LATE

HB 611

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

KURT KAWAFUCHI
DIRECTOR OF TAXATION

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LATE

SENATE COMMITTEE ON WAYS & MEANS

TESTIMONY REGARDING HB 611 HD 1 SD 1
RELATING TO TAXATION

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: APRIL 6, 2009
TIME: 9:30AM
ROOM: 211

This bill proposes to suspend the capital goods excise tax credit for taxable years beginning on or after January 1, 2010. The bill also suspends the capital goods excise tax credit for two years, after which the credit is reinstated as a new part.

This bill also repeals certain net income tax credits and exemptions from the General Excise Tax (GET), and it expands the current responsibilities for the Department of Taxation to evaluate certain of Hawaii's income tax credits and exemptions. The bill identifies various tax credits and GET exemptions to expire between December 31, 2011 and December 31, 2013.

The Department of Taxation (Department) **opposes** this measure.

I. OPPOSES SUSPENSION OF THE CAPITAL GOODS EXCISE TAX CREDIT

This measure proposes to continue the capital goods excise tax credit until the end of 2009, suspend the credit for two years, and then reinstate the credit in a new part.

The purpose of the refundable capital goods excise tax credit is essentially to return the cost of the general excise tax on purchases of capital assets used in a trade or business. The credit can serve as a stimulus to encourage businesses to invest in capital property.

COULD IMPACT BUSINESSES INVESTING IN CAPITAL ASSETS—At a time when the economy has slowed substantially, any incentive is useful in spurring growth and continued local investment. If the credit is removed at a time when the economy begins to turnaround (which could conceivably occur when the credit is suspended in 2010), the Department opposes such an impact at this crucial time. Given the tenuous economic times, the Department opposes the unknown impact this credit could have on future business investments.

II. EVALUATING HAWAII'S TAX INCENTIVES; DUTY OF THE TAX REVIEW COMMISSION

Hawaii's tax laws contain special tax credits and exemptions that were enacted to promote various social or economic goals. In general, basic principles of public finance dictate that tax rates should be as uniform as possible to minimize the distortions that taxes create in the economy. It is therefore a good idea to evaluate the credits and exemptions from time to time to see whether they are working as they were meant to work. This bill provides such an evaluation.

The job of evaluating the special credits and exemptions is a big one. As currently constituted, this bill asks the Department to evaluate dozens of separate sections in Title 14, many of which contain more than one special tax provision. In the interest of minimizing the impact on already-stretched resources, and at a time when the State can least afford additional resource drains, the Department believes that the duty of studying tax credits and exemptions as contemplated by this measure is best left to the Tax Review Commission, which is constitutionally delegated this responsibility. The next Tax Review Commission will be seated on July 1, 2010.

III. AUTOMATIC REPEAL SHOULD BE HANDLED CAUTIOUSLY

The Department does not support the automatic repeal as provided in this measure. The automatic repeal in this bill during the current economic times could have a devastating impact on the economy. As a general consideration, automatic repeal of the magnitude contemplated by this legislation should be approached cautiously. This is a particularly serious responsibility, since these tax provisions will completely disappear without a sound basis for legislative intervention. The Department points out that all of these credits or exemptions were important at some point and served some purpose.

The current bill contains a number of items that are listed as exemptions from the GET that probably do not merit consideration. These exemptions are necessary for the GET to have a sensible structure that minimizes economic distortions – they are not exceptions from a uniform and consistently administered excise tax.

IV. REVENUE ESTIMATE & METHODOLOGY

The total estimated revenue gain from eliminating the capital goods excise tax credit is $34.3 million for FY2010, $34.3 million for FY2011, and $17.2 million for FY2012.

The other provisions will not affect revenue within the budget window, owing to the late effective date. If made effective before July 1, 2009, the revenue loss from expanding the GET exemption to include loading, unloading and transporting agricultural products within the State is $0.6 million for FY2010 through FY2012 and $0.7 million for FY2013 through FY2015. If made effective before July 1, 2011, the revenue gains for the other provisions in part II would be as follows: FY2011, $231.2 million; FY2012, $578.1 million; FY2013, $713.2 million; FY2014,

$957.8 million; FY2015, $1,205.8 million.

In addition, the study required by the bill may result in an additional revenue gain of from $1 million to $3 million, because data and analysis developed for the study will help make the Department's compliance efforts more efficient.

LATE

HB 611 HD1 SD1
RELATING TO TAXATION

KEN HIRAKI
VICE PRESIDENT – GOVERNMENT & COMMUNITY AFFAIRS
HAWAIIAN TELCOM

April 6, 2009

Chair Kim and Members of the Senate Ways and Means Committee:

I am Ken Hiraki, testifying on behalf of Hawaiian Telcom on HB 611 HD1 SD1, "Relating to Taxation." Hawaiian Telcom opposes provisions of this measure.

HB 611 HD1 SD1 establishes the repeal of numerous tax credits and exemptions beginning after December 31, 2010 should the Department of Taxation not provide a complete and accurate evaluation of each credit. While recognizing the value of periodic reviews of Hawaii's tax code as a tool in the development of sensible tax policy, a repeal process of the scope as proposed in this measure must be approached very cautiously so both lawmakers and the public are fully informed as to the financial and social consequences that this repeal will trigger.

Hawaiian Telcom specifically opposes language repealing Section 239-6.5, Hawaii Revised Statutes (page 58, lines 16-18), which provides a tax credit for lifeline telephone service. Responding to the growing problem of "shut-ins", the Legislature in 1986 established the lifeline telephone program to provide discount telephone rates to those who are either physically disabled or seniors with annual household income below $10,000.

For many of those enrolled in the program, the landline telephone serves as the sole "lifeline" (especially in times of emergency or during an electrical power outage), connecting those that are disabled or seniors with their doctors, 911, or loved ones. There are currently over 3,000 lifeline beneficiaries enrolled statewide. If this program were eliminated, many will likely be forced to forego telephone service and may be left without any means of communication in case of emergency.

In addition, Hawaiian Telcom opposes the repeal of Section 235-110.7, Hawaii Revised Statutes (page 58, lines 5-6), which provides a tax credit for the investment of capital goods and Section 237-23.5 Hawaii Revised Statutes (page 54, lines 4-6), which provides an exemption for services provided by related business entities. Repeal of these sections will remove meaningful financial incentives for our company to invest in new equipment and increase our cost of doing business which eventually will be passed on to local consumers.

Based on the aforementioned, we respectfully request that HB 611 HD1 SD1 be held in your committee. If, however, it is the intent of the committee to move this measure, we respectfully ask that the committee delete the specific provisions related to Sections 239-6.5, 235-110.7, and 237-23.5.

Thank you for the opportunity to submit our position and comments on this measure.

HAWAII CREDIT UNION LEAGUE
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AMERICA'S CREDIT UNIONS

Testimony to the Senate Committee on Ways and Means
Monday, April 6, 2009 at 9:30 a.m.

Comments on HB611 HD1 SD1, Relating to Taxation

LATE

To: The Honorable Donna Mercado-Kim, Chair
The Honorable Shan Tsutsui, Vice-Chair
Members of the Committee on Ways and Means

My name is Stefanie Sakamoto and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for over 90 Hawaii credit unions, representing approximately 810,000 credit union members across the state.

This bill requires an evaluation of certain tax credits and tax exemptions. We agree with the need for an evaluation mechanism, especially in this time of economic turmoil and uncertainty.

Our only concern with the measure is the possibility of the unavailability of our tax exemption, should the Department of Taxation fail to submit "a complete and accurate evaluation" of tax credits and tax exemptions. The language set forth in Section 8 of the bill is unclear as to what is means for a report to be "complete and accurate". Aside from being instrumentalities of t he federal government, recognized by being included in the same statutory section providing a general excise tax exemption for purchases of tangible personal property by the federal government, we seek to retain this exemption for the purchase of tangible personal property by credit unions for several reasons:

- Credit unions are not-for-profit, member-owned financial cooperatives with the sole purpose of serving member needs, particularly members of modest means.
- The cost of any tax paid by a credit union is a cost paid by that credit union's member-owners.
- Unlike for-profit financial institutions that are able to access capital from external sources (issuing common or preferred stock for instance), a credit union can add to (strengthen) its capital only by retention of net income.
- As a consequence of only deriving capital from it members, any impairment on a credit union's net income will reduce the ability of a credit union to grow capital needed for safe and sound operations, especially in this troubled economy.

Thank you for the opportunity to provide testimony.

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HB 611 HD 1 SD 1	TAXATION (amends capital goods excise tax credit)	Oppose	The Department opposes suspending the capital goods credit for 2 years because it weakens an already fragile economy. Automatic repeal of tax credits should be handled with caution. (See separate testimony submitted for this bill)	The total estimated revenue gain from eliminating the capital goods excise tax credit is $34.3 million for FY2010, $34.3 million for FY2011, and $17.2 million for FY2012. The other provisions will not affect revenue within the budget window, owing to the late effective date. If made effective before July 1, 2009, the revenue loss from expanding the GET exemption to include loading, unloading and transporting agricultural products within the State is $0.6 million for FY2010 through FY2012 and $0.7 million for FY2013 through FY2015. If made effective before July 1, 2011, the revenue gains for the other provisions in part II would be as follows: FY2011, $231.2 million; FY2012, $578.1 million; FY2013, $713.2 million; FY2014, $957.8 million; FY2015, $1,205.8 million. In addition, the study required by the bill may result in an additional revenue gain of from $1 million to $3 million, because data and analysis developed for the study will help make the Department's compliance efforts more efficient.	Revenue gains from eliminating the income tax credits are taken from the Department's study of income tax credits for 2006. Revenue gains from expanding the GET exemption for loading, unloading and transporting agricultural goods within the state were taken to be 25% of the total cost of the like exemption for all agricultural goods (based on the share of livestock products and floricultural products in all agricultural products produced in Hawaii). Revenue gains from eliminating the GET exemptions are from the report of the 2005-2007 Tax Review Commission. (The TRC's report missed the distinction between agricultural commodities and agricultural products, so it included the cost of all agricultural products in the cost of the exemption provided as part of section 237-24.3.)
HB 1405 HD 2 SD 1	GENERAL EXCISE TAX (SSTP)	Concerns	Hawaii does not have a sales tax. Hawaii would have to conform to decisions made by a national, quasi-governmental board.	The bill will have no revenue impact, unless Congress enacts required legislation. However, the expense of the oversight committee would be incurred. If the required Congressional legislation is enacted, the effect on revenues is indeterminate, but it could be $25 million annually in additional GET and Use Tax collections. The exemption for blind, deaf, and disabled taxpayers would cost about $500 thousand annually.	

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