD2 amendments:

- Companies which receive federal funding prohibited from utilizing tax credits. It is interesting to note that dual use technology companies, a niche strength on Maui, are particularly satisfied with Act 221 in its current form. Act 221 allows these companies to grow by leveraging federal money received from contracts, along with Act 221 money. Combined,

these funds can be spent on growing the company and expansion rather than contract delivery.

- Changing the definition of a Qualified High Technology Business QHTB – imposing a 75% R&D requirement rather than 50%. The fact that Hawaii is reducing the amount of allowable investments, and the payouts to those investors, it is critical that these companies increase their revenue generating activities rather than R&D.
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
- Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital
- Heavy Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees
- Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings

MEDB supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a single QHTB per year
- An aggregate cap on credits over five years for all investments made in all QHTB's per year provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits
- Drop Down Subsidiaries: Further statutory restrictions on so-called "drop down subsidiaries, provided that what constitutes a "drop down subsidiary" is properly and clearly defined by statute
- A two-year extension of Act 221

Act 221 has aided MEDB significantly in getting the attention of potential phase in technology businesses located outside of Hawaii, and has allowed current employers to use saved capital to grow their business, and attract outside investors. Act 221 is one of the most effective incentives Hawaii provides to high technology businesses.

Thank you for the opportunity to testify.

Sincerely yours,



Jeanne Unemori Skog  
President & CEO



## HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

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*Deputy Executive Director*  
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The Twenty-Fifth Legislature, State of Hawaii  
Hawaii State Senate  
Committee on Economic Development and Technology

Testimony by  
Hawaii Government Employees Association  
March 20, 2009

H.B. 1451, H.D. 2 – RELATING  
TO TAXATION

The Hawaii Government Employees Association supports the purpose and intent of H.B. 1451, H.D. 2. We supported the original version of the bill, which imposed specific requirements to obtain the tax credits, but opposed H.B. 1451, H.D. 1 because it reduced accountability for those claiming the credits.

H.B. 1451, H.D. 2 includes several provisions that will ensure that the state receives tangible benefits for the tax credits during this period of economic turmoil. For example, for all taxable years beginning after December 31, 2009, there is a limit of \$50 million on the aggregate of credits claimed in a taxable year by all taxpayers who invest in qualified high technology businesses. It also changes the definition of a "qualified high technology business" (QHTB) by specifying that more than 75% of its business is comprised of research activities conducted in Hawaii, and the workforce conducting the research activities is comprised of employees or independent contractors physically performing services in Hawaii.

Another provision of the bill that was enhanced in the House Draft 2 version is the ability of the state to recapture tax credits if businesses no longer meet the criteria of a QHTB or if a business moves out of state. In this last instance, the recapture amount is 100%. Any extension of Act 221, SLH, should contain the benchmarks that clearly demonstrate the tax credits are actually benefiting the state, while penalizing those who attempt to misuse them.

The state Department of Taxation recently estimated that high technology tax credits cost the state an estimated \$747 million through 2007. Although qualifications for Act 221, SLH 2001, were tightened under Act 215, SLH 2004, the credits are still considered generous compared with those offered by other states. It is likely that at least a portion of the estimated gains in the technology sector would have occurred without the credits.

Hawaii State Senate  
Committee on Economic Development and Technology  
Testimony re: H.B. 1451, H.D. 2  
March 20, 2009  
Page 2

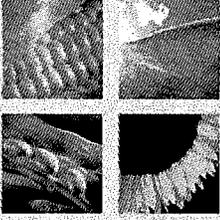
Given the serious financial problems confronting the state, tax credits of all types deserve close scrutiny. We are concerned that the costs associated with Act 221 may exceed the benefits and wasting scarce resources that could be directed elsewhere. With the aggregate cap, changes to the definition of a QHTB, and the recapture provisions, we support H.B. 1451, H.D. 2.

Thank you for the opportunity to testify in support of .B. 1451, H.D. 2.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nora A. Nomura", with a long horizontal flourish extending to the right.

Nora A. Nomura  
Deputy Executive Director



**HCIA 2008-2009  
Board of Directors**

**President**

Adolph Helm

**Vice President**

Fred Perlak

**Treasurer**

John Anderson

**Secretary**

Ailika Napier

**Directors At Large**

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Ray Foster

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Paul Koehler

Leslie Poland

Martha Smith

Mark Stoutemyer

Jill Suga

**Past President**

Sarah Szyan

**Executive Director**

Alicia Maluafiti

# Hawaii Crop Improvement Association

*Growing the Future of Worldwide Agriculture in Hawaii*

Testimony By: Alicia Maluafiti  
HB 1451hd2, Relating to Taxation,  
Sen EDT Committee - Friday, March 20, 2009  
Room 016, 1:15 pm

## Position: Oppose HD2, Support HB 1451, HD1

Chair Fukunaga, and Members of the Sen EDT Committee:

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

HCIA member companies do not participate in technology R&D and infrastructure renovations tax credits and exemptions. We strongly believe that such tax credits and exemptions are necessary to stimulate long-term economic growth in the science, innovation and technology industries.

We oppose the HD2 because as written it will effectively kill Act 221 by:

- Prohibiting companies that receive federal funding from utilizing tax credits
- Limiting the "Qualified Research" definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories
- Eliminating the Disproportionate Credit Allocations which will negatively impact the ability to attract outside capital
- Setting an aggregate cap of \$50 Million, which is too low, with no provision for rollover of unused credits, and no provision on allotment process

Instead, we ask for your support and consideration of the HD1 language, which provides a two-year extension of the Act 221/215 high technology tax credits and other positive amendments.

The Department of Taxation's comprehensive study of the Act 221 Investment Credit (September 2008) concluded that the benefits of Act 221 have far exceeded its costs. For example, the 333 - ACT 221 technology and media companies created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.

Act 221 has been an effective stimulus for the economy, which has resulted in far more investment and job creation in Hawaii than the costs of the credits to the State. In a time of economic recession and a slowdown in tourism, our economy needs Act 221 now more than ever to stimulate and diversify our economy.

Thank you for the opportunity to testify on this measure.

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Tel: (808) 224-3648  
director@hciaonline.com  
www.hciaonline.com

March 20, 2009

To: EDTTestimony@Capitol.hawaii.gov

*Testimony for Hearing before the  
Senate Committee on Economic Development and Technology  
Friday, March 20, 2009, 1:15 pm*

*State Capitol, Conference Room 016  
415 South Beretania Street  
Honolulu, Hawaii 96813*

*Re: Testimony in Strong Opposition to HB 1451, HD 2, and in  
Strong Support of Passage with Amendments  
Relating to Taxation*

Chair Fukunaga, Vice-Chair Baker and Committee Members:

Thank you for the opportunity to submit testimony in Strong Opposition to HB 1451 HD2 in its current form, but in Strong Support of passage of a revised SD1 version of this bill with amendments.

I am Jeff Au, Managing Director and General Counsel of PacifiCap, Hawaii's largest local venture capital firm.

The Department of Taxation's comprehensive study of the Act 221 Investment Credit published in September 2008 concluded that the benefits of Act 221 have far exceeded its costs:

- As of the end of 2007, more than \$1.2 billion had been invested in at least 333 Act 221 technology and media companies, which had already spent more than \$1.4 billion in Hawaii.
- These Act 221 companies created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
- These Act 221 high tech and media companies earned more than \$228 million in revenues in 2007 alone.
- All of these benefits, already realized long BEFORE most of these Act 221 companies have reached their full potential, have already far exceeded the costs of credits claimed from 1999 through 2006 of less than \$301 million (\$437 million including credits claimed from 1999 through 2007).

I respectfully request that you consider the amendments, as discussed below.

I respectfully request that you consider the following amendments to this bill.

**\$10 Million Cap Per QHTB Per Year:** To address budgetary concerns facing the legislature, I support the intent of HB 1451 HD2 to cap the amount of investment for which Act 221 Investment Credits can be claimed to \$10 million per year per Qualified High Technology Business (“QHTB”). According to Tax Department data, in 2007, only four QHTB’s raised more than \$10 million in investment, but these four companies accounted for more than \$166 million, or more than half of the \$307 million invested in QHTB’s in 2007. Therefore, instituting a cap of \$10 million per QHTB per year, could reduce Act 221’s budgetary costs for new investments by almost 50%.

**Aggregate Cap on Credits for New Investments:** I also support the intent of placing an aggregate cap on credits for new Act 221 investments to help address budgetary concerns, provided that this cap is set at a reasonable amount. However, I respectfully suggest that this bill be amended to add provisions to establish the procedures by which Act 221 Investment Credits will be allotted by the Department of Taxation. I suggest that these allotments should be made on a “first come first serve” basis to QHTB’s only after they have received the investments for which they seek credit allotments, provide that investors have a right to get their money back in the event that insufficient credits remain to be allotted to cover their investment amounts.

**Statutory Additions to Recapture Provisions:** I also support statutory additions to existing recapture provisions to provide that 100% of the Act 221 Investment Credits that would otherwise be allowed for a QHTB investment be disallowed for the year in which a recapture event occurs for a QHTB and every year thereafter during the five year QHTB compliance period.

**Drop Down Subsidiaries:** I also support further statutory restrictions on so-called “Drop Down Subsidiaries,” provided that what constitutes a “Drop Down Subsidiary” is properly and clearly defined by statute. I suggest that a “Drop Down Subsidiary” be defined to be a subsidiary that is more than 80% owned and controlled by a parent company that had at least \$100 million of assets or \$50 million of gross income in Hawaii in the preceding tax year. I further suggest that a company that is a Drop Down Subsidiary be statutorily required to obtain a comfort letter ruling from the Department of Taxation confirming its status as a legitimate QHTB before receiving investment for which Act 221 Investment Credits may be claimed.

I further note that the current version of HB 1451 HD2 includes numerous provisions that would essentially “kill Act 221 through the back door” and cause great harm to local Act 221 companies and their employees. These include:

- Amendments that could retroactively apply to past year investments and be unconstitutional;

- Vague and ambiguous prohibitions on uses of “Grants or Moneys” from federal, state or county governments, at a time when federal funding is most greatly needed and offers the greatest opportunities for our local high tech companies;
- Vague and ambiguous prohibitions on investments “repaid in any form”;
- Elimination of disproportionate credit allocations among co-investors in the same QHTB, which has been essential to attract capital to QHTB’s from sources both outside of and within Hawaii;
- Fee Increases to \$5,000 for Comfort Letters and \$2,000 for Certifications. I note that our firm and our investors already have to file more than 400 Certification forms each year, so this fee increase could cost us more than \$800,000 in filing fees per year and more than \$4,000,000 in filing fees over five years;
- Allowing DoTax to use Act 221 filing fees for other purposes, unrelated to Act 221;
- An aggregate cap of \$50 million, with no mechanism for allotting credits, which could leave this process up to administrative discretion with no controls;
- Increase of recapture provisions to 50%, which would make the Investment Credit unattractive to investors;
- Limiting QHTB’s to Federal IRC Section 41(d) research companies (while prohibiting the use of federal funding) and eliminating the other 7 categories of QHTB’s, which would have eliminated more than 75% of past QHTB investment dollars, 89% of 2007 QHTB full time employees and 96% of 2007 QHTB independent contractors; and
- Other drafting errors and technical problems.

Thank you very much for allowing me to submit this testimony today.

Respectfully submitted,

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

## **fukunaga4 - Michelle**

---

**From:** Bill Spencer [bspencer@hawaii.rr.com]  
**Sent:** Wednesday, March 18, 2009 11:30 AM  
**To:** EDTTestimony  
**Subject:** Testimony in Strong Opposition to HB 1451 HD2 - Friday 1:15p Hearing  
**Importance:** High



805 Kainui Drive  
Kailua, Hawaii 96734

HEARING DATE: March 20, 2009  
TIME: 1:15PM  
PLACE: Conference Room 016

DATE: March 18, 2009

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

FROM: Bill Spencer, President, Hawaii Venture Capital Association

RE: Testimony In Strong Opposition to HB1451 HD2

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

On behalf of the 1,500 members and friends of the Hawaii Venture Capital Association, let me express strong opposition to HB1451 HD2 in its present form. This bill proposes measures that would not only limit investment in Hawaii tech sector companies, but would undermine the confidence of the investor community which has come to depend on stability of the law for purposes of long range planning.

Industry has expressed a strong desire to address budget concerns by agreeing to cap the aggregate investment amount in order to save future tax credits that investors might claim. But we do so reluctantly, fully recognizing that the benefits to the State have not truly been accounted for in Tax Department analysis. For example, no one has calculated or projected the excise tax and payroll tax contribution qualified high tech businesses have made to the state over the last seven years.

We know those companies have spent \$1.4 billion in Hawaii since 2001, almost 4 times more than the \$300B cost of tax credits claimed. We know that Act 221/215 has been an effective economic stimulus that has created high paying jobs and helped grow Hawaii's tech sector to \$3B dollars in gross revenues, as much as Hawaii's hospitality industry.

Companies and their investors cannot effectively plan and grow when rules they operate by are being changed with little regard to the long term impact. Balancing the budget is important and industry is willing to do its part to help. We are not willing however to let wholesale changes in the law be enacted that will dismantle investor confidence and threaten the industry we have worked so hard to build.

We continue to be ready, willing and able to work with this committee to achieve budgetary objectives without destroying Hawaii's tech sector.

Thank you for your kind consideration of this testimony.

Sincerely,

/s/

Bill Spencer, President,  
Hawaii Venture Capital Association  
808-225-3579

**Robert J. Robinson**

133 Kailulu Way  
Kailua, Hawaii 96734-1678  
United States of America  
Tel & Fax: (808) 261-6481  
Rob.Robinson@hawaii.edu

**Testimony on HB1451 HD2 Hearing in the Senate**

March 20, 2009, 1:15PM  
Conference Room 016

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

FROM: Robert J. Robinson

**RE: Testimony In Strong Opposition to HB1451 HD2**

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

As the founder of the 100+ strong Hawaii Angels, as an active venture investor in Hawaii since 2002, and as a scholar of startup investing, I wish to express strong opposition to HB1451 HD2 in its present form. This bill as currently written is materially defective and would limit or eliminate most, if not all investment in Hawaii technology companies. It would also fatally affect the confidence of the investor community which has come to depend on stability of the law for purposes of long range planning.

The technology industry has expressed a willingness to address budget concerns by agreeing to cap the aggregate investment amount in order to save future tax credits that investors might claim. But we do so reluctantly, fully recognizing that the benefits to the State have not truly been accounted for in Tax Department analysis. For example, no one has calculated or projected the excise tax and payroll tax contribution qualified high tech businesses have made to the state over the last seven years.

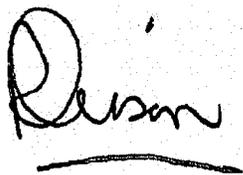
These companies have spent \$1.4 billion in Hawaii since 2001, almost 4 times more than the \$300B cost of tax credits claimed, per the DOT September 2008 report (the last reliable report issued by that agency). We know that Act 221/215 has been an effective economic stimulus that has created high paying jobs and helped grow Hawaii's tech sector to \$3B dollars in gross revenues, as much as Hawaii's hospitality industry.

Companies and their investors cannot effectively plan and grow when rules they operate by are being changed with little regard to the long term impact. Balancing the budget is important and industry is willing to do its part to help, but not at the cost of wholesale changes in the law that would dismantle investor confidence and threaten the industry we have worked so hard to build. Following on the body-blow of the latest SuperFerry debacle, the reputation and viability of Hawaii as a place to do business is in serious jeopardy.

We continue to be ready, willing and able to work with this committee to achieve budgetary objectives without destroying Hawaii's budding technology sector.

Thank you for your kind consideration of this testimony.

Sincerely,

A handwritten signature in black ink, appearing to read "Robinson", with a horizontal line underneath it.

(Robert J. Robinson, Ph.D.)  
March 19, 2009

## fukunaga4 - Michelle

---

**From:** O'Malley, Michael J. [momalley@goodsill.com]  
**Sent:** Wednesday, March 18, 2009 1:56 PM  
**To:** EDTTestimony  
**Subject:** HB1451 HD1 - Relating to Taxation

HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20  
TIME: 1:15pm  
PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in STRONG OPPOSITION to HB 1451 HD2. I am a tax attorney and partner in Goodsill Anderson Quinn & Stifel with over 27 of experience in advising businesses and companies in Hawaii, including many "qualified high technology businesses" ("QHTBs") and investors therein. (The views expressed herein are my own and do not necessarily reflect the views of my firm.) I STRONGLY SUPPORT THE INTENT of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but DO NOT SUPPORT the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding, which includes many QHTBs, will be prohibited from utilizing tax credits.
- "Qualified research" will be limited to the definition in IRC Section 41(d), eliminating the 7 other QHTB categories.
- General problems of retroactivity are presented.
- The proposed change to the definition of "investment" includes language which is overly vague and unclear.
- The elimination of disproportionate credit allocations among owner/investors will negatively impact the ability to attract outside capital.
- Burdensome increases of comfort letter (\$5,000) and annual certification (\$2,000) fees are imposed.
- Tax administration special fund is eliminated so that fees collected will no longer be restricted to administer the act, severely hampering DoTax's ability to process filings.
- Changed QHTB definition to eliminate 75% activities and revenues tests will severely hamper maturing QHTBs, as well as present general problems of retroactivity.
- Aggregate statewide cap of \$50 million is way too low, plus there are no provision for rollover of unused credits or an allotment process.

- Recapture increase provisions needs clarification.

I strong support the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a *single QHTB per year* .
- An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a “first come first serve” after investment is secured allotment process administered through DoTax and rollover language for unused credits.
- Drop-down subsidiaries: Further statutory restrictions on so-called “drop down subsidiaries, provided that what constitutes a “drop down subsidiary” is properly and clearly defined by statute.
- A two-year extension of Act 221.

Act 221 companies have been strong and vital contributors to Hawaii's economy, in that since enactment of Act 221 they have:

- Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.
- Spent more than \$1.4 billion in Hawaii.
- Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

Thank you for the opportunity to testify.

Aloha,

**Michael J. O'Malley**

**Goodsill Anderson Quinn & Stifel**

A Limited Liability Law Partnership

1099 Alakea Street, Suite 1800

Honolulu, Hawaii 96813

Direct: (808) 547-5836

Cell: (808) 226-2040

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Email: [momalley@goodsill.com](mailto:momalley@goodsill.com)

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P.O. Box 3590  
Honolulu, HI 96811-3590  
Telephone (808) 544-0500

March 18, 2009

The Honorable Carol Fukunaga, Chair  
Committee on Economic Development and Technology  
State Senate

Re: In **Support** of Intent of HB 1451 Relating to Taxation but **Opposed to HD 2 amendments**

Dear Chair Fukunaga & Committee Members:

My name is Roy Amemiya, SVP & Director of Governmental Relations at Central Pacific Bank (CPB). CPB is a state chartered Hawaii institution with assets of more than \$5 billion, and is a wholly-owned subsidiary of Central Pacific Financial Corp (CPF).

Our bank is in support of the intent of HB 1451, but certain aspects of HD 2 will adversely impact the industry and we ask that you address those concerns prior to reporting out this measure.

Since inception of the tax credits, CPF and CPB have invested in nine (9) QHTB companies, either directly or through special purpose entities created to invest in single QHTB companies. We have also placed our monies in three (3) QHTB investment funds, each of which invests in multiple QHTB companies. Therefore, we have a direct stake in a broad range of company types from the film industry to medical research to aqua culture.

The high technology credits were instrumental in having us place such investments. We feel that extending the credits is vital to helping our island community become a world leader in cutting edge technology.

Accordingly, we ask that you review the concerns of the industry and amend this important piece of legislation to alleviate those concerns.

Thank you, Senator, for your ongoing and consistent leadership in this important area. We appreciate the opportunity to testify.

Aloha,

Roy K. Amemiya, Jr.

HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20

TIME: 1:15pm

PLACE: Conference Room 016 TO

Senate Committee on Economic Development and Technology

Senator Carol Fukunaga, Chair

Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in **STRONG OPPOSITION** to HB 1451 HD2.

I **SUPPORT THE INTENT** of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but I **DO NOT SUPPORT** the amendments included in HB1451 HD2 passed by the House Finance Committee. **Some of** the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

Companies which receive federal funding prohibited from utilizing tax credits

Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories

General Problems of Retroactivity

Change to Definition of "Investment" - includes language which is overly vague and unclear

Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital

Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees

Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings

Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity

Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process

Recapture Increases Section – needs clarification

I supports the concepts contained in HB1451 HD1 such as:

A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*

An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits

Drop Down Subsidiaries: Further statutory restrictions on so-called

“drop down subsidiaries, provided that what constitutes a “drop down subsidiary” is properly and clearly defined by statute

A two-year extension of Act 221

Act 221 companies have:

Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.

Spent more than \$1.4 billion in Hawaii.

Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.

Earned more than \$228 million in revenues in 2007 alone.

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

Thank you for the opportunity to testify.

Mike Curtis  
Hawaii Entrepreneur and Investor  
1829 Bertram Street  
Honolulu, Hawaii 986816  
808-292-6862  
mcurtis@hawaii.rr.com



Cardax Pharmaceuticals, Inc.

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telephone 808.457.1400 : fax 808.237.5901

www.cardaxpharma.com

HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20

TIME: 1:15pm

PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology

Senator Carol Fukunaga, Chair

Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in STRONG OPPOSITION to HB 1451 HD2. I am an employee of Cardax Pharmaceuticals, Inc. and I SUPPORT THE INTENT of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but DO NOT SUPPORT the amendments included in HB1451 HD2 passed by the House Finance Committee.

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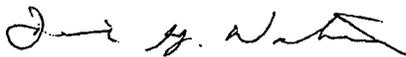
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Act 221 companies have:

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

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

Thank you for the opportunity to testify.



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



Cardax Pharmaceuticals, Inc.

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

telephone 808.457.1400 fax 808.237.5901

www.cardaxpharma.com

HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20

TIME: 1:15pm

PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology

Senator Carol Fukunaga, Chair

Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in STRONG OPPOSITION to HB 1451 HD2. I am Chairman of Cardax Pharmaceuticals, Inc. and I SUPPORT THE INTENT of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but DO NOT SUPPORT the amendments included in HB1451 HD2 passed by the House Finance Committee.

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

Thank you for the opportunity to testify.



Nicholas Mitsakos  
Chairman  
Cardax Pharmaceuticals, Inc.



Cardax Pharmaceuticals, Inc.

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

telephone 808.457.1400 fax 808.237.5901

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HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20

TIME: 1:15pm

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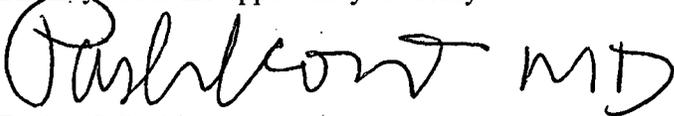
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Thank you for the opportunity to testify.



Fredric J. Pashkow  
Executive Vice President & Chief Medical Officer  
Cardax Pharmaceuticals, Inc.



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telephone 808.457.1400 fax 808.237.5901  
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HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20

TIME: 1:15pm

PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology

Senator Carol Fukunaga, Chair

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- A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*
- An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits
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Thank you for the opportunity to testify.



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



Cardax Pharmaceuticals, Inc.

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

telephone 808.457.1400 fax 808.237.5901

www.cardaxpharma.com

HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20

TIME: 1:15pm

PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology

Senator Carol Fukunaga, Chair

Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

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- Companies which receive federal funding prohibited from utilizing tax credits
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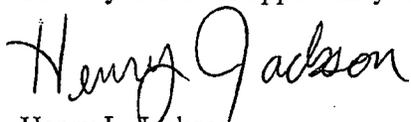
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Henry L. Jackson  
Associate Director, Discovery Chemistry  
Cardax Pharmaceuticals, Inc.



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Associate Director, Biology  
Cardax Pharmaceuticals, Inc.



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



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Thank you for the opportunity to testify.



Ricky H. Takushi  
Operations Associate  
Cardax Pharmaceuticals, Inc.



CERTIFIED PUBLIC ACCOUNTANTS

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Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

**Subject: House Bill No. 1451**  
**Hearing: March 20, 2009, 1:15 p.m.**

My name is Tom Yamachika, and I am a Tax Principal with Accuity LLP, a Hawaii tax and accounting firm that has provided services to many companies receiving Act 221 funding and investors making investments in such companies. I offer comments on the measure and strongly urge that amendments be made to it to address concerns that I outline below.

**Section 1: Ineligibility:** As written, this section is overly broad. It now seems to say that any company doing any business with the government may not claim any credit under the Income Tax Law, including the capital goods excise tax credit, technology infrastructure renovation credit, and alternative energy credit, because such a company will have received monies from a governmental agency and those monies may have been used to pay some of the costs that otherwise would be creditable.

**Section 2: Definition of Investment as regulated security:** I think it is a good idea to limit the term "investment" to equity interests, but further restricting it to "regulated securities" will be counterproductive. In our experience, all of the QHTB credit deals have been limited to "accredited investors" so that the stock, partnership interests, or (most commonly) LLC units invested in are exempt from registration requirements under Federal and state securities regulation law. A restriction to regulated security would disqualify all investments in all deals made thus far.

**Section 2: Definition of Investment as prohibiting repayment:** The one exception to the prohibition on repayment in any form for five years is a dividend out of earnings and profits. This concept is understood in corporate taxation, but most QHTB's are LLC's treated for tax purposes as partnerships, and there is no ready analog to this concept in partnership taxation. Furthermore, the prohibition on repayment would seem

to include debt so it would prohibit repayment of bridge loans or advances of start-up costs, which are very common and often necessary in early stage companies.

**Section 3: Prohibition of credit reallocations:** The present system encourages qualified businesses to find investors not subject to Hawaii tax in order to provide the matching funds to offer local investors enhanced credit deals, which are generally limited to so-called “2:1” deals. As a result, many QHTB’s have received significant funding from sources outside Hawaii. Perceived abuses could be eliminated by limiting the credit ratio to 2:1, as by changing the third paragraph of HRS §235-110.9(h) to: “No tax credit may be claimed for transactions with investment tax credit allocation ratios greater than 2.0.”

**Section 4: Comfort letter and certification fees:** Under present law, DOTAX has taken the position that certification is required at every step of a multi-tiered investment. It is not uncommon for such structures to exist. For example, A is an individual who pools his investment with family members B and C, forming D Partnership. D Partnership invests in E LLC, a diversified investment fund treated as a partnership for tax purposes. E LLC in turn invests in F, a special purpose entity that then invests in G, a QHTB. Certification is required for (1) the investment of F into G; (2) the investment of E into F; (3) the investment of D into E; and (4) the investment of A into D. On these facts A’s investment would be burdened with \$8,000 in certification fees. The current certification fee structure allows an entity to pay a \$1,000 fee and thereby obtain certification for all of its investors simultaneously; the bill as now worded would not permit this. Such a burden on the investments would leave much less available to invest, and would eliminate the possibility of small creditable investments. I would urge the Committee to leave the current certification fee structure intact.

**Section 7: Aggregate cap of \$50 million:** Others will debate whether this is a wise policy choice. I would just like to point out that administration of an aggregate cap will be complicated. Giving DOTAX or any other agency the power to allocate the aggregate limitation among investors asking for it could attract allegations of favoritism, even if an outwardly neutral methodology such as “first one in the door” is specified.

**Section 7: Enhanced Recapture:** The State should be sensitive to two constitutional issues that this provision may raise. First, as written the enhanced recapture would apply to investments made up to six years in the past (for example, a 2003 investor would receive credits in 2007, but 2007 credits would be affected by a 2009 recapture event because of the two year lookback) which would at minimum give investors the impression that the State is changing the rules in midstream, and may raise concerns about whether the retroactivity is constitutionally permitted. Second, as written the recapture is doubled if the QHTB moves to another State; this provision should be analyzed to see if it offends the Commerce Clause as it appears to be discrimination against doing business in another State. Furthermore, there is uncertainty as to

QHTB's that are required by regulatory concerns to conduct research out of state. For example, suppose a QHTB producing a vaccine is required to conduct clinical trials in several geographic areas. Under a strict interpretation of the law, such a company would fail the percentage test because of the independent contractors conducting the clinical trials, and 100% recapture would be triggered because early stage clinical trials were conducted in Hawaii and later stage clinical trials were out, thereby constituting "relocation" of the company's business activities.

**Section 7: Percentage Tests:** The percentage tests in the statute as now written are workable because a company can qualify by satisfying either the activity test or the gross income test. Early stage companies might not have any gross income, and companies that have developed a product are under pressure from investors to exploit it, resulting in less effort put into developing new products and more effort into marketing the ones that have been developed. Companies falling into both fact patterns described above, which are common in practice, would fail under the proposed new test.

**Section 7: Definition of Qualified Research Restricted to Internal Revenue Code section 41:** The bill proposes to restrict qualified research for purposes of the QHTB investment credit only to Internal Revenue Code section 41 research. Under current law, section 41 of the Internal Revenue Code is the most difficult category to satisfy and is the most difficult category for DOTAX to issue a favorable comfort ruling. Many of our clients received a QHTB ruling in other categories, such as software development, ocean science, or biotechnology, with DOTAX declining to issue a ruling on IRC section 41 because it was too intensive factually. These issues may run counter to the program's stated goals of encouraging investment.

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

## fukunaga4 - Michelle

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**From:** E. Alan Kennett [eak@gayandrobinson.com]  
**Sent:** Thursday, March 19, 2009 8:32 AM  
**To:** EDTTestimony  
**Subject:** Testimony in opposition to HB 1451 HD2

DATE: Friday, March 20  
TIME: 1:15pm  
PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in STRONG OPPOSITION to HB 1451 HD2. **Gay & Robinson, Inc.** SUPPORTS THE INTENT of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but DOES NOT SUPPORT the amendments included in HB1451 HD2 passed by the House Finance Committee.

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Gay & Robinson, Inc. is a sugar plantation and cattle ranch on Kauai with 187 employees that has been operating since 1889.

Thank you for the opportunity to testify.

E. Alan Kennett  
President & General Manager  
Gay & Robinson, Inc.  
P.O. Box 156  
Kaunakani, HI 96747  
Phone: (808) 335-3133 ext. 221  
Fax: (808) 335-6424

HAWAII STATE SENATE - 25<sup>TH</sup> LEGISLATURE  
REGULAR SESSION OF 2009

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY  
March 20, 2009  
1:15 PM, Conference Room 016

***HB 1451 HD2 - RELATING TO TAXATION***

Chair Sen. Carol Fukunaga, V. C. Sen. Roz H. Baker and Committee Members:

Good Afternoon. My name is Dante Carpenter, Director of Public Affairs for Carbon Diversion, Inc. (CDI). CDI strongly opposes HD 2, which while ostensibly proposing to extend Act 221/215, in fact, cumulatively and effectively kills it! The HD1 version produced by the House Committee on Economic Revitalization, Business and Military Affairs to extend Act 221/215 high technology tax credits, while imperfect, at least developed some thoughtful amendments!

We still believe the economic stimulus afforded by Act221/215 is needed now more than ever! Consider it a “hand up” versus “hand out!” What possible good does a limitation on the number of qualifying business serve by capping aggregate investment credits? Why limit the number of companies that might otherwise start-up by scrapping the incentive(s) to do so? Has Hawaii reached that enviable stage that we have attained self-sufficiency in economic development? Do we have too many jobs? Is there too much money already invested in Hawaii? Do we actually need economic stimulus? The HD1 recommendation for a review panel appears reasonable at this time to focus on the small number of activities counter-productive to the general principles and practical emphasis of any tax incentive, let alone with emphasis on High Technology.

Please let the original enabling legislation with its sunset in December 2010 run its course, at the very least. Do not let short-term thinking compromise long-term objectives. The State of Hawaii cannot afford to stop Act 221/215 just when it's starting to pay off. These Tax incentives provided both responsive and responsible legislation in 2001 and 2003, respectively. And, they were created for Hawaii to expand business opportunities in activities other than Tourism (at all time low) and Military (beyond Hawaii control) and local and state government largess (?).

Carbon Diversion Inc. is a local Hawaiian company which has developed a hybrid gasification carbonization process which can reduce various organic feedstock and tires (non-fossil fuel) into carbon products and synthetic gas. This results in lessened dependency on fossil fuels, landfills and can indirectly provide lower priced electrical energy to the grid.

CDI has not yet used its allowed credits under Act 221/215 and is on the “cusp” of success, and should be allowed to succeed or not on its own merits without risk of loss of investor confidence by the changes proposed in HD2!

Let the entrepreneurs do their thing, and everyone will benefit. Meanwhile, we strongly urge you to file bill HB1451, HD2.

Thank you very much



MAR 19 2009

March 19, 2009

HB1451 HD2 - Relating to Taxation

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PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology  
 Senator Carol Fukunaga, Chair  
 Senator Rosalyn H. Baker, Vice Chair

RE: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation -  
 Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in **STRONG OPPOSITION** to HB 1451 HD2. Oceanit **SUPPORTS THE INTENT**, with some modifications, of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but **DOES NOT SUPPORT** the amendments included in HB1451 HD2 passed by the House Finance Committee.

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Thank you for the opportunity to submit this testimony on this important matter.

Respectfully submitted,



John Kuriyama  
Oceanit  
General Manager and General Counsel  
954-4145  
jkuriyama@oceanit.com



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- Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees
- Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings
- Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity
- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process
- Recapture Increases Section – needs clarification

Ocean Engineering and Energy Systems, Inc., supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*
- An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a “first come first serve” after investment is secured allotment process administered through DoTax and rollover language for unused credits
- Drop Down Subsidiaries: Further statutory restrictions on so-called “drop down subsidiaries, provided that what constitutes a “drop down subsidiary” is properly and clearly defined by statute
- A two-year extension of Act 221

Act 221 companies have:

- Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.
- Spent more than \$1.4 billion in Hawaii.
- Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

Our small business company is in the renewable energy sector providing local opportunity to develop and commercialize Ocean Thermal Energy Conversion technologies for Hawaii and other locations. Since we are in the early start-up phase of establishing our corporate presence and marketing our technology/ability to build these projects that provide electricity, fresh water, seawater air conditioning and aquaculture, Act 221 is our life source to provide the funding to keep our company operating! Act 221, in its current format, makes investors excited about investing in our technology and it gives them a stronger incentive to make an investment here in Hawaii with our company instead of going somewhere else like Nevada, Texas or North Carolina to invest their dollars.

Sincerely,



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

808-954-6020  
[hjackson@ocees.com](mailto:hjackson@ocees.com)

**fukunaga4 - Michelle**

---

**From:** Oceantronics [fritz@oceantronics.net]  
**Sent:** Wednesday, March 18, 2009 12:02 PM  
**To:** EDTTestimony  
**Subject:** HB1451 HD1 - Relating to Taxation

HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20  
TIME: 1:15pm  
PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in STRONG OPPOSITION to HB 1451 HD2. Oceantronics, Inc. SUPPORTS THE INTENT of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but DOES NOT SUPPORT the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding prohibited from utilizing tax credits
- Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
- Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital
- Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees
- Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings
- Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity
- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process
- Recapture Increases Section – needs clarification

Oceantronics, Inc. supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*

- An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a “first come first serve” after investment is secured allotment process administered through DoTax and rollover language for unused credits
- Drop Down Subsidiaries: Further statutory restrictions on so-called “drop down subsidiaries, provided that what constitutes a “drop down subsidiary” is properly and clearly defined by statute
- A two-year extension of Act 221

Act 221 companies have:

- Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.
- Spent more than \$1.4 billion in Hawaii.
- Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

Thank you for the opportunity to testify.

Fritz M. Amsberg

Oceantronics, Inc.

Female Owned and Run

Small Disadvantaged Business

711 No. Nimitz Hwy.

Honolulu, HI 96817

Ph. 808-522-5600

Fax 808-522-5222

Cell 808-216-0256

Skype - oceantronics

web [www.oceantronics.net](http://www.oceantronics.net)

e-mail [fritz@oceantronics.net](mailto:fritz@oceantronics.net)

## **fukunaga4 - Michelle**

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**From:** Thomas Blankley [TBlankley@msn.com]  
**Sent:** Wednesday, March 18, 2009 3:25 PM  
**To:** EDTTestimony  
**Subject:** HB1451 HD1 - Relating to Taxation

HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20

TIME: 1:15pm

PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

As the head of a Hawaii tech company that was founded in 2003 with the funds generated via Act 221 investors, I am deeply concerned that the legislation being considered by your committee will effectively kill any additional chances for companies like mine to start, develop a product, and get to the marketing stage where they can expect to be profitable. As I read in the Wall Street Journal almost every day, tech companies around the nation, including Tech companies in Silicon Valley, are closing or selling themselves as a result of the inability to raise capital. If Hawaii is serious about developing a tech industry in this state, then now is not the time to diminish the opportunity because by keeping the programs in place they finally have a chance to attract tech companies from other locations and other states.

Therefore, I thank you for the opportunity to submit testimony in **STRONG OPPOSITION** to HB 1451 HD2. **ATCO SOFTWARE Inc.** SUPPORTS THE INTENT of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but **DOES NOT SUPPORT** the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding prohibited from utilizing tax credits
- Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
- Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital
- Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees
- Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings

- Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity
- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process
- Recapture Increases Section – needs clarification

**ATCO SOFTWARE Inc.** supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*
- An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits
- Drop Down Subsidiaries: Further statutory restrictions on so-called "drop down subsidiaries, provided that what constitutes a "drop down subsidiary" is properly and clearly defined by statute
- A two-year extension of Act 221

Act 221 companies have:

Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.

- Spent more than \$1.4 billion in Hawaii.
- Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

Today, as a result of Act 221, ATCO Software Inc. is developing a substantial position in its market and has sales that are now extending outside of Hawaii to the mainland. We are employing more sales personnel and as sales continue to grow we will be adding additional technical staff. I can predict on a spreadsheet when the company will be profitable and how that will impact our economic presence here in Hawaii. Our clients include Starwood Hotels, Hilton Grand Vacations Club, Shell Vacations Club, Wyndham Vacation Ownership, and a growing list of lesser known clients. Our clients can make any choice they want when it comes to products and they have chosen our company. This would not have happened without Act 221.

Thank you for the opportunity to testify.

**ATCO SOFTWARE Inc.**

Thomas S. Blankley, Jr.  
President

**fukunaga4 - Michelle**

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**From:** Todd Nakamura [tn\_eight@hotmail.com]  
**Sent:** Thursday, March 19, 2009 2:52 PM  
**To:** EDTTestimony  
**Subject:** HB1451 HD2 - Relating to Taxation

HB1451 HD2 - Relating to Taxation

DATE: Friday, March 20  
TIME: 1:15pm  
PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in STRONG OPPOSITION to HB 1451 HD2. **e-telligents, LLC** SUPPORTS THE INTENT of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but DOES NOT SUPPORT the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding prohibited from utilizing tax credits
- Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
- Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital
- Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees
- Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings
- Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity
- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process
- Recapture Increases Section – needs clarification **e-telligents, LLC** supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*
- An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits
- Drop Down Subsidiaries: Further statutory restrictions on so-called "drop down subsidiaries, provided that what constitutes a "drop down subsidiary" is properly and clearly defined by statute
- A two-year extension of Act 221

Act 221 companies have:

- Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.
- Spent more than \$1.4 billion in Hawaii.
- Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

**e-telligents, LLC is a QHTB software development company (locally owned and operated), specializing in creating electronic health care (EHR) applications and solutions. We currently have employed locally 2 full-time and 3 part-time employees, with another 3-4 full-time positions to hire within the next 1.5 years, provided no adverse changes occur (HB1451 HD2 amendments) and a two-year extension of Act 221 is enacted.**

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

Thank you for the opportunity to testify.

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

---

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## **fukunaga4 - Michelle**

---

**From:** Bradley T. Kinoshita [bkinoshita@dswihawaii.com]  
**Sent:** Wednesday, March 18, 2009 11:37 AM  
**To:** EDTTestimony  
**Subject:** HB1451 HD1 - Relating to Taxation

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in STRONG OPPOSITION to HB 1451 HD2. **Deep Seawater International, Inc.** SUPPORTS THE INTENT of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but DOES NOT SUPPORT the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding prohibited from utilizing tax credits
- Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
- Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital
- Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees
- Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings
- Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity
- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process
- Recapture Increases Section – needs clarification

**Deep Seawater International, Inc.** supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*
- An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits
- Drop Down Subsidiaries: Further statutory restrictions on so-called "drop down subsidiaries, provided that what constitutes a "drop down subsidiary" is properly and clearly defined by statute

- A two-year extension of Act 221

Act 221 companies have:

- Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.
- Spent more than \$1.4 billion in Hawaii.
- Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007. Deep Seawater International, Inc. manufactures and bottles deep sea water from 3000 feet at the NELHA facility adjacent to Keahole airport in Kailua-Kona.

Thank you for the opportunity to testify.

Bradley T. Kinoshita  
President & CEO  
Deep Seawater International, Inc.  
74-4460 Queen Kaahumanu Highway, #122  
Kailua-Kona, HI 96740

**March 19, 2009**

**Subject:** HB1451 HD1 - Relating to Taxation

**TO:** Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

**Date/Time:** March 20, 2009/1:15pm

**PLACE:** Conference Room 016

**Re:** Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in **STRONG OPPOSITION** to HB 1451 HD2. **Ventura Technology Enterprises, Ltd.** SUPPORTS THE INTENT of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but **DOES NOT SUPPORT** the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding prohibited from utilizing tax credits
- Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
- Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital
- Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees
- Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings
- Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity
- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process
- Recapture Increases Section – needs clarification

**Ventura Technology** supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*
- An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits
- Drop Down Subsidiaries: Further statutory restrictions on so-called "drop down subsidiaries, provided that what constitutes a "drop down subsidiary" is properly and clearly defined by statute
- A two-year extension of Act 221

**Act 221 companies have:**

- Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.
- Spent more than \$1.4 billion in Hawaii.
- Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

**Ventura Technology is a high technology Hawaii corporation that has been successful in the pursuit of Hawaii-based business that has created more than 100 full time jobs on Oahu over the past 10 years. Act 221 tax incentives provided a significant incentive that has resulted in our ability to compete and win contracts that would have otherwise been acquired by Mainland-based large corporations with no Hawaii ties.**

**In these uncertain economic times, Hawaii's business climate should be afforded the ability to compete with outside-of-Hawaii corporations on an equal footing. Act 221 could and should be permanently available to Hawaii businesses who contribute significant tax inputs to the State of Hawaii.**

**Thank you for the opportunity to provide our insight to this important legislation.**



**Robert W. Ventura**  
**President**



700 Bishop Street, Suite 2000 Honolulu, HI 96813

HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20

TIME: 1:15pm

PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology

Senator Carol Fukunaga, Chair

Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in **STRONG OPPOSITION** to HB 1451 HD2. Archinoetics, LLC **SUPPORTS THE INTENT** of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but **DOES NOT SUPPORT** the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding prohibited from utilizing tax credits
- Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
- Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital
- Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees
- Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings
- Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity
- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process
- Recapture Increases Section – needs clarification

Archinoetics, LLC supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*

- An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits
- Drop Down Subsidiaries: Further statutory restrictions on so-called "drop down subsidiaries, provided that what constitutes a "drop down subsidiary" is properly and clearly defined by statute
- A two-year extension of Act 221

Act 221 companies have:

- Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.
- Spent more than \$1.4 billion in Hawaii.
- Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

Archinoetics, LLC is a woman owned world class technology company focused on the research and development of human-centered technologies. Our current research and development projects include functional brain imaging systems, human fatigue and performance monitoring devices, intelligent algorithms based on genetic programming and biometric sensors, remote sensing, and specialized computing platforms. We were created in 2004 with the help of Act 221 which allowed my husband and I to make the leap of investing in our own company and have brought in over \$10 Million to the State of Hawaii in the past 4 years. Today we employ 30 software and hardware engineers and scientists from varying backgrounds. A large number of our employees are kamaaina who left Hawaii and never dreamed that they would be able to work in their profession and raise their children back here at home. Act 221 has, and continues to be, vital to our company's success. Please help us survive through this economy and continue to expand the technology sector in Hawaii.

Thank you for the opportunity to testify.



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

## **fukunaga4 - Michelle**

---

**From:** MCruick@aol.com  
**Sent:** Thursday, March 19, 2009 12:55 PM  
**To:** EDTTestimony  
**Cc:** MCruick@aol.com  
**Subject:** HB1451 HD1 - Relating to Taxation

HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20  
TIME: 1:15pm  
PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in **STRONG OPPOSITION** to HB 1451 HD2. **Marine Minerals Technology Center Associates** SUPPORTS THE INTENT of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but **DOES NOT SUPPORT** the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding prohibited from utilizing tax credits
- Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
- Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital
- Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees
- Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings
- Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity
- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process
- Recapture Increases Section – needs clarification

MMTC Associates supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*
- An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits
- Drop Down Subsidiaries: Further statutory restrictions on so-called "drop down subsidiaries, provided that what constitutes a "drop down subsidiary" is properly and clearly defined by statute
- A two-year extension of Act 221

Act 221 companies have:

- Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.
- Spent more than \$1.4 billion in Hawaii.
- Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

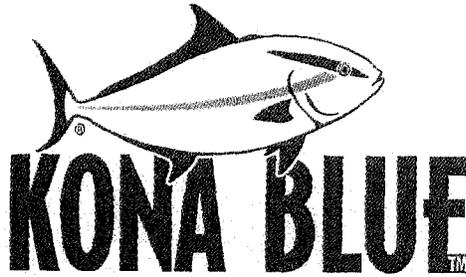
**MMTC Associates is a consulting company supporting development of marine minerals in the global environment.**

Thank you for the opportunity to testify.

Michael J. Cruickshank, Ph.D., Principal,  
Marine Minerals Technology Center Associates

---

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**Kona Blue Water Farms**

March 19, 2009

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in **STRONG OPPOSITION** to HB 1451 HD2. **Kona Blue Water Farms** **SUPPORTS THE INTENT** of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but **DOES NOT SUPPORT** the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding prohibited from utilizing tax credits
- Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
- Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital
- Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees
- Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings
- Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity
- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process
- Recapture Increases Section – needs clarification



## Kona Blue Water Farms

**Kona Blue Water Farms** supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*
- An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits
- Drop Down Subsidiaries: Further statutory restrictions on so-called "drop down subsidiaries, provided that what constitutes a "drop down subsidiary" is properly and clearly defined by statute
- A two-year extension of Act 221

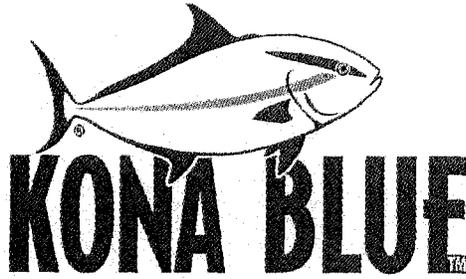
Act 221 companies have:

- Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.
- Spent more than \$1.4 billion in Hawaii.
- Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

Black Pearls, Inc (BPI) is the hatchery production and research subsidiary of Kona Blue Water Farms, LLC. Kona Blue / Black Pearls, Inc have pioneered the first integrated marine fish hatchery and open ocean fish farm in the U.S. BPI led the research breakthroughs in the U.S. to develop commercial-scale hatchery culture techniques for high-value fish species, such as *Seriola rivoliana*, for offshore fish farming. At the same time, we have blazed a trail for open ocean leasing legislation in the State of Hawaii, which is now being replicated by the Federal level. We have successfully taken these research breakthroughs and legislative accomplishments into the venture capital market, and built our commercial company. More than just obtaining capital, BPI/Kona Blue was able to attract experienced entrepreneurs who could bring expertise and perspective to the opportunity.

Kona Blue's mission is "to expand the environmentally sound production of the ocean's finest fish." The three elements of this mission are:

- "Pioneering and promoting sustainable aquaculture;
- "Producing and selling nutritious marine fish; and
- "Building Kona Blue as the world's leading brand of premium farmed fish.



## Kona Blue Water Farms

BPI / Kona Blue's aim is to become a global leader in the open ocean aquaculture industry, through application of innovative biology and engineering, through rapid 'first mover' adaptation of new technologies, and through establishing a dominant brand that has recognition and value in the major seafood markets of the U.S., Europe, and Asia (particularly Japan and China). Our plan is to first demonstrate the viability of our production system in the U.S. We believe that we have already attained this goal in Kona, and we are now looking to expand our current operations, and to other sites. Kona Blue revenues were around \$2 million in 2006, and just under \$4 million in 2007. In 2008 revenue goals were met near \$7 million.

BPI/Kona Blue currently employs 30 people including hatchery workers, an offshore farm crew, engineering/maintenance crew, sales and marketing support, management/administrative employees, and full-time researchers. The majority of these positions are filled with under grad or graduate degrees or professional training and certification.

BPI has received six (6) Phase II SBIR awards: three from NSF, and three from USDA.

The progress our company has demonstrated has been made possible by research funding.

Thank you for the opportunity to testify.



Neil Anthony Sims, President  
Kona Blue Water Farms

Ala Moana Pacific Center, Suite 1800  
1585 Kapiolani Boulevard  
Honolulu, Hawaii 96814-4500  
Telephone 808 942-8108  
Facsimile 808 948-9595

**DataHouse**



Statement of  
**CLYDE K. SHIIGI**  
**President / CEO**  
DataHouse Consulting, Inc.

Before the  
**Senate Committee on Economic Development and Technology**

Friday, March 20, 2009  
1:15 P.M.  
State Capitol, Conference Room 016

In consideration of  
**Senate Bill No. 1451 HD2**  
**RELATING TO TAXATION**

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

Thank you for the opportunity to submit testimony in **STRONG OPPOSITION** to HB 1451 HD2. DataHouse Consulting, Inc. **SUPPORTS THE INTENT** of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but **DOES NOT SUPPORT** the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding prohibited from utilizing tax credits
- Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
- Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital
- Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees
- Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings



Statement of Clyde K. Shiigi

Re: HB 1451 HD2

Hearing Date / Time: March 20, 2009 @ 1:15 p.m.

Page Two

- Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity
- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process
- Recapture Increases Section -- needs clarification

DataHouse Consulting, Inc. supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*
- An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits
- Drop Down Subsidiaries: Further statutory restrictions on so-called "drop down subsidiaries, provided that what constitutes a "drop down subsidiary" is properly and clearly defined by statute
- A two-year extension of Act 221

Act 221 companies have:

- Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.
- Spent more than \$1.4 billion in Hawaii.
- Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.



Statement of Clyde K. Shiigi

Re: HB 1451 HD2

Hearing Date / Time: March 20, 2009 @ 1:15 p.m.

Page Three

DataHouse Consulting, Inc. is engaged in the development (from analysis through implementation) of unique computer software and database applications and enhancements (material modification of third-party software) for sale or license. In 2002, we had 43 full-time employees. Today, we have grown to 62 full-time employees. Our growth can be attributed in part to the funding we have received from the R&D credits.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Clyde K. Shiigi". The signature is fluid and cursive, with a long horizontal stroke at the end.

Clyde K. Shiigi  
DataHouse Consulting, Inc.  
1585 Kapiolani Blvd. Suite 1800  
Honolulu, Hawaii 96814  
direct tel: (808) 948-9126  
mobile tel: (808) 780-8510  
Email: clyde\_shiigi@datahouse.com



2800 Woodlawn Drive Suite 155  
Honolulu Hawaii 96822

HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20

TIME: 1:15pm

PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in **Strong Opposition** to HB 1451 HD2 Relating to  
Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in STRONG  
OPPOSITION to HB 1451 HD2. **People Bridge** SUPPORTS THE INTENT of  
HB1451 HD1 passed by the House Committee on Economic Revitalization,  
Business and Military Affairs but DOES NOT SUPPORT the amendments  
included in HB1451 HD2 passed by the House Finance Committee.

I have **specific** problems with these HB1451 HD2 amendments:

- General Problems of Retroactivity - Don't change the deal for investors who have already invested. This will really hurt future investments.
- Removal of Revenue Test - Businesses naturally grow. If you want to keep them here, we need the Revenue Test.
- Recapture Increases Section - needs clarification

**People Bridge** supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*
- An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits
- Drop Down Subsidiaries: Further statutory restrictions on so-called "drop down subsidiaries, provided that what constitutes a "drop down subsidiary" is properly and clearly defined by statute
- A two-year extension of Act 221

**People Bridge develops leading edge internet software which helps build neighborhood communities. We have close to 100 local online community based sites focused on Hawaii. You can see our work at <http://ourtown808.com> and <http://hawaiialumni.com>.**

Thank you for the opportunity to testify.

Dave Kozuki

CEO

People Bridge

# Cellular Bioengineering, Inc.

*Invent. Disrupt. Inspire.*

HB1451 HD2: Relating to Taxation

Date: March 20, 2009

Time: 1:15 p.m.

Place: Conference Room 016

To: Senate Committee on Economic Development and Technology

The Honorable Carol Fukunaga, Chair

The Honorable Rosalyn A. Baker, Vice Chair

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

Re: Testimony in strong opposition to HB1451 HD2 Relating to Taxation – Support with Amendments

Aloha Chair, Vice Chair and Members of the Committee:

Thank you for the opportunity to submit testimony in STRONG OPPOSITION to HB1451 HD2. CBI SUPPORTS THE INTENT of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but DOES NOT SUPPORT the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding prohibited from utilizing tax credits
- Limiting “Qualified Research” definition to Federal IRC Section 41(d) Research and eliminating the other seven QHTB categories
- General problems of retroactivity
- Definition of “investment” includes language which is overly vague and unclear
- Elimination of Disproportionate Tax Credit Allocations will negatively impact the ability to attract outside capital
- Burdensome increases of Comfort Letter (\$5,000) and Certification (\$2,000) fees
- Tax administration special fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax’s ability to process filings
- Changed QHTB definition – 75% activities test and removal of revenue test
- Aggregate cap of \$50 million is too low; no provision for rollover of unused credits; no provision on allotment process
- Recapture increases section needs clarification

CBI supports the concepts contained in HB1451 HD1 such as:

- A \$10 million cap on credits over five years for investments made in a single QHTB per year
- An aggregate cap on credits over five years for all investments made in all QHTBs per year provided that this aggregate cap is set at a reasonable amount, includes a “first come, first served” after investment is secured allotment process administered through DoTax and rollover language for unused credits
- Drop Down Subsidiaries: further statutory restrictions on so-called “drop down subsidiaries, provided that what constitutes a “drop down subsidiary” is properly and clearly defined by statute
- A two-year extension of Act 221

1946 Young Street, Suite 288 · Honolulu, Hawaii 96826

Ph: 808.949.2208 · Fax: 808.949.2209

[www.cellularbioengineering.com](http://www.cellularbioengineering.com)

Act 221 companies have:

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

These benefits have been realized before most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 to 2007.

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

Sincerely,

A handwritten signature in black ink, appearing to be 'M. Gray', written in a cursive style.

HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20

TIME: 1:15pm

PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

FROM: William K. Akiona II  
Projects Director  
OmniGreen Renewables LLC

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

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

Thank you for the opportunity to submit testimony in STRONG OPPOSITION to HB 1451 HD2. **OmniGreen Renewables LLC** SUPPORTS THE INTENT of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but DOES NOT SUPPORT the amendments included in HB1451 HD2 passed by the House Finance Committee. Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

Companies which receive federal funding prohibited from utilizing tax credits Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories General Problems of Retroactivity Change to Definition of "Investment" - includes language which is overly vague and unclear Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees Tax Administration Special Fund - Act 221 fees collected will no longer be restricted to administer the act which could hamper Do Tax's ability to process filings Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process Recapture Increases Section - needs clarification.

**OmniGreen Renewables LLC** supports the concepts contained in HB1451 HD1 such as:

A \$10 Million cap on credits over five years for investment made in a *single QHTB per year* An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through Do Tax and rollover language for unused credits Drop Down Subsidiaries: Further statutory restrictions on so-called "drop down subsidiaries, provided that what constitutes a "drop down subsidiary" is properly and clearly defined by statute A two-year extension of Act 221

Act 221 companies have:

Generated more than \$1.2 billion in investments in at least 333-Act 221 companies that have spent more than \$1.4 billion in Hawaii; and created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone; earning more than \$228 million in revenues in 2007 alone. These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

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

Thank you for the opportunity to testify.

Respectfully,

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

## fukunaga4 - Michelle

---

**From:** Tom Wilkolak [Tom.Wilkolak@honolulu.wac.com]  
**Sent:** Thursday, March 19, 2009 8:51 AM  
**To:** EDTTestimony  
**Subject:** HB1451 HD1 - Relating to Taxation

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in STRONG OPPOSITION to HB 1451 HD2. **Honolulu Seawater Air Conditioning, LLC** SUPPORTS THE INTENT of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but DOES NOT SUPPORT the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding prohibited from utilizing tax credits
- Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
- Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital
- Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees
- Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings
- Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity
- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process
- Recapture Increases Section – needs clarification

**Honolulu Seawater Air Condition LLC.** supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*
- An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits
- Drop Down Subsidiaries: Further statutory restrictions on so-called "drop down subsidiaries, provided that what constitutes a "drop down subsidiary" is properly and clearly defined by statute

- A two-year extension of Act 221

Act 221 companies have:

- Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.
- Spent more than \$1.4 billion in Hawaii.
- Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

Thank you for the opportunity to testify.

**Tom Wilkolak**  
**Chief Operating Officer**  
**Honolulu Seawater Air Conditioning, LLC**  
**Cell: 612 845-6427**  
**Toll Free: 877 228-5330**

# INNOVASC

HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20

TIME: 1:15pm

PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology

Senator Carol Fukunaga, Chair

Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in **STRONG OPPOSITION** to HB 1451 HD2. **Innovasc SUPPORTS THE INTENT** of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but **DOES NOT SUPPORT** the amendments included in **HB1451 HD2** passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding prohibited from utilizing tax credits
- Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
- Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital
- Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees
- Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings
- Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity
- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process
- Recapture Increases Section – needs clarification

# INNOVASC

Innovasc supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*
- An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits
- Drop Down Subsidiaries: Further statutory restrictions on so-called "drop down subsidiaries, provided that what constitutes a "drop down subsidiary" is properly and clearly defined by statute
- A two-year extension of Act 221

Act 221 companies have:

- Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.
- Spent more than \$1.4 billion in Hawaii.
- Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

**Innovasc is a biomedical research and development company which is developing alternative medical products to vascular stents. Innovasc has created jobs in Hawaii and is only in existence due to the availability of Act 221 investment money.**

Thank you for the opportunity to testify.



Victoria Schneider MD  
Innovasc

## fukunaga4 - Michelle

---

**From:** diver [diver@decisionresearch.com]  
**Sent:** Thursday, March 19, 2009 1:30 PM  
**To:** EDTTestimony  
**Subject:** STRONG OPPOSITION to HB 1451 HD2

HB1451 HD1 - Relating to Taxation

Re: Decision Research Corporation opposes further limitations on Act 221.

DATE: Friday, March 20  
TIME: 1:15pm  
PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in STRONG OPPOSITION to HB 1451 HD2. **{{COMPANY NAME}}** SUPPORTS THE INTENT of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but DOES NOT SUPPORT the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments, as described by HISCITECH, which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding prohibited from utilizing tax credits
- Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
- Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital
- Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees
- Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings
- Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity

- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process
- Recapture Increases Section – needs clarification

\*\*\* Hawaii has an opportunity to attract high technology funding from California. This would be facilitated by the present law, Act 221. Hawaii needs the outside investment and this is starting to work.

Walt Simmons  
President,  
Decision Research Corporation

**fukunaga4 - Michelle**

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**From:** Robert Howe [howe@geomatrix-investment.com]  
**Sent:** Thursday, March 19, 2009 4:43 AM  
**To:** EDTTestimony  
**Subject:** strong opposition to HB 1451 HD2, Friday, March 20, 2009, 1:15pm  
**Attachments:** image001.gif

Robert Howe

2010 Haiki Place

Honolulu, HI 96822

19-Mar-2009

HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20

TIME: 1:15pm

PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in STRONG OPPOSITION to HB 1451 HD2. **Robert Howe** SUPPORTS THE INTENT of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but DOES NOT SUPPORT the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding prohibited from utilizing tax credits
- Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
- Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital
- Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees
- Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings
- Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity

- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process
- Recapture Increases Section – needs clarification

Robert Howe supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*
- An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits
- Drop Down Subsidiaries: Further statutory restrictions on so-called "drop down subsidiaries, provided that what constitutes a "drop down subsidiary" is properly and clearly defined by statute
- A two-year extension of Act 221

Act 221 companies have:

- Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.
- Spent more than \$1.4 billion in Hawaii.
- Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

**Robert C. Howe is Director of the AKAMAI Initiative, a public-private effort to stimulate the growth of asset management in Hawaii.**

Thank you for the opportunity to testify.



Robert C. Howe  
Director  
AKAMAI Initiative

**Robert C. Howe, CFA**  
AKAMAI Pan-Asia Fund  
Geomatrix (HK) Ltd  
18/F Kinwick Centre  
32 Hollywood Road,  
Central, Hong Kong, S.A.R.  
Tel : +852-2592-7835  
Fax : +852-2816-6110  
[Howe@geomatrix-investment.com](mailto:Howe@geomatrix-investment.com)

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\*\*\*\*\*

## fukunaga4 - Michelle

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**From:** Jeff Reiss [jreiss@peletex.com]  
**Sent:** Wednesday, March 18, 2009 2:30 PM  
**To:** EDTTestimony  
**Subject:** HB1451 HD1 - Relating to Taxation

HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20  
TIME: 1:15pm  
PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in **STRONG OPPOSITION** to HB 1451 HD2. Peletex, Inc. **SUPPORTS THE INTENT** of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but **DOES NOT SUPPORT** the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding prohibited from utilizing tax credits
- Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
- Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital
- Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees
- Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings
- Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity
- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process
- Recapture Increases Section – needs clarification

Peletex, Inc. supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*
- An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits
- Drop Down Subsidiaries: Further statutory restrictions on so-called "drop down subsidiaries, provided that what constitutes a "drop down subsidiary" is properly and clearly defined by statute

- A two-year extension of Act 221

Act 221 companies have:

- Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.
- Spent more than \$1.4 billion in Hawaii.
- Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

Peletex, Inc. is a Maui-based R&D (QHTB) company with two issued US patents and additional patents pending for the first fundamental breakthrough in air filtration in more than 60 years. Peletex technology will be adopted worldwide for industrial scrubbers to capture airborne pollution including mercury and carbon dioxide. Additionally, carbon dioxide will be converted into calcium carbonate and other materials to be used as feed stock for industry and construction.

Thank you for the opportunity to testify.

Sincerely,

Jeff Reiss, CEO  
Peletex, Inc.  
P.O. Box 5070  
Kahului, HI 96733  
808-249-0903 Ex. 2  
808-870-4063 Cell  
[jreiss@peletex.com](mailto:jreiss@peletex.com)  
[www.peletex.com](http://www.peletex.com)

**fukunaga4 - Michelle**

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**From:** PAT BUSTAMANTE [PBUSTAMANTE@pacificlight.net]  
**Sent:** Wednesday, March 18, 2009 4:52 PM  
**To:** EDTTestimony  
**Cc:** Patrick Bustamante  
**Subject:** HB1451 HD1 - Relating to Taxation

**Importance:** High

HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20  
TIME: 1:15pm  
PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in STRONG OPPOSITION to HB 1451 HD2. **Pacific LightNet SUPPORTS THE INTENT of HB1451 HD1** passed by the House Committee on Economic Revitalization, Business and Military Affairs but DOES NOT SUPPORT the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

Companies which receive federal funding prohibited from utilizing tax credits Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories General Problems of Retroactivity Change to Definition of "Investment" - includes language which is overly vague and unclear Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process Recapture Increases Section – needs clarification

Pacific LightNet supports the concepts contained in HB1451 HD1 such as:

A \$10 Million cap on credits over five years for investment made in a single QHTB per year An aggregate cap on credits over five years for all investments made in all QHTB's per year provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits Drop Down Subsidiaries: Further statutory restrictions on so-called "drop down subsidiaries, provided that what constitutes a "drop down subsidiary" is properly and clearly defined by statute A two-year extension of Act 221

Act 221 companies have:

Generated more than \$1.2 billion in investments in at least 333 Act 221 companies. Spent more than \$1.4 billion in Hawaii. Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone. Earned more than \$228 million in revenues in 2007 alone. These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

Pacific LightNet Communications is Hawaii's only facilities based, locally owned and operated competitive Telecommunications carrier, offering a full range of integrated, Next Generation Network (NGN) telecommunications products and services including local dial tone, high speed internet, long distance, collocation and enhanced data services.

At the center of its products and services is the Hawaii Inter-island Fiber Network (HIFN). The HIFN is a 10,000 mile submarine and terrestrial fiber optic network connecting the State's six major islands. It is the first and only one of its kind. The network connects Hawaii's businesses, technology centers, universities, hospitals and satellite teleports to each other and to the world. It is fully interconnected with all other telecommunications companies in the state to provide cost-saving solutions. To keep-up with demand and technology, the entire network underwent an upgrade to increase its capacity three years ago.

Thank you for the opportunity to testify.

Patrick Bustamante  
President  
Pacific LightNet Communications  
808-791-1000  
[pbustamante@pacifilight.net](mailto:pbustamante@pacifilight.net)  
[www.pacifilight.net](http://www.pacifilight.net) <<http://www.pacifilight.net/>>  
Please consider the environment before printing this e-mail

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NOTICE OF CONFIDENTIALITY  
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HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20

TIME: 1:15pm

PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology

Senator Carol Fukunaga, Chair

Senator Rosalyn H. Baker, Vice Chair

**Testimony in Strong Opposition to HB 1451 HD2 Relating to  
Taxation - Support with Amendments**

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in STRONG OPPOSITION to HB 1451 HD2. Pacific Biodiesel SUPPORTS THE INTENT of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but DOES NOT SUPPORT the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding prohibited from utilizing tax credits
- Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
- Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital
- Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees

- Tax Administration Special Fund - Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings
- Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity
- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process
- Recapture Increases Section - needs clarification

Pacific Biodiesel supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a single QHTB per year
- An aggregate cap on credits over five years for all investments made in all QHTB's per year provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits
- Drop Down Subsidiaries: Further statutory restrictions on so-called "drop down subsidiaries, provided that what constitutes a "drop down subsidiary" is properly and clearly defined by statute
- A two-year extension of Act 221

Act 221 companies have:

- Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.
- Spent more than \$1.4 billion in Hawaii.
- Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

Thank you for the opportunity to testify.

Robert King, President

**fukunaga4 - Michelle**

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**From:** Doug Toomey [toomey@mkir.com]  
**Sent:** Wednesday, March 18, 2009 3:37 PM  
**To:** EDTTestimony  
**Subject:** HB1451 HD2 opposition

HB1451 HD2 Relating to Taxation

HEARING: Senate Committee on Economic Development and Technology(EDT)

**Friday, March 20**

**1:15pm**

**Conference Room 016**

HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20

TIME: 1:15pm

PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in STRONG OPPOSITION to HB 1451 HD2. **Mauna Kea Infrared, LLC** SUPPORTS THE INTENT of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but DOES NOT SUPPORT the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding prohibited from utilizing tax credits
- Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
- Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital
- Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees
- Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings
- Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity
- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process
- Recapture Increases Section – needs clarification

**Mauna Kea Infrared, LLC** supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*
- An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a “first come first serve” after investment is secured allotment process administered through DoTax and rollover language for unused credits
- Drop Down Subsidiaries: Further statutory restrictions on so-called “drop down subsidiaries, provided that what constitutes a “drop down subsidiary” is properly and clearly defined by statute
- A two-year extension of Act 221

Mauna Kea Infrared, LLC develops research equipment for the professional astronomy market primarily and is often Federally funded. HB 1451 HD2 would severely affect our business in a negative way. Times are difficult and projects slow in coming right now. Reducing the credit could easily kick businesses like ours over the edge. We would probably not still be open today were it not for this credit.

Thank you for the opportunity to testify.

Sincerely,

Douglas W. Toomey Owner and Manager  
Mauna Kea Infrared, LLC  
21 Pookela St.  
Hilo, HI 96720  
808-933-1814

## fukunaga4 - Michelle

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**From:** Kyle Hunker [kyle@pacificlightandpower.com]  
**Sent:** Wednesday, March 18, 2009 2:58 PM  
**To:** EDTTestimony  
**Subject:** Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20  
TIME: 1:15pm  
PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in STRONG OPPOSITION to HB 1451 HD2. Pacific Light and Power SUPPORTS THE INTENT of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but DOES NOT SUPPORT the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding prohibited from utilizing tax credits
- Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
- Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital
- Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees
- Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings
- Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity
- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process
- Recapture Increases Section – needs clarification

Pacific Light and Power supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*

- An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a “first come first serve” after investment is secured allotment process administered through DoTax and rollover language for unused credits
- Drop Down Subsidiaries: Further statutory restrictions on so-called “drop down subsidiaries, provided that what constitutes a “drop down subsidiary” is properly and clearly defined by statute
- A two-year extension of Act 221

Act 221 companies have:

- Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.
- Spent more than \$1.4 billion in Hawaii.
- Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

Pacific Light and Power develops utility scale renewable energy projects for Hawaii and Pacific Oceania.

Thank you for the opportunity to testify.

Kyle Hunker  
Vice President of Finance  
Pacific Light and Power

MAR 19 2009



DATE: Friday, March 20

TIME: 1:15pm

PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology  
 Senator Carol Fukunaga, Chair  
 Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in **STRONG OPPOSITION** to HB 1451 HD2. Production Partners Inc. **SUPPORTS THE INTENT** of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but **DOES NOT SUPPORT** the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

Companies which receive federal funding prohibited from utilizing tax credits  
 Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories  
 General Problems of Retroactivity  
 Change to Definition of "Investment" - includes language which is overly vague and unclear  
 Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital  
 Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees  
 Tax Administration Special Fund - Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings  
 Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity  
 Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process  
 Recapture Increases Section - needs clarification  
**Production Partners Inc.** supports the concepts contained in HB1451 HD1 such as:

A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*  
 An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits  
 Drop Down Subsidiaries: Further statutory restrictions on so-called "drop down subsidiaries, provided that what constitutes a "drop down subsidiary" is properly and clearly defined by statute  
 A two-year extension of Act 221

MAR 19 2009

Act 221 companies have:

Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.

Spent more than \$1.4 billion in Hawaii.

Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.

Earned more than \$228 million in revenues in 2007 alone.

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

Thank you for your time



LeRoy Jenkins  
President  
Production Partners Inc.

# MAKAI MOTION PICTURES

VIA EMAIL: March 18, 2009

Email/upload to: Carol Fukunaga, Chair; Committee Economic Development and Technology and others

From: Corey Tong, Producer/Chief Creative Exec, Makai Motion Pictures ctong@makaimotionpictures.com; coreytong@earthlink.net

Re: HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20

TIME: 1:15pm

PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Dear Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in STRONG OPPOSITION to HB 1451 HD2. MAKAI MOTION PICTURES SUPPORTS THE INTENT of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but DOES NOT SUPPORT the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding prohibited from utilizing tax credits
- Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
- Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital
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- Tax Administration Special Fund - Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings
- Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity
- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process
- Recapture Increases Section - needs clarification

Makai Motion Pictures (MMP) supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a single QHTB per year
- An aggregate cap on credits over five years for all investments made in all QHTB's per year provided that this aggregate cap is set at a reasonable amount, includes clear a "first come

# MAKAI MOTION PICTURES

first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits

- Drop Down Subsidiaries: Further statutory restrictions on so-called "drop down subsidiaries, provided that what constitutes a "drop down subsidiary" is properly and clearly defined by statute

- A two-year extension of Act 221

Act 221 companies have:

- Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.
- Spent more than \$1.4 billion in Hawaii.
- Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

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

Born and raised in Hilo – and then having lived away on the mainland U.S., as well as in France, Germany and Japan for over 20 years – I have always had dreams to return to the islands to work professionally and creatively, and to showcase the unique social, cultural and geographic beauty of the islands to the rest of the world. Hawaii's Act-221 investment credits – created with strong and sustainable vision for the development of new industries – provided me with the single most important opportunity to bring my professional international film knowledge and experiences back to the islands and to create projects in Hawaii that have and could continue to give the islands vast international exposure, not to mention jump-start much needed new industries and sources of international- and mainland-generated revenue. I helped to produce a film called THE LAND HAS EYES with some Hawaii-partners in 2004, and spending time professionally back in the islands – along with the opportunities to develop new projects that Act-221 provided – gave me the incentives and financial opportunities to consider moving back to Hawaii to launch our media company Makai Motion Pictures.

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

Makai Motion Pictures is utilizing international (Hong Kong, Japan, mainland U.S.) financing to support this film production leveraged with the vital contributions of Hawaii equity and 221 investment. Makai Motion Pictures also has several other projects in development, most created with Hawaii in mind as primary locations and character inspiration. We want to remain

# **MAKAI**

## **MOTION PICTURES**

a viable Hawaii production and development company. Our project financing, production and distribution phases depend greatly on the vision and financial opportunities that the state of Hawaii provides: long-term sustainability for companies like ours to remain in the islands.

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

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

Thank you for the opportunity to testify on these important bills. We respectfully ask that you hold these bills and continue providing Hawaii and new businesses with long-term unique economic opportunities to flourish and grow.

Sincerely,

Corey Tong  
President & Chief Creative Executive  
Makai Motion Pictures  
Honolulu, Hawaii  
+1 808 524 5738  
+1 415 626 5585  
ctong@makaimotionpictures.com

## **fukunaga4 - Michelle**

---

**From:** Johnson W. K. Choi, MBA, RFC. [jwkc8168@yahoo.com]  
**Sent:** Wednesday, March 18, 2009 3:40 PM  
**To:** EDTTestimony  
**Cc:** CoreyTong@aol.com; robyn@hiscitech.org; Anne Misawa; Jerome Koko; Myrna Young; Johnson Choi; Johnson Choi  
**Subject:** Testimony: HB1451 HD1 Related to Taxation from Makai Motion Pictures

To: EDTTestimony@Capitol.hawaii.gov  
CC: CoreyTong@aol.com, robyn@hiscitech.org,

March 18, 2009

To: Carol Fukunaga, Chair; Committee Economic Development and Technology and others  
From: Johnson Choi, Executive VP & CFO, Makai Motion Pictures

Re: HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20  
TIME: 1:15pm  
PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Dear Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in **STRONG OPPOSITION** to HB 1451 HD2. **MAKAI MOTION PICTURES SUPPORTS THE INTENT** of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but **DOES NOT SUPPORT** the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding prohibited from utilizing tax credits
- Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
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- Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity
- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process

- Recapture Increases Section – needs clarification

Makai Motion Pictures (MMP) supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a single QHTB per year
- An aggregate cap on credits over five years for all investments made in all QHTB's per year provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits
- Drop Down Subsidiaries: Further statutory restrictions on so-called "drop down subsidiaries, provided that what constitutes a "drop down subsidiary" is properly and clearly defined by statute
- A two-year extension of Act 221

Act 221 companies have:

- Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.
- Spent more than \$1.4 billion in Hawaii.
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- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

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

Born and raised in Hilo – and then having lived away on the mainland U.S., as well as in France, Germany and Japan for over 20 years – I have always had dreams to return to the islands to work professionally and creatively, and to showcase the unique social, cultural and geographic beauty of the islands to the rest of the world. Hawaii's Act-221 investment credits – created with strong and sustainable vision for the development of new industries – provided me with the single most important opportunity to bring my professional international film knowledge and experiences back to the islands and to create projects in Hawaii that have and could continue to give the islands vast international exposure, not to mention jump-start much needed new industries and sources of international- and mainland-generated revenue. I helped to produce a film called THE LAND HAS EYES with some Hawaii-partners in 2004, and spending time professionally back in the islands – along with the opportunities to develop new projects that Act-221 provided – gave me the incentives and financial opportunities to consider moving back to Hawaii to launch our media company Makai Motion Pictures.

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

MMP is utilizing international (Hong Kong, Japan, mainland U.S.) financing to support this film production leveraged with the vital contributions of Hawaii equity and 221 investment. Makai Motion Pictures also has several other projects in development, most created with Hawaii in mind as primary locations and character

inspiration. We want to remain a viable Hawaii production and development company. Our project financing, production and distribution phases depend greatly on the vision and financial opportunities that the state of Hawaii provides: long-term sustainability for companies like ours to remain in the islands.

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

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

Thank you for the opportunity to testify on these important bills. We respectfully ask that you hold these bills and continue providing Hawaii and new businesses with long-term unique economic opportunities to flourish and grow.

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

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

## fukunaga4 - Michelle

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**From:** Roy Tjioe [rtjioe@islandfilmgroup.com]  
**Sent:** Thursday, March 19, 2009 10:28 AM  
**To:** EDTTestimony  
**Subject:** Testimony in STRONG OPPOSITION to HB1451 HD1 - Relating to Taxation  
**Attachments:** image001.jpg

HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20

TIME: 1:15pm

PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in STRONG OPPOSITION to HB 1451 HD2. **Island Film Group SUPPORTS THE INTENT** of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but **DOES NOT SUPPORT** the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most **egregious** and **harmful** HB1451 HD2 amendments which render Act 221 **impotent** and **useless** as a tool to stimulate the economy by attracting investment capital and creating new industries include:

- Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories including performing arts (film and television projects)
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
- Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital
- Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees
- Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings
- Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity
- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process
- Recapture Increases Section – needs clarification

**Island Film Group** supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*
- An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits

- Drop Down Subsidiaries: Further statutory restrictions on so-called “drop down subsidiaries”, provided that what constitutes a “drop down subsidiary” is properly and clearly defined by statute
- A two-year extension of Act 221

Act 221 companies have:

- Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.
- Spent more than \$1.4 billion in Hawaii.
- Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.



**Roy J. Tjioe**  
Island Film Group  
PO Box 3261  
Honolulu, HI 96801-3261

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(888) 749-7955 Toll Free

[www.islandfilmgroup.com](http://www.islandfilmgroup.com)

**fukunaga4 - Michelle**

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**From:** Genie Joseph [lightwave7@hotmail.com]  
**Sent:** Thursday, March 19, 2009 12:51 PM  
**To:** EDTTestimony  
**Subject:** Testimony: Hawaii Movie Studios

## HAWAII MOVIE STUDIOS, LLC

HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20  
TIME: 1:15pm  
PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in STRONG OPPOSITION to HB 1451 HD2. Hawaii Movie Studios, LLC SUPPORTS THE INTENT of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but DOES NOT SUPPORT the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding prohibited from utilizing tax credits
- Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
- Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital
- Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees
- Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings
- Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity
- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process
- Recapture Increases Section – needs clarification.

Hawaii Movie Studios, LLC supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*
- An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits

- Drop Down Subsidiaries: Further statutory restrictions on so-called “drop down subsidiaries, provided that what constitutes a “drop down subsidiary” is properly and clearly defined by statute
- A two-year extension of Act 221

Act 221 companies have:

- Generated more than \$1.2 billion in investments in at least 333 Act 221 companies. And spent more than \$1.4 billion in Hawaii.
- Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

About Hawaii Movie Studios:

We are a small locally owned and operated movie and television production company who does co-productions with mainland partners. We have co-produced three TV series and three smaller budget feature films in the last couple of years. We pride ourselves on an over 80% local hire for crew, have hired many local actors, have given entry level opportunities to people diverse members of the community not usually offered employment in the movie industry. We have hired women in key position, military spouses, older individuals changing careers, and many of my students from the various places I teach such as Olelo, Chaminade University, and several students from SeaRider productions in Waianae. We have had the experience of training many wonderful students, only to see them have to move to the mainland in order to find employment in our industry. Hawaii Movie Studios, as well as other local companies have lost productions to other states offering incentives, and we need your help to insure this does not continue to happen. We have an apprentice program for some extremely talented teens, doing sophisticated animation, and if we lose our 221 funding, they will loose the opportunity they have worked so hard to achieve. Please remember that the movie business is good for all businesses. Movie and television production is an important part of a healthy economic present and future for many businesses and individuals in Hawaii.

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

2043 Makiki Street Honolulu, Hawaii 96822  
808-949-8255 [Genie@HawaiiMovieStudios.com](mailto:Genie@HawaiiMovieStudios.com)

**fukunaga4 - Michelle**

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**From:** Todd Robertson [todd@hypersperspective.com]  
**Sent:** Wednesday, March 18, 2009 2:38 PM  
**To:** EDTTestimony  
**Subject:** Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments



HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20  
TIME: 1:15pm  
PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in STRONG OPPOSITION to HB 1451 HD2. Hypersperspective Studios, Inc. SUPPORTS THE INTENT of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but DOES NOT SUPPORT the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding prohibited from utilizing tax credits
- Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
- Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital
- Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees
- Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings
- Changed QHTB Definition--75% Activities Test; Removal of Revenue Test:

General Problems of Retroactivity

- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process
- Recapture Increases Section – needs clarification

**{{COMPANY NAME}}** Hyperspective Studios supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*
- An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a “first come first serve” after investment is secured allotment process administered through DoTax and rollover language for unused credits
- Drop Down Subsidiaries: Further statutory restrictions on so-called “drop down subsidiaries, provided that what constitutes a “drop down subsidiary” is properly and clearly defined by statute
- A two-year extension of Act 221

Act 221 companies have:

- Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.
- Spent more than \$1.4 billion in Hawaii.
- Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

Hyperspective Studios produces media, specializing in 3D animation, video, Internet applications, interactive materials and games. The company currently has four employees, but intends to greatly expand its employee base this year in development of educational technologies and an animated children’s show with an educational focus. Hyperspective intends to be a strong part of a growing animation and interactive education industry and is focused on developing new jobs and a strong, sustainable business in the State of Hawaii. Our company will not have a chance at success without proper Act 221 incentives in place, and would therefore not have the ability to offer jobs to Hawaii graduates. Furthermore, the majority of our current client-base are companies that only exist due to the Act 221 incentives. Therefore, we very much rely on the important use of Act 221 incentives.

Thank you for the opportunity to testify.

**Todd Robertson,**

President/CEO

**Hyperspective Studios, Inc.**

875 Waimanu St. #217

Honolulu, HI 96813

ph: 808.741.1292

fax: 808.593.4477

todd@hyperspective.com





# Edutainment Resources, Inc.

美國教娛資源有限責任公司

HB1451 HD2 - Relating to Taxation

DATE: March 20, 2009

TIME: 1:15pm

PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

FROM: Lishan Chong  
President & CEO  
Edutainment Resources, Inc.

RE: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

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

Thank you for the opportunity to submit testimony in **STRONG OPPOSITION** to HB 1451 HD2. EDUTAINMENT RESOURCES, INC. SUPPORTS THE INTENT of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but **DOES NOT SUPPORT** the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding prohibited from utilizing tax credits
- Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
- Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital
- Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees
- Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings
- Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity
- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process
- Recapture Increases Section – needs clarification

Edutainment Resources, Inc. supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*

- An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits
- Drop Down Subsidiaries: Further statutory restrictions on so-called "drop down subsidiaries, provided that what constitutes a "drop down subsidiary" is properly and clearly defined by statute
- A two-year extension of Act 221

Act 221 companies have:

- Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.
- Spent more than \$1.4 billion in Hawaii.
- Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

Edutainment Resources, Inc. integrates digital media in education – specifically developing learning English as a second language (ESL) multimedia materials delivered via iPhone, DVD and Internet platforms to users around the world. We are headquartered in Hawaii and have been able to work with over 50 independent contractors during our peak production. We were the first company to launch ESL Apps (applications) in December 2008 on iPhone 3G and within weeks our ESL Apps were used by learners from over 30 countries. We are confident this initial strong response from the market will lead to revenue generation that in return will benefit our economy.

Since we started several years ago, we have been able to raise money through the Act 221 tax credit program to conduct R&D and product development. Although we have made significant progress, we still need additional capital to continue our development until enough revenue can be generated to sustain our operation. Without Act 221, we would not have been able to raise the funding to get us to where we are – closer to fruition of our hard work and a success that will benefit all of us in Hawaii!

Thank you for the opportunity to testify.

Sincerely,



Lishan Chong  
President and CEO  
808-778-6348  
Lishan@EdutainmentResources.com

SENATOR ROSALYN H. BAKER, VICE CHAIR

Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in STRONG OPPOSITION to HB 1451 HD2.

LOCATION: HAWAII SUPPORTS THE INTENT of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but DOES NOT SUPPORT the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding prohibited from utilizing tax credits
- Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
- Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital
- Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees
- Tax Administration Special Fund - Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings
- Changed QHTB Definition-75% Activities Test; Removal of Revenue Test; General Problems of Retroactivity
- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process
- Recapture Increases Section - needs clarification

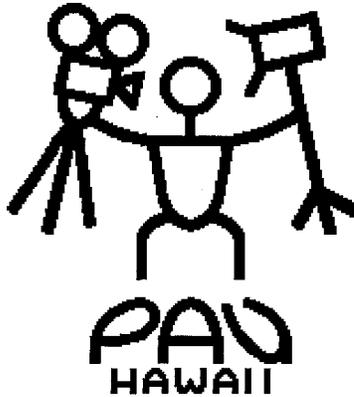
LOCATION: HAWAII supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*
- An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits
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- A two-year extension of Act 221

Act 221 companies have:

- Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.
- Spent more than \$1.4 billion in Hawaii.
- Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

*mahalo! Stuart R Spangler - owner Location: Hawaii*  
*Location: Hawaii - Fine B. maximum P.T. possible in north China .T*



**PRODUCTION  
ASSISTANCE  
UNLIMITED of  
HAWAII**

**47-448 Hui Io Street**

**Kaneohe, Hawaii 96744**

**Ph.#: (808) 239-2684**

**E-Mail:  
pauhawaii@hawaii.rr.com**

**HB1451 HD1 - Relating to Taxation**

DATE: Friday, March 20

TIME: 1:15pm

PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology

Senator Carol Fukunaga, Chair

Senator Rosalyn H. Baker, Vice Chair

**Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments**

Chair, Vice-Chair and Committee Members:

Aloha, my name is Matthew B. Locey and I thank you for the opportunity to submit testimony in **STRONG OPPOSITION** to HB 1451 HD2. I do **SUPPORT THE INTENT** of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but I **DO NOT SUPPORT** the amendments included in HB1451 HD2 passed by the House Finance Committee.

I am a long time tax payer and small business owner in Hawaii for over 23 years. I have been lucky all these 23 years to have worked in the national and local film industry. With proper training and much experience I have been fortunate enough to live and raise my family in Hawaii as did my ancestors before me. The film industry has given me the opportunity to stay in our Aloha state instead of exiting Hawaii nei to work on the mainland, like many of my friends and classmates.

I must say though, that through the years in the industry I've felt jealousy towards my Maori cousins because of the strides they have made in their own small motion picture business. I have found out the main reasons for their success; a strong will to tell their own indigenous and unique stories to the rest of the world, a base group of experienced filmmakers and craftsmen, talented writers, producers, directors and importantly actors all ready to explode into world film scene to exercise their once untapped talents.

HAWAII has the same ingredients for success, the ONLY difference what make the successful is that though old treaties the government of New Zealand is obligated to put aside a percent of its coffers for the cultivation and advancement of the native Maori culture. The modern and wise Maori and fellow Kiwis have used some of these funds for the 'cultivation and advancement of the native Maori culture" on film and in video thus they have made world renown products such as "Once Were Warriors", "The Piano" and "Whale Rider".

Of course we in Hawaii's film industry do not have old treaties that mandate monies for the native arts like in New Zealand BUT as you know the Hawaii State government recently enacted the ingenious tax program ACT 221 and wise citizens of modern Hawaii has use this act as our own stimulus – our missing ingredient for a true local film industry. We finally have what we been missing from the beginning - local financial backing. Not mainland and Hollywood money where much of the overhead, staff and gear are mainland based and return to the mainland when a production is over. More importantly the profits from such film ventures return to the mainland as well. We, here in Hawaii's film industry are JUST beginning to tap into this "tax break" resource, local films have just been made within the last 12 months and one is being shot now. It is only the beginning, yes there is still a lot to learn, we still need to be totally weaned off mainland help but it will happen and it is starting to get exciting. Our industry will not be enslaved by "Hollywood" film fads, ideas, union strikes, mainland financial trends or other limitations. We are almost free of this mainland business umbilical cord. Many state tax payers have been employed, lots of money has been spent from our local films and importantly profits are just being to enter in OUR LOCAL BANKS. Plans are for more companies to be set up, scripts are being written, people are being hired - there are wonderful plans of true Hawaii based film stories with all local writers, producers, directors and actors along with the already established tradesmen. It is exciting times, times and careers that can all be destroyed with one misinformed vote. Again please do NOT SUPPORT the amendments included in HB1451 HD2 passed by the House Finance Committee. Be a part of this new birth of Hawaii's independent film industry.

Mahalo nui,  
Local film veteran and Producer  
Owner PAU Hawaii  
Matthew B. Locey

TO: Senate Committee on Economic Development and Technology □ Senator Carol Fukunaga, Chair □ Senator Rosalyn H. Baker, Vice Chair □

□ Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments □ □

Chair, Vice-Chair and Committee Members: □ □

Thank you for the opportunity to submit testimony in **STRONG OPPOSITION** to HB 1451 HD2. **EVENT GROUP HAWAII INC SUPPORTS THE INTENT** of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but **DOES NOT SUPPORT** the amendments included in HB1451 HD2 passed by the House Finance Committee. □ □ Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding prohibited from utilizing tax credits
- Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
- Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital
- Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees
- Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings
- Changed QHTB Definition--75% Activities Test; Removal of

## Revenue Test: General Problems of Retroactivity

- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process
- Recapture Increases Section – needs clarification

**EVENT GROUP HAWAII INC** supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*
- An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a “first come first serve” after investment is secured allotment process administered through DoTax and rollover language for unused credits
- Drop Down Subsidiaries: Further statutory restrictions on so-called “drop down subsidiaries, provided that what constitutes a “drop down subsidiary” is properly and clearly defined by statute
- A two-year extension of Act 221 □ □ Act 221 companies have:
  - Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.
  - Spent more than \$1.4 billion in Hawaii.
  - Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
  - Earned more than \$228 million in revenues in 2007 alone.
  - These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

Thank you for the opportunity to testify. □

**BRUCE VOLLERT**

**EVENT GROUP HAWAII INC**

Daniel Ziegler  
Director/Writer

HB1451 HD1 - Relating to Taxation  
DATE: Friday, March 20\_TIME: 1:15pm  
PLACE: Conference Room 016  
TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Act 221 has been good for the film and video business, and it has been good for the State of Hawaii. It has brought in new business, filled tax coffers and employed many people. The cost has been far outweighed by the benefits. Highlights of these gains:

Act 221 companies have:

- Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.
- Spent more than \$1.4 billion in Hawaii.
- Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

I hope you will consider these benefits before taking actions that will decimate the provisions of Act 221.

Thanks for your support.



Daniel Ziegler

## fukunaga4 - Michelle

---

**From:** Marilyn Mick [marilynmick@pobox.com]  
**Sent:** Thursday, March 19, 2009 11:49 AM  
**To:** EDTTestimony  
**Subject:** STRONG OPPOSITION to HB 1451 HD2

B1451 HD1 - Relating to Taxation

DATE: Friday, March 20  
TIME: 1:15pm  
PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in STRONG OPPOSITION to HB 1451 HD2. I SUPPORT THE INTENT of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but DOES NOT SUPPORT the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding prohibited from utilizing tax credits
- Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
- Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital
- Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees
- Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings
- Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity
- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process
- Recapture Increases Section – needs clarification

I support the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*

- An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a “first come first serve” after investment is secured allotment process administered through DoTax and rollover language for unused credits
- Drop Down Subsidiaries: Further statutory restrictions on so-called “drop down subsidiaries, provided that what constitutes a “drop down subsidiary” is properly and clearly defined by statute
- A two-year extension of Act 221

Act 221 companies have:

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- Spent more than \$1.4 billion in Hawaii.
- Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

Thank you for the opportunity to testify.  
Marilyn Mick, Production/Location Manager

## fukunaga4 - Michelle

---

**From:** ashley smith [courtneytaryn@aol.com]  
**Sent:** Thursday, March 19, 2009 10:12 AM  
**To:** EDTTestimony

HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20  
TIME: 1:15pm  
PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in STRONG OPPOSITION to HB 1451 HD2. I SUPPORT THE INTENT of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but DOES NOT SUPPORT the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

Companies which receive federal funding prohibited from utilizing tax credits  
Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories  
General Problems of Retroactivity  
Change to Definition of "Investment" - includes language which is overly vague and unclear  
Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital  
Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees  
Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings  
Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity  
Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process  
Recapture Increases Section – needs clarification  
I support the concepts contained in HB1451 HD1 such as:

A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*  
An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits  
Drop Down Subsidiaries: Further statutory restrictions on so-called "drop down subsidiaries, provided that what constitutes a "drop down subsidiary" is properly and clearly defined by statute  
A two-year extension of Act 221

Act 221 companies have:

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Spent more than \$1.4 billion in Hawaii.  
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Earned more than \$228 million in revenues in 2007 alone.  
These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

Thank you for the opportunity to testify.  
Ashley C. Smith  
Production Coordinator  
*"You May Not Kiss the Bride" aka "Wedlocked"*  
Office: 808.469.4160  
Fax: 808.484.9540  
Mobile: 808.306.7066

**fukunaga4 - Michelle**

---

**From:** Tracy Matsumoto [cphmats@gmail.com]  
**Sent:** Friday, March 20, 2009 9:49 AM  
**To:** EDTTestimony  
**Subject:** Re: HB1451 HD2 - Relating to Taxation

HB1451 HD2 - Relating to Taxation

DATE: Friday, March 20  
 TIME: 1:15pm  
 PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology  
 Senator Carol Fukunaga, Chair  
 Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in **STRONG OPPOSITION** to HB 1451 HD2. e-telligents, LLC **SUPPORTS THE INTENT** of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but **DOES NOT SUPPORT** the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

Companies which receive federal funding prohibited from utilizing tax credits  
 Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories  
 General Problems of Retroactivity  
 Change to Definition of "Investment" - includes language which is overly vague and unclear  
 Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital  
 Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees  
 Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings  
 Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity  
 Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process  
 Recapture Increases Section – needs clarification e-telligents, LLC supports the concepts contained in HB1451 HD1 such as:

A \$10 Million cap on credits over five years for investment made in a single QHTB per year  
 An aggregate cap on credits over five years for all investments made in all QHTB's per year provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits  
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constitutes a “drop down subsidiary” is properly and clearly defined by statute  
A two-year extension of Act 221

Act 221 companies have:

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Spent more than \$1.4 billion in Hawaii.

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Earned more than \$228 million in revenues in 2007 alone.

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

e-telligents, LLC is a QHTB software development company (locally owned and operated), specializing in creating electronic health care (EHR) applications and solutions. We currently have employed locally 2 full-time and 3 part-time employees, with another 3-4 full-time positions to hire within the next 1.5 years, provided no adverse changes occur (HB 1451 HD2 amendments) and a two-year extension of Act 221 is enacted.

--

Sincerely,

Tracy C. Matsumoto, DC

CEO

e-telligents, LLC.

711 Kilani Avenue Suite 3

Wahiawa, HI 96786

Phone: (808) 372-1591

Fax: (808) 621-0006

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forwarding, printing, or copying of this e-mail is strictly prohibited. If you have received this e-mail in error, please immediately notify Tracy Matsumoto by telephone at (808) 621-4774 or (800) 414-8845.



LATE

## LOCAL 665

FILM, TELEVISION, STAGE, PROJECTION AND TRADESHOWS  
Since 1937

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

HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20

TIME: 1:15pm

PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Mahalo for the opportunity to submit testimony in STRONG OPPOSITION to HB 1451 HD2. The IATSE Local 665 is the Technicians Behind Entertainment and we SUPPORT THE INTENT of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but DOES NOT SUPPORT the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

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- Recapture Increases Section – needs clarification

IATSE Local 665 is the Technicians Behind Entertainment and supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*
- An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits
- Drop Down Subsidiaries: Further statutory restrictions on so-called "drop down subsidiaries, provided that what constitutes a "drop down subsidiary" is properly and clearly defined by statute
- A two-year extension of Act 221

**with over 300 signatures attach we stand by our testimony to the effect of saving JOBS!**

Mahalo for the opportunity to testify.



Pau,

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

PRINT NAME:

SIGNATURE:

DEPARTMENT:

PRINT NAME:	SIGNATURE:	DEPARTMENT:
Charlie Wright	Charlie Wright	Model
Chantelle Sawa	Chantelle Sawa	Model
Jennifer Kennedy	Jennifer Kennedy	Talent
Christina de la Rosa	Christina de la Rosa	Talent/Model
RICHARD DRAKE	Richard Drake	PROP MASTER JAGGS
Samuel DARCHUCK	Samuel Darchuck	ART DEPT. JAGGS
KELLY NESTMUSE	Kelly Nestmuse	ART DEPT. JAGGS
ISEVOLOD ULITSKY	Isevolod Ulitsky	PRODUCTION
Shoto Kubo	Shoto Kubo	PRODUCTION
Winnie Maryu	Winnie Maryu	Production
SHANNON AVEGAARD	Shannon Avegaard	PRODUCTION
ADAMIA J. COLBERT	Adamia J. Colbert	Labels/Hair
JOEY. SHIMABUKU	Joey Shimabuku	Cosmetologist
Janet Kohler	Janet Kohler	Hair Stylist
KARINA YONG	Karina Yong	SOUND SERVICES
APRIL KANE	April Kane	996
BERNARD BROWN	Bernard Brown	SPECIAL EFFECTS
ARCHE BROWN	Arche Brown	SPECIAL EFFECTS
Shane White	Shane White	SPECIAL EFFECTS
CHARLES RAYMOND	Charles Raymond	EFF
Fern N. Alford	Fern N. Alford	EFF
JIM GARRIS	Jim Garriss	ELEC.
Gregory	Gregory	PROP
Jui Seaman	Jui Seaman	GRIP
Gerard Kanam	Gerard Kanam	Audio
DAN GARAB	Dan Garab	SOUND/VIDEO
WILL E. LYNN	Will E. Lynn	Makeup
Timothy Chinn	Timothy Chinn	Props
Gregory Doi Jr	Gregory Doi Jr	Electric
STACY NEWHOUSE	Stacy Newhouse	STAGE SOUND
John Kendrick	John Kendrick	Prod/Stage Sound/Elec
JOEL CARMICHAEL	Joel Carmichael	Makeup/Hair/Stage
JOEL CARMICHAEL	Joel Carmichael	Elec.
RON EVANS	Ron Evans	PRODUCTION GRIP
John Q. Adams	John Q. Adams	Set medic/Marine
DAVID WALLACE	David Wallace	GRIP/STAGE Elec
Curtis Winsterton	Curtis Winsterton	Stage/Prod
Chuck Butler	Chuck Butler	Stage Prod
HARRY SAWYER	Harry Sawyer	Stage

PRINT NAME:	SIGNATURE:	DEPARTMENT:
James Kim Moore		Film + Stage
Robert Wilson		Trade Show
Darren Rodriguez		Trade Show
<del>Everett Chaisa</del>	<del></del>	FILM
LARRY SMITH		FILM
Kay Carter	KAY CARTER	FILM/STAGE
Ben Shafir	Ben Shafir	Film/Stage
Terri L. Laigo	Terri L. LAIGO	Film/STAGE
MATTHEW K. LYONS	Matthew K. Lyons	STAGE/SOCIETY
ALEMA RYDER		STAGE
Melvin Pang	Melvin Pang	Film/Stage
Patrick W.K. Caziha		STAGE/Rigging
PATRICK LUM		AUDIO
William Kosta		Structural
Edward Kosta		Cap Structural
Kim Shipton		CARP. Stage hand
Sandy Sandelin		Stagehand
Mark Skorge		PROPS
Charles Roberts		Audio
James Takahashi	James Takahashi	Grip, Construction
AL OMO		STAGE
Tim Murphy	Tim Murphy	STAGE
Joseph R.R. Dahlman III		
CAROL "CASEY" CAMERON	Carol Casey Cameron	STAGE/FILM
FASTER K LOGAN		STUD
JUDITH MATSUMOTO	Judith Matsumoto	WARDROBE
Doug Kissel		Trade Show
RICHARD F. HOUSETT		Construction Keys
PAULI KAHKA CHOUK II	Pauli Kahka Chouk II	FEL. / CONST.
Tommy Fese		STAGE/FILM
RONALD EVANS	Ronald Evans	STAGE/FILM
Wke Thompson		STAGE/FILM
GEN LISS		STAGE/FILM
Kevin Hamm		STAGE
SAKIMURTS	JOHN M. REYNOLDS	STAGE/FILM
Alexandre Aranda		GIS STAFF

PRINT NAME:

SIGNATURE:

DEPARTMENT:

PRINT NAME:	SIGNATURE:	DEPARTMENT:
HENRY FORDHAM		IATSE 665
NATHANIEL E. DEARMORE		IATSE 665 / TEAMSTER 996
DANNE ANUNA		IATSE 665
Michael R. Kachwan III		IATSE 665
Cory L. Bathke		IATSE 665
Drew Desjarlais		IATSE 665
ALLEN MOZO		IATSE 665, 600, SAG
Danrell Tachibana		IATSE 665
Francis "Sonny" Julian		IATSE 665 / medic
Raanan Wadswan		IATSE 665
Drew Desjarlais		IATSE 665, IBEW 1260
CHRIS WICKENS		IATSE 665, IBEW 1260
CHARLEY KAEQ		IATSE 665
Chris Papes		CYANIDE
Zachary Kim		665
Mike Weisbrod		665/600
KALIKS PALMIRA		665
DANIEL ROSNER		(GRU) 665
Tiffany Chenay		Set PA - DGA
LUKAS SENO		IATSE 665
Sonua Balmores		SAG Actor
Chaz Lanite		MODEL
Kelsey Campbell		Model
Nalani Ravelo		Model
Kiya Lee		Model/Act
Tani Fujimoto		actor/model
Caroulo Kato		665 / wardrobe
Kristy Romero		MODEL
Kelly Chingone		Performer
Sarah Indue		model
Meredith Cardenas		model
Haley vonstep Burrell		model
Sophia On		Actress
Alanna Yoshitaka		model
CHELSEA RODRIGUES		Model
Makinana Aki		model
AOTILA TARATA		model
Eri Aihara		model
Sayaka Ogura		model

PRINT NAME:	SIGNATURE:	DEPARTMENT:	
Michael A Broady	<i>[Signature]</i>	Set Medic	IA
JAMES THURSTON	<i>[Signature]</i>	YES Grip	IA
Colin Jones	<i>[Signature]</i>	SALES	IA
Sonya Masinovsky	<i>[Signature]</i>	PRODUCTION	DGA
Jim Kalan Jr	Fred Kalana Jr	PRODUCTION	IA
Steve Graham	STEVE GRAHAM	GOLFS	IA
ROBERT WEFYAMA	<i>[Signature]</i>	STAND IN	
KEITH FRANK	<i>[Signature]</i>	LABORER	IA
KEDNI NAKAUEMIA	<i>[Signature]</i>	DRIVER	
Robert Johnson	<i>[Signature]</i>	Sound Mixer	IA
Tony Nagy	<i>[Signature]</i>	Camera	600
TORRY TURKALI	<i>[Signature]</i>	CAMERA	600
GLEN GRIMES	<i>[Signature]</i>	GRIP	IA
MIKE SCHWABE	<i>[Signature]</i>	GRIP	IA
Kevin Sardinia	<i>[Signature]</i>	Locations	
Charles Kramer	<i>[Signature]</i>	ELECTRIC	IA
LIZABETH MAGGINI-MATTA	<i>[Signature]</i>	COSTUME	IA
Joey Vidal	<i>[Signature]</i>		
MATHIAS WEISSNER	<i>[Signature]</i>		IA
LARRY TRAVERS	<i>[Signature]</i>	TRUCK	
JACK BISHOP	<i>[Signature]</i>	Production Director	
John Griffiths	<i>[Signature]</i>	TRUCK	60
NORMAN KAIS	<i>[Signature]</i>	A.D.	DGA
A. HOVE	<i>[Signature]</i>	Placing on Set	IA
JORGE GARCIA	<i>[Signature]</i>	ACTOR	
SHANDLE MERSEMERON	Shandle Mersemeron	SECURITY	
IAN TRAVERS	<i>[Signature]</i>	LOCATIONS	
Gregory Dui Jui	<i>[Signature]</i>	CAMERA	
SERGE NOFIELD	<i>[Signature]</i>	CAMERA	IA
STAN BRADY	<i>[Signature]</i>	PRODUCTION	
Patricia Williams	<i>[Signature]</i>	Transportation	
Thornton Lukela	<i>[Signature]</i>	Accounting	
Kevin Wong	<i>[Signature]</i>	Const.	
FRANK SLAUGHTER	<i>[Signature]</i>	665	
Marles Kaaghe	<i>[Signature]</i>	66	
WILLIAM RISSO	<i>[Signature]</i>	665	
LYLE GIBBS	<i>[Signature]</i>	Cont.	
STANLEY JENNINGS	<i>[Signature]</i>	66	
MARY RASMUSSEN	<i>[Signature]</i>	LOCAL 44	
FRANK KALANA	<i>[Signature]</i>	Driver	

PRINT NAME:	SIGNATURE:	DEPARTMENT:
Keona Kaula		Transportation
Miko Carter		Security
Earl Mitchell		Security
Bob Johnson		Elec.
Bruce Vollett		GRIP
Hanny Lanna		Production Mgr/AD
DANA K SATO		Art
MARTIN L GARCIA		Floor
Melody N. Low		GRIP
Alleen Joy Levy		GRIP
Tomoko Staggs		Coordinator
Earl Uyeno		Coordinator
Ryan Moriz		Medic
Rice Crum		Lighting
Scott Lisetop		GRIP
Don Tomich		Lighting
ASOM FRATIS		ELECTRIC
BRANDON PAGE		Coordinator
PAUL SMITH		GRIP
JAMES C LEVY		GRIP
ISAIA ROBINS		GREENS
Linda Lee		art dept
KAHUAKAILANI BROWN		SECURITY
CLYDE L. WONG		Greens/Props
WENDELL TITCOMB		CRAFT SERVICE
James Spruill		PROPS
Reuben Tao		PROPS
John Reed		Transportation
Kenneth Smith		TRANSPORTATION
Jon Piper		PROP
LEE KANEAKUA		GRIP
PUNA TITCOMB		CS
Talisaa Niko		LABORER
BRIAN COSTA		PROPS
John Luggold		MEDIC

	PRINT NAME:	SIGNATURE:	DEPARTMENT:
	ANE TRONETZKI	<i>[Signature]</i>	GRIPS IA
	Donnie Freitas	<i>[Signature]</i>	Greens IA
	Alwin Akau	<i>[Signature]</i>	Greens IA
Mar	"Aina" Riboca	<i>[Signature]</i>	GRIPS IA
	DAVID MATUBA	<i>[Signature]</i>	PROPERTY IA
	Paul Oshiro	<i>[Signature]</i>	Electrical IA
	Mike Suia	<i>[Signature]</i>	F/K IA
	Charita Bonilla	<i>[Signature]</i>	Makeup IA
	Susani Zaguing	<i>[Signature]</i>	Wardrobe IA
	AARON E. MULLISAP	<i>[Signature]</i>	Wardrobe IA
	Cole Chetney	<i>[Signature]</i>	GRIPS IA
	Mark Kalanaher	<i>[Signature]</i>	Set Lighting IA
	<del>Ben Wenzel</del>	<del><i>[Signature]</i></del>	<del>Extra</del>
	EBERT VAUGHN	<i>[Signature]</i>	ACTOR/STUD
	Jonathan Shirley	<i>[Signature]</i>	Extra
	Jeff Hummels	<i>[Signature]</i>	EXTRA
	KURT SIMAFRANCA	<i>[Signature]</i>	LOST.. GRIPS IA
	Chris Pratt	<i>[Signature]</i>	LOST GRIPS IA
	KIMD STOWELL	<i>[Signature]</i>	LOST/ACTOR
	JASON MATUSZ	<i>[Signature]</i>	LOST/SPR
	Brian Matsumura	<i>[Signature]</i>	CAMERA 600
	Kevin Craven	<i>[Signature]</i>	Extra
	Stan Cooper	<i>[Signature]</i>	EXTRA
	STEPHEN BACQUET	<i>[Signature]</i>	Set Lighting IA
	Kanoa Dabich	<i>[Signature]</i>	Set Dressing IA
	Jon Mumper	<i>[Signature]</i>	Sound IA
	Andrew Childers	<i>[Signature]</i>	Set P.A. DGA
	John M. H. Lee	<i>[Signature]</i>	Set Lighting IA
	Roger Titomasi	<i>[Signature]</i>	Set Lighting IA
	Akoni Kaanoi	<i>[Signature]</i>	Set Lighting IA
	RACER MOODY	<i>[Signature]</i>	Stand-In IA
	Keola Su'a	<i>[Signature]</i>	Transportation
	DIANE FRAUENHAZ	<i>[Signature]</i>	SCRIPT SUPERVISOR
	Lance Hookano	<i>[Signature]</i>	GRIP IA
	W. Jennings Fowler	<i>[Signature]</i>	PROPERTY IA
	Brad Barrquin	<i>[Signature]</i>	Actor
	Carla Bowen	<i>[Signature]</i>	PRODUCTION DGA
	FRANCIS CHAU	<i>[Signature]</i>	Actor
	Anne Hess	<i>[Signature]</i>	COSTUMES IA
	Jon T. Dahl	<i>[Signature]</i>	Transport

PRINT NAME:	SIGNATURE:	DEPARTMENT:
GUY BELEGAUD	<i>Guy Belega</i>	665
Milo Treceall	<i>Milo Treceall</i>	665
William Preston	<i>William Preston</i>	665
Jason Skaggs	<i>Jason Skaggs</i>	665
Cary Beall	<i>Cary Beall</i>	665
Andrew Calm Jr.	<i>Andrew Calm Jr.</i>	665
Andrew Tangkue	<i>Andrew Tangkue</i>	996
Chris Libbie	<i>Chris Libbie</i>	665
Wannan Roberts	<i>Wannan Roberts</i>	665
Freddy Kaluna	<i>Freddy Kaluna</i>	996
WILLIAM PAATHA	<i>William Paatha</i>	996
CHRIS BARNES	<i>Chris Barnes</i>	'LOST'
Jim Van Houten	<i>Jim Van Houten</i>	LOST
Salvador Anaya	<i>Salvador Anaya</i>	LOST
Steve Badico	<i>Steve Badico</i>	LOST
Michael Crowe	<i>Michael Crowe</i>	LOST
Mel Kunen	<i>Mel Kunen</i>	LOST/665
Edward Tunney	<i>Edward Tunney</i>	LOST/665
ALYCE FAKSHATZ	<i>Alyce Fakhatz</i>	665
Michael Hira	<i>Michael Hira</i>	996
SCOTT LIEB	<i>Scott Lieb</i>	665
Sam. Tialiso	<i>Sam Tialiso</i>	PRIVATE SECURITY
CHRISTOPHER ENGICHY	<i>Christopher Engichy</i>	PRIVATE SECURITY
JOLIE-LYN SWRK	<i>Jolie-Lyn Swrk</i>	LOST
WALTER GOUVEIA JR	<i>Walter Gouveia Jr</i>	PRIVATE SECURITY
WALTER K. WONG	<i>Walter K. Wong</i>	LOST
BERNIE TOI LIM HO	<i>Bernie Toi Lim Ho</i>	LOST
FRANK S. LACITA	<i>Frank S. Lacita</i>	665
JOHN E RINGGOLD Jr	<i>John E Ringgold Jr</i>	665
Keala Nakawaha	<i>Keala Nakawaha</i>	Ringgold 665
Karin Berstein	<i>Karin Berstein</i>	Ringgold 665
John Nithipat Day	<i>John Nithipat Day</i>	Ringgold 665
Alfonso Jan	<i>Alfonso Jan</i>	Labor
FRANK N. S. H.	<i>Frank N. S. H.</i>	665
Ronald Wong	<i>Ronald Wong</i>	665
DERRICK KRUPPO	<i>Derrick Kruppo</i>	665
Vito Kane	<i>Vito Kane</i>	996

PRINT NAME:

SIGNATURE:

DEPARTMENT:

Ekepati NIKO	<i>Ekepati NIKO</i>	Driver
Andrew Panyky	<i>Andrew Panyky</i>	Driver
ELIZABETH BARTON	<i>Elizabeth Barton</i>	SCRIPT SUPERVISOR
J. Nick Porreca	<i>J. Nick Porreca</i>	Accounting
Shawn Julian	<i>Shawn Julian</i>	labor
Michael Julian	<i>Michael Julian</i>	labor
Makani Young	<i>Makani Young</i>	stage
Sean Brulin	<i>Sean Brulin</i>	Loganville
Timothy Farnold	<i>Timothy Farnold</i>	Loganville
EUGENIE TEMPIENT	<i>Eugenie Tempiant</i>	Loganville
NOAH WILLIAMS	<i>Noah Williams</i>	SETH
Brian Julian	<i>Brian Julian</i>	labor
Kainoa Reaple	<i>Kainoa Reaple</i>	LABOR
Patrick Miller	<i>Patrick Miller</i>	labor
DUNCAN Costa Brum	<i>Duncan Costa Brum</i>	labor

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

**fukunaga4 - Michelle**

LATE

**From:** Sen. Carol Fukunaga  
**Sent:** Thursday, March 19, 2009 8:40 PM  
**To:** fukunaga4 - Michelle  
**Cc:** Jared Yamanuha  
**Subject:** FW: Testimony on HB1451 HD2

Did we receive Alan's testimony for 3/10 EDT hearing?

Mahalo,  
carolf

----- Forwarded Message

**From:** Alan Hayashi <[alan.hayashi@baesystems.com](mailto:alan.hayashi@baesystems.com)>  
**Date:** Thu, 19 Mar 2009 17:32:16 -1000  
**To:** Rosalyn Baker <[senbaker@capitol.hawaii.gov](mailto:senbaker@capitol.hawaii.gov)>, Carol Fukunaga <[senfukunaga@capitol.hawaii.gov](mailto:senfukunaga@capitol.hawaii.gov)>  
**Cc:** Alan Hayashi <[alan.hayashi@baesystems.com](mailto:alan.hayashi@baesystems.com)>, John Chock <[john.chock@baesystems.com](mailto:john.chock@baesystems.com)>, Ian Kitajima <[IKitajima@OCEANIT.COM](mailto:IKitajima@OCEANIT.COM)>  
**Subject:** Testimony on HB1451 HD2

Sen. Baker---I am submitting my testimony on HB1451 HD2 for your committee's consideration. Thank you for the opportunity to testify. Below is my testimony:

**HB1451 HD2 - Relating to Taxation**  
**DATE: Friday, March 20**  
**TIME: 1:15pm**  
**PLACE: Conference Room 016**

**TO: Senate Committee on Economic Development and Technology**  
**Senator Carol Fukunaga, Chair**  
**Senator Rosalyn H. Baker, Vice Chair**

**Re: Testimony in Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments**

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

I am submitting testimony in opposition to HB 1451 HD2 as an employee of a large multinational defense/aerospace company that does a significant amount of qualified high technology research here in Hawaii. Within our sensor development group, our Hawaii employees are recognized for having accomplished very advanced electro-optical solutions for military applications and are saving lives in remote battlefields. Over 10% of this local staff is comprised of PhDs and many of the rest are the high-skilled tech employees who are pulling up the average wage of Hawaii's workforce. And let me assure you that we are not a "drop down" subsidiary.

Even though we are part of a large corporation, our work could not have progressed to the level

it has without Act 221. Because of the government's strict Cost Accounting Standards, little room is left for scientific innovation outside of the specific research grant awards or contracts with very specific deliverables. We have utilized the incentives provided by Act 221/215 to further our research and refine our product capabilities so that we can develop products for the government that will be able to go beyond the RDT&E stage and hopefully into programs of record. Our Joint Multi Mission Electro-optical System (LASH / EPAS / JMMES) was made possible largely by the incentives in Act #221 and the program has now moved to a Presidential Budget line item...a true success story!

Hawaii's Act #221/215 incentives differentiate our local R&D programs from others within our large multi national company. Work can be transferred anywhere within the large corporate engineering network, yet much of it is directed here to Hawaii because our capable and experienced workforce has been efficiently utilized and retained thanks in great measure to Act #221.

We are a very large company, but we work with many small companies that need the state's assistance through both Investment and R&D credits to advance our technology capability. All of our local companies, small and medium sized, need to leverage as many sources of funding as they possibly can, from federal and state research grants, to tax incentives, to angel, venture capital, and later stage equity funding, to the stage where they can finally generate sustainable business contracts. These funding sources are not, and can not be mutually exclusive of each other.

Your Act #221 / 215 legislation has enabled the growth of a high technology industry that is in its infancy, but with great promise to support Hawaii's economy of the future. It is a high paying, clean, small carbon footprint industry with many smart young people who will be the solvers of tomorrow's problems. Unless you keep this industry alive with competitive incentives, many of the young people who are now into STEM studies, will have to go to the mainland for work...there will not be a high technology sector to employ them!

We urge you to amend HB 1451 HD2 and to reinsert the concepts espoused in HB 1451 HD1. With modification we feel this could be a viable measure.

We recognize that these are difficult economic times and that compromises need to be made across the board. However, we ask that you bear in mind that this is the time when this state most needs to support a diversified economy. High Technology is a viable growing industry worthy of, and still dependent on your support. Without a technology sector in Hawaii, the brightest and best of your problem solvers will be forced to go elsewhere for employment, and Hawaii will become strictly a service sector driven economy.

Thank you for the opportunity to submit this testimony.

Sincerely,

Alan Hayashi  
255-6699 cell

**Alan S. Hayashi**  
**Manager, Government & Community Relations, and Communications**

**BAE Systems**  
**Identification & Surveillance**  
**999 Bishop Street, Suite 2700**  
**Honolulu, Hawaii 96813**  
**O: (808) 441-2593**  
**C: (808) 255-6699**  
**F: (808) 441-2683**

LATE

[alan.hayashi@baesystems.com](mailto:alan.hayashi@baesystems.com) <BLOCKED::mailto:alan.hayashi@baesystems.com>

----- End of Forwarded Message

**fukunaga4 - Michelle**

**From:** Griffith, Doreen [Doreen.Griffith@gt.com]  
**Sent:** Friday, March 20, 2009 7:25 AM  
**To:** EDTTestimony  
**Subject:** HB 1451; 3/20 at 1:15 pm

HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20  
 TIME: 1:15pm  
 PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology  
 Senator Carol Fukunaga, Chair  
 Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in STRONG OPPOSITION to HB 1451 HD2. As a high-technology investors and service provider to the high-technology community, I SUPPORT THE INTENT of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but DO NOT SUPPORT the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding prohibited from utilizing tax credits
- Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
- Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital
- Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees
- Tax Administration Special Fund – Act 221 fees collected will no longer be restricted to administer the act which could hamper DoTax's ability to process filings
- Changed QHTB Definition--75% Activities Test; Removal of Revenue Test: General Problems of Retroactivity
- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process
- Recapture Increases Section – needs clarification

I supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a *single QHTB per year*
- An aggregate cap on credits over five years for all investments made in *all QHTB's per year* provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits
- Drop Down Subsidiaries: Further statutory restrictions on so-called "drop down subsidiaries, provided that what constitutes a "drop down subsidiary" is properly and clearly defined by statute
- A two-year extension of Act 221

Act 221 companies have:

- Generated more than \$1.2 billion in investments in at least 333 Act 221 companies.
- Spent more than \$1.4 billion in Hawaii.

- Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

Hawaii is a great place for all of us to live, and we need to continue to embrace ways to diversify our economy. Act 221 has started to provide diversification, and crippling it now will be detrimental to the high-technology community that we have worked so hard to start building.

Thank you for the opportunity to testify.

**Doreen Griffith, Managing Partner**

Grant Thornton LLP

1132 Bishop Street, Suite 2500

Honolulu, Hawaii 96813

T 808-441-2860

F 808-523-8590

E [doreen.griffith@gt.com](mailto:doreen.griffith@gt.com)

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**fukunaga4 - Michelle**

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**From:** petra@nonimaui.com  
**Sent:** Thursday, March 19, 2009 10:25 PM  
**To:** EDTTestimony  
**Subject:** HB1451 HD1 - Relating to Taxation

HB1451 HD1 - Relating to Taxation

DATE: Friday, March 20  
 TIME: 1:15pm  
 PLACE: Conference Room 016

TO: Senate Committee on Economic Development and Technology Senator Carol Fukunaga, Chair  
 Senator Rosalyn H. Baker, Vice Chair

Re: Testimony in Strong Opposition to HB 1451 HD2 Relating to Taxation  
 - Support with Amendments

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony in STRONG OPPOSITION to HB 1451 HD2. Noni Biotech International SUPPORTS THE INTENT of HB1451 HD1 passed by the House Committee on Economic Revitalization, Business and Military Affairs but DOES NOT SUPPORT the amendments included in HB1451 HD2 passed by the House Finance Committee.

Some of the most egregious and harmful HB1451 HD2 amendments which cumulatively and effectively kill Act 221 include:

- Companies which receive federal funding prohibited from utilizing tax credits
- Limiting "Qualified Research" Definition to Federal IRC Section 41(d) Research and eliminating the 7 other QHTB categories
- General Problems of Retroactivity
- Change to Definition of "Investment" - includes language which is overly vague and unclear
- Elimination of Disproportionate Credit Allocations will negatively impact the ability to attract outside capital
- Burdensome Increases of Comfort Letter (\$5,000) & Certification (\$2,000) Fees
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- Aggregate Cap of \$50 Million - too low, no provision for rollover of unused credits, no provision on allotment process
- Recapture Increases Section ? needs clarification

Noni Biotech International supports the concepts contained in HB1451 HD1 such as:

- A \$10 Million cap on credits over five years for investment made in a single QHTB per year
- An aggregate cap on credits over five years for all investments made in all QHTB's per year provided that this aggregate cap is set at a reasonable amount, includes clear a "first come first serve" after investment is secured allotment process administered through DoTax and rollover language for unused credits
- Drop Down Subsidiaries: Further statutory restrictions on so-called "drop down subsidiaries, provided that what constitutes a "drop down subsidiary" is properly and clearly defined by statute
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Act 221 companies have:

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- Spent more than \$1.4 billion in Hawaii.
- Created more than 4,000 employee and independent contractor jobs, which paid more than \$228 million in salary and other compensation in 2007 alone.
- Earned more than \$228 million in revenues in 2007 alone.
- These benefits have been realized BEFORE most of these Act 221 companies have reached their full potential, and exceed the \$437 million in costs of credits claimed from 1999 through 2007.

Thank you for the opportunity to testify.  
Petra K. DuPont, CFO  
Noni Biotech International