

SB 436

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**SENATE COMMITTEE ON HEALTH & ECONOMIC DEVELOPMENT &
TECHNOLOGY
TESTIMONY REGARDING SB 436
RELATING TO TAX CREDITS**

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: JANUARY 30, 2009
TIME: 8:30AM
ROOM: 329

This bill would establish an income tax credit amounting to fifteen per cent of costs incurred for qualified clinical trials conducted in any county of Hawaii with a population over 700,000, and twenty per cent in any county with a population under 700,000. This bill caps the credit at \$8,000,000 per clinical trial.

The Department of Taxation ("Department") takes **no position on the merits** of this legislation; however must **oppose the revenue loss**.

I. DEFERRAL OF PRE-QUALIFICATION

In order to receive the tax credit, a taxpayer must first pre-qualify the clinical trial for the credit by registering with the Department of Taxation. The Department believes that such a determination of clinical trial is outside of the scope of the Department's focus. The Department therefore suggests that pre-qualification registration be deferred to the Department of Business, Economic Development, and Tourism or the Department of Health.

II. REASONABLE EFFORTS TO HIRE LOCAL RESEARCHERS AND STAFF

As a pre-qualification requirement, this legislation provides that a clinical trial provide "reasonable efforts to hire local researchers and staff." Section 2 – (d)(3). The bill further requires the submission of "the number of total hires versus the number of local hires by category (*i.e.*, department) and by county." Section 2 – (h)(3). This bill does not provide further guidance into what constitutes a "local hire."

Furthermore, the favoring of local researchers and staff might raise possible concerns dealing with the privileges and immunities clause of the United States Constitution. This, however, would

be an issue that the Department of the Attorney General would be better suited to address.

III. SHOULD REQUIRE WAIVER OF THE RESEARCH & DEVELOPMENT CREDIT.

The Department points out that Hawaii income tax law already provides one of the most generous research and development credits in the nation, which provides a 20% refundable credit for qualified costs. A taxpayer that claims the proposed credit should be required to waive the R & D credit. Though this legislation precludes claiming a credit for costs financed by the high technology business investment tax credit, there is no similar waiver for the R & D credit under HRS § 235-110.91.

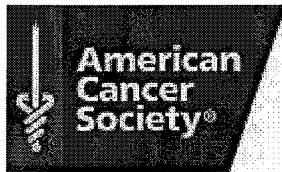
IV. ADMINISTRATIVE DIFFICULTY

The Department requests that subsections (h) and (i)(3) be eliminated in their entirety because they are unnecessary. If this subsection (h) remains, however, the Department respectfully requests additional resources.

V. REVENUE IMPACT AND METHODOLOGY

This bill results in an indeterminate revenue impact.

Due to no hard data on the number of qualified clinical trials and the amount of qualified clinical trial costs, revenue impact is indeterminate. However, if the qualified clinical trial cost were \$100 million, then annual revenue loss would be \$15 million annually. According to industry, close to 300 clinical trials are currently underway in Hawaii.



February 11, 2009

Committee on Health
Senator David Ige, Chair
Senator Josh Green, MD, Vice Chair

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

Hearing:

2:45 P.M., Friday, February 11, 2009
Hawaii State Capitol, Room 016

RE: SB436, Relating to Life Sciences

Testimony in Strong Support

Chair's Ige and Fukunaga, and members of the Committee on Health and the Committee on Economic Development and Technology. My name is George Massengale and I am the Director of Government Relations for the American Cancer Society Hawaii Pacific Inc. Thank you for the opportunity to testify in strong support of SB436, which would provide income tax credits to 15% of qualified clinical trial cost incurred, and it establishes criteria to qualify for the tax credit.

The American Cancer Society Hawaii Pacific Inc., was founded in 1948, and is a community-based, voluntary health organization dedicated to eliminating cancer as a major health problem by preventing cancer, saving lives, and diminishing suffering from cancer, through research, education, advocacy, and service. This mission is consistent with the Society's ambitious 2015 goals of slashing the cancer mortality rate by 50%, reducing the incidence of cancer by 25%, and improving the quality of life of cancer patients and survivors by reducing the pain and suffering that cancer causes.

Clinical trials pay an invaluable part in the battle against cancer. Without them we would not have made the progress that we have so far. Clinical trials are also needed to answer 2 important questions:

- **Does the new treatment work?** Is it better than what's now available to treat a certain disease? If it's not better, is it at least as good, perhaps while causing fewer side effects? Or does it work in some people who don't benefit from current treatments? In other words, is it a step forward? A treatment that doesn't offer anything new probably isn't worth studying.
- **Is the new treatment safe?** This must be answered while realizing that no treatment or procedure -- even one already in common use -- is entirely without risk. But do the benefits of the new treatment outweigh the possible risks?

One of the things that we usually don't hear about in the news are the thousands of people who are helped each year because they decided to take part in a clinical trial, not to mention the millions who will benefit from others' participation in clinical trials.

With our new Hawaii Cancer Research Center coming on line in the next few years Hawaii will have the opportunity to attract new research funding not only from the U.S., but from Asia as well. Incentivizing clinical trials via tax credits will encourage further cancer research and will benefit our population by making these trails available to our residents, thus reducing the hardship and cost of traveling to the mainland.

The Society supports SB436, and we would urge the committee's to pass this measure.

Mahalo for the opportunity to provide testimony in support of this measure.

Very truly yours,

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

George S. Massengale, JD
Director of Government Relations